

The Texas Commission on Environmental Quality (commission) adopts new §§18.1, 18.2, 18.5, 18.10, 18.15, 18.25, 18.30 and 18.35.

The commission adopts §§18.1, 18.2, 18.5, 18.10, 18.15, 18.30 and 18.35 *without changes* to the proposed text as published in the October 5, 2007, issue of the *Texas Register* (32 TexReg 6985) and will not be republished. The commission adopts §18.25 *with changes* to the proposed text.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULES

This rulemaking implements the Rollback Relief for Pollution Control Requirements contained in Texas Tax Code (TTC), §26.045. In 1993 the Texas Legislature, 73rd Session, enacted House Bill 1920, which created TTC, §11.31 and §26.045. TTC, §11.31 established a property tax exemption program for property which is used wholly or partly for pollution control. TTC, §26.045 created a rollback tax relief program for political subdivisions. TTC, §11.31 required the TCEQ to adopt rules to implement the tax relief program. TTC, §26.045 gave the commission the authority to adopt rules but did not require the adoption of rules. In response the commission adopted 30 TAC Chapter 17, Tax Relief for Property Used for Environmental Protection. Chapter 17 implemented TTC, §11.31. Section 17.1, Scope and Purpose, included political subdivisions in the definition of the applicability of the rule. The commission chose not to adopt a separate rule to implement TTC, §26.045.

In 2007 the 80th Legislature, modified the Rollback Relief for Pollution Control Requirements program (TTC, §26.045) through the passage of House Bill 3732 (HB 3732). The legislature modified TTC, §26.045 by adding three new subsections, (f), (g), and (h). TTC, §26.045(f) requires the commission to adopt by rule a list of 18 categories of property listed in §26.045(f). TTC, §26.045(g) requires the

commission to adopt a procedure to review the list at least once every three years. In addition, it allows the removal of items from the list when there is compelling evidence that the item does not provide pollution control. TTC, §26.045(h) requires the executive director to review applications, containing only items on the adopted list, and to issue a determination without regard to the information provided in response to TTC, §26.045(c)(1), within 30 days of receipt of the required application documents.

SECTION BY SECTION DISCUSSION

The adopted new §18.1, Scope and Purpose, provides an explanation of the scope and purpose of Chapter 18. The purpose of this chapter is to implement the Rollback Relief for Pollution Control Requirements Program for political subdivisions of this state. The scope of this rule is to provide the framework for political subdivisions to apply to the commission for a determination that a pollution control project qualifies for rollback tax rate relief.

The adopted new §18.2, Definitions, provides definitions for the terms: ePay, Equipment and Categories List, installation, partial determination, permit requirement, pollution control property, Tier I, Tier II, use determination, and use determination letter as these terms are used within Chapter 18. The purpose is to assist in the understanding of the rules and the program.

The adopted new §18.5, Applicability, provides an explanation of the property which is eligible for inclusion under the Rollback Relief Program. It explains that it is the responsibility of executive director to determine the portion of the property which is eligible for Rollback Relief. This section will be used by political subdivisions to determine what property may be eligible under this program.

The adopted new §18.10, Application for Use Determination, provides the information which must be included in an application submitted to the commission. These items include: the appropriate fee, the anticipated environmental benefit from the installation of the property, the estimated cost of the property, the permit requirement being met, a copy of the permit, a partial calculation worksheet if the property is not used wholly for pollution control or if the property is located in Part B of the Equipment and Categories List (ECL), and any other information which the executive director requires. This section will be used by applicants to determine what information they must provide in order to receive a positive determination from the executive director.

The adopted new §18.15, Application Review Schedule, explains the executive director's responsibility once an application has been received. The difference in review time frames between types of applications is explained. This section also explains how positive and negative determinations would be documented. This section will be used by political subdivisions to understand the review process which will occur once the commission has received the application and explains how the executive director's decision will be documented.

The adopted new §18.25, Equipment and Categories List, provides for the ECL, which is a two-part list. Part A is the former predetermined equipment list, which consists of the property that the executive director has determined is used either wholly or partly for pollution control purposes. Part B is a list of categories of property which is located in TTC, §26.045(f). Figure: 30 TAC §18.25(a) is adopted with changes. The three Texas Tax Code citations listed on the figure have been changed to reflect the correct citation for this program. In order to define the basis for calculating the "incremental cost difference" the following language has been added to the end of the description paragraph, in Part A of the ECL: "For

items where the description limits the use determination percentage to the incremental cost difference, the cost of the property or device without the pollution control feature is compared to a similar device or property that does have the pollution control feature.” The following language was also inserted into the description paragraph in Part A of the ECL: “The use percentages on Part A of the ECL are established based on standard uses of the pieces of equipment involved. If the executive director determines that the equipment is not being used in a standard manner, the executive director may require that a Tier III analysis, using the Cost Analysis Procedure, be conducted by the applicant in order to calculate the appropriate use determination percentage. The executive director may also use the Cost Analysis Procedure, where it is appropriate, in order to more accurately reflect the environmental benefit at the site.” This language allows for calculation of a use determination percentage which is different from the listed one if it is determined that on this particular application the listed percentage is not appropriate. The following language was added in the description paragraph for Part B of the ECL: “Applicants should first view Part A of the Equipment and Categories List to see if their equipment is already on that list.” This will assist applicants in determining the correct Tier level and fee for their application. The description of item A-112 on the ECL was amended to read: “The incremental cost difference between the cost of the original equipment and the replacement equipment is eligible only when the replacement of these parts is done for the sole purpose of eliminating fugitive emissions of volatile organic compounds. New systems do not qualify for this item.” This was done to clarify that the 100% use determination relates only to the pollution control aspect of the new device. During the consolidation of the previous Predetermined Equipment List into the new ECL staff left five items related to painting and blasting operations off of the list. As a result of discussions on incorporating the incremental cost difference concept into the rule these items have been added to Part A of the list as items A-186 through A-190.

The adopted new §18.25(b) states that the commission must review the ECL at least once every three years. The adopted new §18.25(b)(1) defines the requirements for adding an item to the ECL and §18.25(b)(2) defines the requirements for removing an item from the ECL.

The adopted new §18.30, Partial Determinations, explains how to calculate a partial determination. A partial determination must be requested for any property which is on Part B of the ECL and which is not wholly used for pollution control. Calculations for determining a partial percentage are based on determining the incremental cost difference between the property with the pollution control aspect and similar property without the pollution control aspect. The calculation must be documented and included with the application. This section will be used by applicants to determine how to calculate a determination for property not solely used for pollution control.

The adopted new §18.35, Application Fees, establishes a two-tier fee system for the program. The first level, Tier I is a \$150 fee, and is to be used for applications containing only items located in Part A of the ECL, adopted under §18.20. The second level, Tier II is a \$500 fee, and is to be used for property listed or contained in the ECL and for applications containing property not used wholly for pollution control. The Tier II fee is higher than the Tier I fee in order to reflect the increased difficulty related to agency review of a Tier II application. Failure to pay the appropriate fee can lead to the rejection of the application. Fees may be remitted by attaching a check or money order to the application and mailing it to the appropriate address or be paid using the ePay system located on the commission's web page.

FINAL REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the adopted rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined the rules do not meet the definition of a “major environmental rule.” Under Texas Government Code, §2001.0225, “major environmental rule” means a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Furthermore, it does not meet any of the four applicability requirements listed in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225 applies only to a major environmental rule which: 1) exceeds a standard set by federal law, unless the rule is specifically required by state law; 2) exceeds an express requirement of state law, unless the rule is specifically required by federal law; 3) exceeds a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopts a rule solely under the general powers of the agency instead of under a specific state law. The adopted rulemaking implements a Rollback Relief for Pollution Control Requirements program as previously described in the BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULES and SECTION BY SECTION DISCUSSION sections. Because the adopted rules are not specifically intended to protect the environment or reduce risks to human health from environmental exposure but to implement a tax incentive program, this rulemaking is not a major environmental rule and does not meet any of the four applicability requirements. This rule does not result in any new environmental requirements and should not adversely affect in a material way the economy, a sector of the economy, productivity, competition, or jobs.

TAKINGS IMPACT ASSESSMENT

The commission evaluated these adopted rules and performed an assessment of whether Texas Government Code, Chapter 2007 is applicable. The commission's assessment indicates Texas Government Code, Chapter 2007 does not apply to these proposed rules because this action creates a program which is available only to political subdivisions as described in the BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULES and SECTION BY SECTION DISCUSSION sections of this preamble. Promulgation and enforcement of these adopted rules will be neither a statutory nor constitutional taking of private real property. Specifically, the adopted rules do not affect a landowner's rights in private real property, because this rulemaking action does not burden, restrict, or limit the owner's rights to property or reduce its value by 25% or more beyond which would otherwise exist in the absence of the adopted regulations.

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the adopted rulemaking and found the adoption is not a rulemaking identified in the Coastal Coordination Act Implementation Rules, 31 TAC Chapter 505, concerning rules subject to the Texas Coastal Management Program (CMP), and will, therefore, not require that goals and policies of the CMP be considered during the rulemaking process.

PUBLIC COMMENT

A public hearing on this proposal was held in Austin on October 26, 2007, at 10:00 a.m. at the Texas Commission on Environmental Quality complex located at 12100 Park 35 Circle in Building E, Room 201S. This was a joint hearing with comments being received on proposed amendments to Chapter 17. The hearing was attended by twenty-three people. Oral comments were provided by four. No oral comments were received with regard to this proposal. The commission received comments from

Representative Richard L. “Rick” HardCastle, Representative Tan Parker, Representative Beverly Woolley, Orange County Judge Carl K. Thibodeaux, Harris County Commissioner Sylvia Garcia, Clean Coal Technology Foundation of Texas (CCTFT), Sierra Club-Lone Star Chapter (Sierra), Texas Conference of Urban Counties (TCUC), and one individual.

RESPONSE TO COMMENTS

General Comments Relating to the Scope and Intent of TTC, §26.045(f)

During the proposal agenda the commission directed staff to solicit “comments on whether Part B should be limited to pollution control property associated with advanced clean energy projects, as defined in Texas Health and Safety Code, §382.003.” Representative Hardcastle, Sierra, Representative Woolley, Representative Parker, and CCTFT, provided general comments on this issue. Representative Hardcastle commented that the overall intent of HB 3732 is to “ensure that Texas continue to build power plants that are” clean and to make electricity affordable. However, the legislature did not intend to limit the categories of equipment listed in HB 3732 to advanced clean energy projects. Sierra commented that their review of the legislative history of HB 3732 leads them to the conclusion that HB 3732, Section 5 is not tied to clean energy projects. Sierra stated that the TCEQ should perform due diligence to ensure that the use determination includes only the pollution control aspect of the property. Representative Woolley and Representative Parker commented that the purpose of the bill was to provide incentives to electric generation projects. CCTFT supported by TMRA commented that Part B of the ECL should not be limited to pollution control property associated with advanced clean energy projects, as defined in Texas Health and Safety Code, §382.003.

The commission appreciates the comments provided by the commenters regarding the scope and

legislative intent of HB 3732. As a state agency, the commission is required to follow the mandates of the legislature regarding implementation of the statutes it enforces. When implementing a statute, the commission gives effect to its “plain language.” In implementing HB 3732, staff is mindful that tax exemption statutes “are subject to strict construction.” In reviewing the text and legislative history of HB 3732, staff concludes that the categories of equipment listed in it are not limited to advanced clean energy projects. However, as urged by the commenters, and consistent with existing regulations unaffected by HB 3732, the executive director is required to consider: 1) whether each category of equipment listed in TTC, §26.045(f) is used wholly or partly to control air, water or land pollution; and 2) whether the equipment installed in order to meet a requirement of a permit issued by this agency. No changes were made to the rule in response to these comments.

An individual commented that a minimum pollution control threshold should be established by rule and that this threshold be met before a piece of equipment is eligible for consideration for inclusion in the Rollback Tax Rate program.

The commission appreciates these comments, but respectfully disagrees with the need for an additional threshold. The rules establish a two-part threshold. Each piece of property must provide an environmental benefit at the site and must have been installed in response to a requirement in a permit issued by the TCEQ. These thresholds ensure that the installation of the property results in pollution control. The commission has made no changes to the rule in response to this comment.

TCUC, Orange County Judge Thibodeaux and Harris County Commissioner Garcia generally supported the proposed rule changes including the division of the ECL into two parts and the requirement that the

Part B equipment be evaluated on an application specific basis.

The commission appreciates the comments. The changing nature of pollution control regulations and equipment has made the operation of the Tax Relief for Pollution Control Property program challenging. The adoption of these rule changes and the re-writing of the program guidelines manual will add increased certainty to the process. No changes were made to the rule in response to these comments.

TCUC, Orange County Judge Thibodeaux and Harris County Commissioner Garcia commented that a “safety valve” should be added to §18.25, Equipment and Categories List (ECL). The “safety valve” would allow the TCEQ to issue a use determination at a percentage other than that listed on the ECL. This would happen if it was determined that an item filed as a Tier I was entitled to a percentage that was different than that listed on Part A of the ECL. Once this occurred all other applications for this item would be required to be submitted as Tier II applications until such time that the ECL could be reviewed under §18.25(b).

The commission appreciates this comment, but respectfully disagrees that a “safety valve” needs to be added to the rule. Tier I applications are ones which contain property which is listed in Part A on the ECL. The executive director agrees that there may be situations where, due to the particular use of the equipment, the use determination percentage listed in the ECL may be inappropriate. In order to handle these situations we have inserted language into the description paragraph in Part A on the ECL. The insertion is before “The commission will review . . .” The new language is: “The use percentages on Part A of the ECL are established based on standard uses of the pieces of

equipment involved. If the executive director determines that the equipment is not being used in a standard manner, the executive director may require that a Tier II partial determination analysis be conducted by the applicant in order to calculate the appropriate use determination percentage. The executive director may conduct a partial determination analysis, where it is appropriate, in order to more accurately reflect the environmental benefit at the site.”

Sierra commented that Figure: 30 TAC §18.25(a) should be revised to inform applicants to review Part A of the ECL before filing under Part B.

The executive director agrees with this suggestion and has amended §18.25(a) accordingly. In addition the program guidelines manual and application form will be changed to reflect that the applicant should check to see if their equipment is listed on Part A of the ECL before checking Part B. This has the potential of saving the applicant time and money and reducing the required staff review time.

CHAPTER 18: ROLLBACK RELIEF FOR POLLUTION CONTROL REQUIREMENTS

§§18.1, 18.2, 18.5, 18.10, 18.15, 18.25, 18.30, 18.35

STATUTORY AUTHORITY

The new sections are adopted under Texas Water Code (TWC), §5.102, which authorizes the commission to perform any acts authorized by the TWC or other law which are necessary and convenient to the exercise of its jurisdiction and powers; and §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC. The new sections are also adopted under Texas Tax Code (TTC), §26.045, which authorizes that the rollback tax rate for a political subdivision of this state be increased by the rate that, if applied to the total current value, would impose an amount of taxes equal to the amount the political subdivision will spend out of its maintenance and operation funds under TTC, §26.012(16) to pay for a facility, device, or method for the control of air, water, or land pollution that is necessary to meet the requirements of a permit issued by the commission.

The adopted new sections implement TTC, §26.045.

§18.1. Scope and Purpose.

The purpose of this chapter is to establish the procedure and mechanism for a political subdivision to apply to the Texas Commission on Environmental Quality (commission) for a determination that the installation or construction of a facility, device, or method for the control of air, water, or land pollution is necessary in order to meet the requirements of a permit issued by the commission.

§18.2. Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA), the Texas Solid Waste Disposal Act (TSWDA), the Texas Water Code (TWC), the Texas Tax Code (TTC), the Texas Health and Safety Code (THSC), or in the rules of the commission, the terms used by the commission have the meanings commonly ascribed to them in the fields of pollution control or property taxation. In addition to the terms which are defined by the TCAA, the TSWDA, TWC, TTC, and THSC, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) **ePay**--The commission's electronic payment system which is located on the commission's web page at www.tceq.state.tx.us.

(2) **Equipment and Categories List (ECL)**--A list of property or categories of property used either wholly or partially for pollution control purposes or that is listed in TTC, §26.045(f).

(3) **Installation**--The act of establishing, in a designated place, property that is put into place for use or service.

(4) **Partial determination**--A determination that an item of property or a process is not used wholly as pollution control.

(5) **Permit requirement**--A clause within a permit issued by the Texas Commission on Environmental Quality (TCEQ) which requires the receiver of a permit to expend funds for a facility, device, or method for control of air, water, or land pollution as defined by TTC, §26.045(b).

(6) **Pollution control property**--A facility, device, or method for control of air, water, or land pollution as defined by TTC, §26.045(b).

(7) **Tier I**--An application containing only property that is listed in Part A of the figure in §18.25(a) of this title (relating to Equipment and Categories List) or that is necessary for the installation or operation of property located on the Equipment and Categories List, in §18.25(a) of this title.

(8) **Tier II**--An application containing property that is listed or contained in Part B of the figure in §18.25(a) of this title or that is not listed on the Equipment and Categories List.

(9) **Use determination**--A finding, either positive or negative, by the executive director that the property is used wholly or partially for pollution control purposes and listing the percentage of the property that is determined to be used for pollution control.

(10) **Use determination letter**--The letter sent to the political subdivision and the appropriate tax assessor including the executive director's use determination. In addition to the use determination, the letter will also include at least the following information:

(A) the name of the political subdivision;

(B) the name and location of the facility;

(C) the property description;

(D) the permit requirement being met; and

(E) any other information the executive director deems relevant to the use determination.

§18.5. Applicability.

(a) To obtain a positive use determination, the pollution control property must be used, constructed, acquired, or installed wholly or partly to meet the requirements of a permit issued by the commission. In addition, pollution control property must meet the following conditions:

(1) property must have been constructed, acquired, or installed after January 1, 1994.

(2) land must include only the portion of the land acquired after January 1, 1994, that actually contains pollution control property.

(3) it must be funded out of the operations and maintenance funds under TTC,

§26.012(16).

(b) The executive director shall determine the portion of the pollution control property eligible for a positive use determination.

§18.10. Application for Use Determination.

(a) In order to be granted a positive use determination, a political subdivision shall submit to the executive director:

(1) a Texas Commission on Environmental Quality application form or a similar reproduction; and

(2) the appropriate fee, under §18.30 of this title (relating to Application Fees).

(b) An application must be submitted for each permit requirement for which pollution control property has been or will be installed.

(c) The application shall contain at least the following:

(1) the anticipated environmental benefits from the installation of the pollution control property for the control of air, water, or land pollution, except for applications containing only equipment on Part B of the figure in §18.25(a) of this title (relating to Equipment and Categories List);

(2) the estimated cost of the pollution control property, where the cost includes not only the cost of the specific property, but also any costs related to the installation or construction of the property;

(3) the permit requirement being met by the installation of such facility, device, or method, and the proportion of the installation that is pollution control property;

(4) a copy of the permit that is being met or exceeded by the use, installation, construction, or acquisition of the pollution control property;

(5) if the installation includes property that is not used wholly for the control of air, water, or land pollution, and is not in Part A of the figure in §18.25(a) of this title or is property which is listed on Part B of the figure in §18.25(a) of this title, a worksheet showing the calculation of the partial determination, and explaining each of the variables; and

(6) any information that the executive director deems reasonably necessary to determine the eligibility of the application.

§18.15. Application Review Schedule.

Following submission of the information required by §18.10 of this title (relating to Application for Use Determination), the executive director shall determine whether the pollution control property is used wholly or partly to meet the requirements of a permit issued by the commission. If the determination

is that the property is used partly for pollution control, the executive director shall determine the proportion of the property used for pollution control.

(1) Within three days of receipt of an application, the executive director shall mail written notification informing the applicant that the application has been received and if the application is considered to be administratively complete.

(A) If the application is not administratively complete, the notification shall specify the deficiencies and allow the applicant 30 days to provide the requested information. If the applicant does not submit an adequate response, the application will be sent back to the applicant without further action by the executive director and the application fee will be forfeited under §18.35(b) of this title (relating to Application Fees).

(B) If an application is sent back to the applicant under subparagraph (A) of this paragraph, the applicant may re-file the application and pay the appropriate fee as required by §18.35(a) of this title (relating to Application Fees).

(2) For applications which contain only property which is listed or contained in Part B of the figure in §18.25(a) of this title (relating to Equipment and Categories List), the executive director shall complete the technical review of the application and issue the final determination within 30 days of receipt of the required application documents.

(3) For all other applications, within 30 days of receiving the application, the executive director shall either issue a notification requesting additional information or issue the final determination.

(A) If additional information is requested, the notification shall specify the deficiencies and allow the applicant 30 days to provide the requested information. If the applicant does not submit an adequate response, the application will be sent back to the applicant without further action by the executive director and the application fee will be forfeited under §18.35(b) of this title.

(B) If an application is sent back to the applicant under subparagraph (A) of this paragraph, the applicant may re-file the application and pay the appropriate fee as required by §18.35(a) of this title.

(4) The executive director shall determine whether the property is used wholly or partly to control pollution. The executive director is authorized to grant positive use determinations for some or all of the property included in the application that is deemed pollution control property.

(A) If a positive use determination is made, the executive director shall issue a use determination letter to the applicant which describes the proportion of the property that is pollution control property.

(B) If a negative use determination is made, the executive director shall issue a denial letter explaining the reason for the denial.

§18.25. Equipment and Categories List.

(a) The Equipment and Categories List (ECL) is a two-part list. Part A is a list of the property that the executive director has determined is used either wholly or partly for pollution control purposes. Part B is a list of categories of property which is located in Texas Tax Code (TTC), §26.045(f).

Figure: 30 TAC §18.25(a)

**Equipment and Categories List
 Part A**

Part A of the Equipment and Categories List is a list of property that the executive director has determined is used either wholly or partly for pollution control purposes. The items listed are described in generic terms without the use of brand names or trademarks and includes a defined use percentage. The use percentages on Part A of the ECL are established based on standard uses of the pieces of equipment involved. If the executive director determines that the equipment is not being used in a standard manner, the executive director may require that a Tier II partial determination analysis be conducted by the applicant in order to calculate the appropriate use determination percentage. The executive director may conduct a partial determination analysis, where it is appropriate, in order to more accurately reflect the environmental benefit at the site. The commission will review and update the list at least once every three years. Items may be added only if there is compelling evidence to support the conclusion that the item provides pollution control benefits and a justifiable pollution control percentage is calculable. Items may be removed from the list only if there is compelling evidence to support the conclusion that the item does not render pollution control benefits. Property used solely for product collection or for production is not eligible for a positive use determination. Property used solely for worker safety or fire protection does not qualify as pollution control property. For items where the description limits the use determination percentage to the incremental cost difference, the cost of the property or device without the pollution control feature is compared to a similar device or property that does have the pollution control feature. Part A was formerly referred to as the Predetermined Equipment List. Part A is a list adopted under Texas Tax Code (TTC), §26.045(e).

Air Pollution Control Equipment

No.	Media	Property	Description	%
Particulate Control Devices				
A-1	Air	Baghouse Dust Collectors	Structures containing filters, blowers, ductwork— used to remove particulate matter from exhaust gas streams.	100
A-2	Air	Demisters or Mist Eliminators Added	Mesh pads or cartridges — used to remove entrained liquid droplets from exhaust gas streams.	100
A-3	Air	Electrostatic Precipitators	Wet or dry particulate collection by creating an electric field between positive or negative electrodes and collection surface.	100

No.	Media	Property	Description	%
A-4	Air	Dry Cyclone Separators	Single or multiple inertial separators, with blowers, ductwork, etc. used to remove particulate matter from exhaust gas streams.	100
A-5	Air	Scrubbers	Wet collection device using spray chambers, wet cyclones, packed beds, orifices, venturi, or high-pressure sprays to remove particulates and chemicals from exhaust gas streams. System may include pumps, ductwork, blowers, etc. needed for the equipment to function.	100
A-6	Air	Water/Chemical Sprays and Enclosures for Particulate Suppression	Spray nozzles, conveyor and chute covers, windshields, piping, pumps, etc. — used to reduce fugitive particulate emissions.	100
A-7	Air	Smokeless Ignitors	Installed on electric generating units in order to control particulate emissions and opacity on start-up.	100
Combustion Based Control Devices				
A-20	Air	Thermal Oxidizers	Thermal destruction of air pollutants by direct flame combustion.	100
A-21	Air	Catalytic Oxidizer	Thermal destruction of air pollutants that uses a catalyst to promote oxidation.	100
A-22	Air	Flare/Vapor Combustor	Stack, burner, flare tip, blowers, etc. — used to destroy air contaminants in a vent gas stream.	100
Non-Volatile Organic Compounds Gaseous Control (VOC) Devices				
A-40	Air	Molecular Sieve	Microporous filter used to remove Hydrogen Sulfite (H ₂ S) or Nitrogen Oxides (NO _x) from a waste gas stream.	100
A-41	Air	Strippers Used in Conjunction with Final Control Device	Stripper, with associated pumps, piping — used to remove contaminants from a waste gas stream or waste liquid stream. Stripper associated with product or by-product improvement does not qualify.	100
A-42	Air	Chlorofluorocarbon (CFC) Replacement Projects	Projects to replace one CFC with an environmentally cleaner CFC or other refrigerant where there is no increase in the cooling capacity or the efficiency of the unit. Includes all necessary equipment needed to replace the CFC and achieve the same level of cooling capacity.	100
A-43	Air	Refrigerant Recycling Equipment	Equipment used to recover and recycle CFC's and halocarbons.	50
A-44	Air	Halogen Replacement Projects	All necessary equipment needed to replace the Halogen in a fire suppression system with an environmentally cleaner substance.	100
Monitoring and Sampling Equipment				
A-60	Air	Fugitive Emission Monitors	Organic vapor analyzers — used to discover leaking piping components.	100
A-61	Air	Continuous & Noncontinuous Emission Monitors	Monitors, analyzers, buildings, air conditioning equipment, gas find Infrared (IR) Cameras, etc. constituting a monitoring system required to	100

No.	Media	Property	Description	%
			demonstrate compliance with emission limitations of regulated air contaminants. (Including flow and diluent gas monitors and dedicated buildings).	
A-62	Air	Monitoring Equipment on Final Control Devices	Temperature monitor or controller, flow-meter, pH meter, etc. for a pollution control device. Monitoring of production equipment or processes is not included.	100
A-63	Air	On or Off-Site Ambient Air Monitoring Facilities	Towers, structures, analytical equipment, sample collectors, monitors, power supplies, etc.	100
A-64	Air	Noncontinuous Emission Monitors, Portable	Portable monitors, analyzers, structures, trailers, air conditioning equipment, gas find IR Cameras, etc. used to demonstrate compliance with emission limitations.	100
A-65	Air	Predictive Emission Monitors	Monitoring of process and operational parameters that are used to calculate or determine compliance with emission limitations.	100
A-66	Air	Sampling Ports	Construction of stack or tower sampling ports used for emission sampling or for the monitoring of process or operational parameters that are used to calculate or determine compliance with emission limitations.	100
A-67		Automotive Dynamometers	Automotive dynamometers used for in-house emissions testing of fleet vehicles in order to reduce emissions.	100
Control of Nitrogen Oxides				
A-80	Air	Selective Catalytic and Non-catalytic Reduction Systems	Catalyst bed, reducing agent injection and storage, monitors — used to reduce Nitrogen Oxide emissions from engines/boilers. Non-selective systems use a reducing agent without a catalyst.	100
A-81	Air	Catalytic Converters for Stationary Sources	Used to reduce NO _x emissions from internal combustion engines.	100
A-82	Air	Air/Fuel Ratio Controllers for Piston-Driven Internal Combustion Engines	Used to control the air/fuel mixtures and reduce NO _x formation for fuel injected, naturally aspirated, or turbocharged engines.	100
A-83	Air	Flue Gas Recirculation	Ductwork, blowers, etc. — used to redirect part of the flue gas back to the combustion chamber for reduction of NO _x formation. May include flyash collection in coal fired units.	100
A-84	Air	Water/Steam Injection	Piping, nozzles, pumps, etc. to inject water or steam into the burner flame of utility or industrial burners or the atomizer ports for gas turbines, used to reduce NO _x formation.	100
A-85	Air	Overfire Air & Combination of asymmetric over fire air with the injection of anhydrous ammonia or other pollutant-reducing agents	The asymmetric over fire air layout injects preheated air through nozzles through a series of ducts, dampers, expansion joints, and valves also anhydrous ammonia or other pollutant-reducing agent injection is done at the same level.	100
A-86	Air	Burners Out of Service	Staging of burner firing by not firing specific burners within a combustion unit for the purpose of eliminating hot spots to reduce NO _x emissions.	100

No.	Media	Property	Description	%
A-87	Air	Lean-Burn Gas-Fired Compressor Engines	Advanced ignition & combustion system that introduces excess air into a reciprocating gas-fired compressor engine to make the engine run lean thereby lowering combustion temperatures, which reduces NO _x formation.	20
A-88	Air	Low-NO _x Burners	Replacement of existing incinerator, furnace or boiler burners with low-NO _x burners for pollution control purposes. The incremental cost difference between the existing burners and the new burners is eligible for a positive use determination.	100
A-89	Air	Over-Fire Air Systems	System which diverts combustion air from the burners to ports or nozzles located above the burners to reduce combustion zone temperatures thereby reduces thermal NO _x .	100
A-90	Air	Low Emissions Conversion Kit for Internal Combustion Reciprocating Compressor Engines	Installation of conversion kits to reduce NO _x emissions from existing internal combustion engines used to drive natural gas compressors. These kits include igniter cells or assemblies that ignite a fuel rich mixture in a pre-combustion chamber and forcing it into the power cylinder while still burning. Additional components consist of pilot gas system that delivers rich fuel to the igniter cell & power cylinders, power pistons, & power cylinder heads to replace the existing cylinders, pistons & heads.	100
A-91	Air	Water Lances	Installed in the fire box of boilers and industrial furnaces to eliminate hot spots; thereby reducing NO _x formation.	100
A-92	Air	Electric Power Generation Burner Retrofit	Retrofit of existing burners on electric power generating units with components for reducing NO _x including directly related equipment.	100
A-93	Air	High-Pressure Fuel Injection System	Retrofit technology for large bore natural gas fired internal combustion engines to reduce NO _x and Carbon Monoxide (CO) emissions. System includes injectors, fuel lines, and electronic controls.	40
A-94	Air	Wet or Dry Sorbent Injection Systems	Use of a sorbent for flue gas desulfurization or NO _x control.	100
Volatile Organic Compounds Control				
A-110	Air	Activated Carbon Systems	Carbon beds or liquid-jacketed systems, blowers, piping, condensers — used to remove VOCs or odors from exhaust gas streams.	100
A-111	Air	Storage Tank Secondary Seals and Internal Floating Roofs	Used to reduce VOC emissions caused by evaporation losses from above ground storage tanks.	100
A-112	Air	Replacement of existing pumps, valves, or seals in piping service	The incremental cost difference between the cost of the original equipment and the replacement equipment is eligible only when the replacement of these parts is done for the sole purpose of eliminating fugitive emissions of volatile organic compounds. New systems do not qualify for this item.	100

No.	Media	Property	Description	%
A-113	Air	Welding of pipe joints in VOC service (Existing Pipelines)	Welding of existing threaded or flanged pipe joints in order to eliminate fugitive emission leaks.	100
A-114	Air	Welding of pipe joints in VOC Service (New construction)	The incremental cost difference between the cost of using threaded or flanged joints and welding of pipe joints in VOC service.	100
A-115	Air	Carbon Absorber	Preventive abatement equipment absorbs VOCs, Freon and emission streams by using carbons atoms to combine with organic chemicals.	100
Mercury Control				
A-133	Air	Sorbent Injection Systems	Sorbents sprayed into the flue gas that chemically reacts to absorb mercury. The sorbents are then removed by a particulate removal device. Equipment may include pumps, tanks, blowers, nozzles ductwork, hoppers, particulate collection devices, etc. needed for the equipment to function.	100
A-134	Air	Fixed Sorbent Systems	Equipment, such as stainless steel plate with a gold coating that is installed in the flue gas to absorb mercury.	100
A-135	Air	Mercury Absorbing Filters	Filters which absorb mercury such as those using the affinity between mercury and metallic selenium.	100
A-136	Air	Oxidation Systems	Equipment used to change elemental mercury to oxidized mercury. This can be catalysts (similar to Selective Catalytic Reduction (SCR) catalyst) or chemical additives which can be added to the flue gas or directly to the fuel.	100
A-138	Air	Photochemical Oxidation	Use of an ultraviolet light from a mercury lamp to provide an excited state mercury species in flue gas, leading to oxidation of elemental mercury.	100
A-141	Air	Chemical Injection Systems	Equipment used to inject chemicals into the combustion zone or flue gas that chemically bonds mercury to the additive which is then removed in a particulate removal device.	100
Control of Sulfur Oxides				
A-168	Air	Wet and Dry Scrubbers	Circulating fluid bed and moving bed technologies using a dry sorbent or various wet scrubber designs that inject a wet sorbent into the scrubber.	100
Miscellaneous Control Equipment				
A-180	Air	Hoods, Duct and Collection Systems connected to Final Control Devices	Piping, headers, pumps, hoods, ducts, etc. — used to collect air contaminants and route them to a control device.	100
A-181	Air	Stack Modifications	Construction of stacks extensions. In order to meet a permit requirement.	100
A-182	Air	New Stack Construction	The incremental cost difference between the stack height required for production purposes and the stack height required for pollution control purposes.	100
A-183	Air	Stack Repairs	Repairs made to an existing stack in order for that stack to provide the same level of pollution control as was previously provided.	100

No.	Media	Property	Description	%
A-184	Air	Vapor/Liquid Recovery Equipment for Fugitive Emissions	Hoods or other enclosures including piping and pumps or fans used to capture fugitive emissions from process equipment. The captured vapors are condensed or extracted for reuse or sold as product.	100
A-185	Air	Vapor/Liquid Recovery Equipment (for venting to a control device)	Piping, blowers, vacuum pumps, compressors, etc. — used to capture a waste gas or liquid stream and vent to a control device. Including those used to eliminate emissions associated with loading tank trucks, rail cars, and barges.	100
A-186	Air	Paint Spray Booth Attached to a Final Control Device (Replacement which provides increased pollution prevention control)	The incremental cost difference between the new paint booth and the replaced pain booth	100
A-187	Air	Paint Spray Booth Attached to a Final Control Device (New Construction)	Pollution control equipment associated with the paint booth — including the items such as the control device, water curtain, filters, or other devices to capture paint fumes.	100
A-188	Air	Powder Coating System - Installed to replace an existing paint booth.	The incremental cost difference between the Powder Coating System and the Paint Spray Booth which was replaced.	100
A-189	Air	Powder Coating System - New Construction	Powder recovery system.	100
A-190	Air	Blast Cleaning System - Connected to a Control Device	Particulate control device and blast material recycling system.	100
Dry Cleaning Related Equipment				
A-200	Air	Perchloroethylene (Perc) Closed-Loop Dry Cleaning Machines	Dry-to-dry closed loop technology sealed during the entire dry cleaning sequence to eliminate solvent emissions and minimize hazardous waste disposal.	60
A-201	Air	Cartridge and Spin Disc Filtration Systems	A control device used to lessen emissions of VOC for naphtha cleaning systems.	40
A-202	Air	Petroleum Dry-to-Dry Cleaning Machines	Closed loop system using naphtha instead of perchloroethylene.	60
A-203	Air	Petroleum Re-claimers	A unit used to collect VOC emissions in the drying process.	60
A-204	Air	Refrigerated Vapor Condenser. (Includes only the components that recover the vapors.)	A device that uses refrigerants to condense recovered vapors to liquids. Associated with dry cleaners, degreasers, or recovery of solvents from cleaning inside bulk containers or process vessels.	90
A-205	Air	Secondary Containment	External structure or liner used to collect liquids released from dry cleaning equipment or chemical storage devices.	100
A-206	Air	Direct Coupled Solvent Delivery Systems	Replacement of solvent delivery systems at existing dry cleaning facilities.	100

Wastewater Pollution Control Equipment

No.	Media	Property	Description	%
Solid Separation and De-watering				

No.	Media	Property	Description	%
W-1	Water	API Separator	Separates oil, water, and solids by settling and skimming.	100
W-2	Waste water	CPI Separator	Mechanical oil, water, and solids separator.	100
W-3	Waste water	Dissolved Air Flotation	Mechanical oil, water, and solids separator.	100
W-4	Waste water	Skimmer	Hydrocarbon.	100
W-5	Waste water	Decanter	Used to decant hydrocarbon from process wastewater.	100
W-6	Waste water	Belt Press, Filter Press, Plate and Frame, etc.	Mechanical de-watering devices.	100
W-7	Water	Centrifuge	Separation of liquid and solid waste by centrifugal force, typically a rotating drum.	100
W-8	Water	Settling Basin	Simple tank or basin for gravity separation of suspended solids.	100
W-9	Water	Equalization	Tank, sump, or headbox used to settle solids and equilibrate process wastewater streams.	100
W-10	Water	Clarifier	Circular settling basins usually containing surface skimmers and sludge removal rakes.	100
Disinfection				
W-20	Water	Chlorination	Wastewater disinfection treatment using chlorine.	100
W-21	Water	De-chlorination	Equipment for removal of chlorine from water or waste water.	100
W-22	Water	Electrolytic Disinfection	Disinfect water by the use of electrolytic cells.	100
W-23	Water	Ozonization	Equipment that generates ozone for the disinfection of waste water.	100
W-24	Water	Ultraviolet	Disinfection of wastewater by the use of ultraviolet light.	100
W-25	Water	Mixed Oxidant Solution	Solution of chlorine, chlorine dioxide, and ozone to replace chlorine for disinfection.	100
Biological Systems				
W-30	Water	Activated Sludge	Biologically activating carbon matter in waste water by aeration, clarification, and return of the settled sludge to aeration.	100
W-31	Water	Adsorption	Use of activated carbon to remove organic water contaminants.	100
W-32	Water	Aeration	Passing air through wastewater to increase oxygen available for bacterial activities that remove contaminants.	100
W-33	Water	Rotary Biological Contactor	Use of large rotating discs that contain a bio-film of microorganisms that promote biological purification of the wastewater.	100
W-35	Water	Trickling Filter	Fixed bed of highly permeable media in which wastewater passes through and forms a slime layer to remove contaminants.	100

No.	Media	Property	Description	%
W-36	Water	Wetlands and Lagoons (artificial)	Artificial marsh, swamp, or pond that uses vegetation and natural microorganisms as bio-filters to remove sediment and other pollutants.	100
W-37	Water	Digester	Enclosed, heated tanks for treatment of sludge that is broken down by bacterial action.	100
Other Equipment				
W-50	Water	Irrigation	Equipment that is used to disburse treated wastewater through irrigation on the site.	100
W-51	Water	Outfall Diffuser	Device used to diffuse effluent discharge from an outfall.	100
W-52	Water	Activated Carbon Treatment	Use of carbon media such as coke or coal to remove organics and particulate from waste water. May be used in either fixed or fluidized beds.	100
W-53	Water	Oxidation Ditches and Ponds	Process of pumping air bubbles into a pond to assist in oxidizing organic and mineral pollution.	100
W-54	Water	Filters: Sand, Gravel, Microbial	Passing wastewater through a sand or gravel bed to remove solids and reduce bacteria.	100
W-55	Water	Chemical Precipitation	Process used to remove heavy metals from wastewater.	100
W-56	Water	Ultra-filtration	Use of semi-permeable membrane and hydrostatic pressure to filter solids and high molecular weight solutes.	100
W-57	Water	Conveyances, Pumps, Sumps, Tanks, Basins	Used to segregate storm water from process water, control storm water runoff, or convey contaminated process water.	100
W-58	Water	Water Recycling Systems	Installed systems, excluding cooling towers, that clean, recycle, or reuse wastewater or use grey water or storm water in order to reduce the amount of a facility's discharge or the amount of new water used as process or make-up water including Zero Discharge Systems.	100
W-59	Water	Wastewater Treatment Facility/Plant	New wastewater treatment facilities constructed to process wastewater generated on-site.	100
W-60	Water	High-Pressure Reverse Osmosis	The passing of a contaminated water stream over a permeable membrane at high pressure to collect contaminants.	100
W-61	Water	Hydro-cyclone Vapor Extraction	An air-sparged hydro-cyclone for the removal of VOCs from a wastewater stream.	100
W-62	Water	Recycled Water Cleaning System	Equipment used to collect and recycle the water used in a high-pressure water system for cleaning contaminants from equipment and pavement.	100
W-63	Water	Chemical Oxidation	Use of hydrogen peroxide or other oxidants for wastewater treatment.	100
W-65	Water	Stormwater Containment Systems	Structures or liners used for containment of runoff from rainfall. The land that is actually occupied by the containment structure is eligible for a positive use determination.	100
W-66	Water	Wastewater Impoundments	Ponds used for the collection of water after use and before circulation.	100
W-67	Water	Oil/Water Separator	Mechanical device used to separate oils from stormwater.	100
Control/Monitoring Equipment				

No.	Media	Property	Description	%
W-70	Water	pH Meter, Dissolved Oxygen. Meter, Chart Recorder, etc.	Used for wastewater operations control and monthly reporting requirements.	100
W-71	Water	On-line Analyzer	Device that conducts chemical analysis on sample streams for wastewater operations control.	100
W-72	Water	Neutralization	Control equipment used to adjust pH of wastewater treatment components.	100
W-73	Water	Respirometer	Device used to measure oxygen uptake or Carbon Dioxide (CO ₂) release in wastewater treatment systems.	100
W-74	Water	Diversion	Structures used for the capture and control of storm water and process wastewater or emergency diversion of process material. Land means only that land which is actually occupied by the division or storage structure.	100
W-76	Water	Building	Used for housing wastewater control and monitoring equipment.	100
W-77	Water	De-foaming Systems	Systems consisting of nozzles, pilings, spray heads, and piping used to reduce surface foam.	100

Solid Waste Management Pollution Control Equipment

No.	Media	Property	Description	%
Solid Waste Management				
S-1	Land/ Water	Stationary Mixing and Sizing Equipment	Immobile equipment used for solidification, stabilization, grinding, etc. of self generated waste material for the purpose of disposal or in-house recycling.	100 %
S-2	Land/ Water	Decontamination Equipment	Equipment used to remove waste contamination or residues from vehicles which leave the facility.	100
S-3	Land/ Water	Solid Waste Incinerator (not used for energy recovery and export or material recovery)	Solid waste incinerators, feed systems, ash handling systems, controls, etc.	100
S-4	Land/ Water/ Air	Monitoring and Control Equipment	Alarms, indicators, controllers, etc., for high liquid level, pH, temperature, flow, etc. in waste treatment system (Does not include fire alarms).	100
S-5	Land/ Water	Solid Waste Treatment Vessels	Any vessel used for waste treatment.	100
S-6	Land/ Water	Secondary Containment	External structure or liner used to contain and collect liquids released from a primary containment device and/or ancillary equipment. Main purpose is to prevent ground water or soil contamination.	100
S-7	Land/ Water	Liners	A continuous layer or layers of natural and/or man-made materials that restrict downward or lateral escape of wastes or leachate in an impoundment, landfill, etc.	100
S-8	Land/ Water	Leachate Collection and Removal Systems	A system capable of collecting leachate or liquids, including suspended solids, generated from percolation through or drainage from a waste. Systems for removal of leachate may include sumps, pumps, piping, etc.	100
S-9	Land/ Water	Leak Detection Systems	A system capable of detecting the failure of a primary or secondary containment structure or the presence of a liquid	100

No.	Media	Property	Description	%
			or waste in a containment structure.	
S-10	Land/ Water	Final Cover Systems for Landfills (Non-Commercial)	A system of liners and materials to provide drainage, erosion prevention, infiltration minimization, gas venting, biotic barrier, etc.	100
S-11	Land/ Water	Lysimeters	An unsaturated zone monitoring device used to monitor soil-pore liquid quality at a waste management unit. (e.g., below the treatment zone of a land treatment unit, etc.)	100
S-12	Water	Groundwater Monitoring Well and Systems	A groundwater well or system of wells designed to monitor the quality of groundwater at a waste management unit. (e.g., detection monitoring systems, compliance monitoring systems)	100
S-14	Air	Fugitive Emission Monitors	A monitoring device used to monitor or detect fugitive emissions from a waste management unit or ancillary equipment.	100
S-15	Land/ Water	Slurry Walls/Barrier Walls	A pollution control method using a barrier to minimize lateral migration of pollutants in soils and ground water.	100
S-16	Water	Groundwater Recovery or Remediation System	A groundwater remediation system used to remove or treat pollutants in contaminated groundwater or to contain pollutants. (e.g., pump-and-treat systems, etc.)	100
S-17	Water	Injection Wells (Including Saltwater Disposal Wells) and Ancillary Equipment	Injection well, pumps, collection tanks and piping, pretreatment equipment, monitoring equipment, etc.	100
S-18	Land/ Water	Noncommercial Landfills (used for disposal of self generated waste materials) and Ancillary Equipment	Excavation, clay and synthetic liners, leak detection systems, leachate collection and treatment equipment, monitor wells, waste hauling equipment, decontamination facilities, security systems, and equipment used to manage the disposal of waste in the landfill.	100
S-19	Land/ Water	Resource Conservation Recovery Act Containment Buildings (used for storage or treatment of hazardous waste)	Pads, structures, solid waste treatment equipment used to meet the requirements of Subchapter O - Land Disposal Restrictions (30 TAC §335.431).	100
S-20	Land/ Water	Surface Impoundments and Ancillary Equipment (Including Brine Disposal Ponds)	Excavation, ponds, clay and synthetic liners, leak detection systems, leachate collection and treatment equipment, monitor wells, pumps, etc.	100
S-21	Land/ Water	Waste Storage Used to Collect and/or Store Waste Prior to Treatment or Disposal	Tanks, containers and ancillary equipment such as pumps, piping, secondary containment, vent controls, etc. (e.g., Resource Conservation Recovery Act Storage Tanks, 90-Day Storage Facilities, Feed Tanks to Treatment Facilities, etc.)	100
S-22	Air	Fugitive Emission Containment Structures	Structures or equipment used to contain or reduce fugitive emissions or releases from waste management activities. (e.g., coverings for conveyors, chutes, enclosed areas for loading and unloading activities, etc.)	100
S-23	Water	Double Hulled Barge	Double hulled to reduce chance of leakage into public waters. (Incremental cost difference between a single hulled barge and a double hulled barge.)	30
S-24	Land	Composting Equipment	Used to compost material where the compost will be used	100

No.	Media	Property	Description	%
			on site. (Does not include commercial composting facilities.)	
S-25	Land	Compost Application Equipment	Equipment used to apply compost which has been generated on-site.	100
S-26	Land	Vegetated Compost Sock	Put in place as part of a facility's permanent Best Management Plan (BMP).	100
S-27	Air	Foundry Sand Reclamation Systems for Foundries	Components of a sand reclamation system that provide specific pollution control. Includes hooding over shaker screens vented to a dust collector, conveyor covers, and emission control devices at other points.	100
S-28	Air/Water/ Land	Concrete Reclaiming Equipment	Processes mixed, un-poured concrete batches to reclaim the sand and gravel for reuse and recycles the water in a closed loop system.	100

Miscellaneous Pollution Control Equipment

No.	Media	Property	Description	%
M-1	Air/ Land/ Water	Spill Response/Cleanup Equipment Pre-positioned and Stored for Addressing Future Emergencies	Boats, barges, booms, skimmers, trawls, pumps, power units, packaging materials and containers, safety equipment, vacuum trailers, storage sheds, diversion basins, tankage, dispersants, etc.	100
M-2	Air/ Land	Hazardous Air Pollutant Abatement Equipment—required removal material contaminated with asbestos, lead, or some other hazardous air pollutant.	High-Efficiency Particulate Arresting (HEPA) Vacuum Equipment, Negative Air Pressure Enclosures, Glove Bags, Personal Protection, Disposal.	100
M-3	Air/ Land/ Water	Vacuum Trucks, Street Sweepers and Watering Trucks	Mobile Surface Cleaning Equipment — used exclusively to control particulate matter on plant roads. (Does not include sweepers or scrubbers used to control particulate matter within buildings.)	100
M-4	Land	Compactors, Barrel Crushers, Balers, Shredders	Compactors and similar equipment used to change the physical format of waste material for recycling/reuse purposes or on-site disposal of facility-generated waste.	100
M-5	Land/ Air/ Water	Distillation Recycling Systems	Used to remove hazardous content from waste solvents by heat, vaporization, and condensation. The recycled solvents must be reused at the facility generating the waste.	100
M-6	Land/ Water	Boxes, Bins, Carts, Barrels, Storage Bunkers	Collection/storage containers for source-separation of materials to be recycled or reused. Does not include product storage containers or facilities.	100
M-8	Air/ Land/ Water	Environmental Paving located at Industrial Facilities	Paving of outdoor vehicular traffic areas in order to meet or exceed an adopted environmental rule, regulation or law. Does not include paving of parking areas or driveways for convenience purposes. Value of the paving must be stated on a square foot basis with a plot plan provided which shows the paving in question.	100
M-9	Air/ Land/ Water	Sampling Equipment	Equipment used to collect samples of exhaust gas, waste water, soil, or other solid waste to be analyzed for specific contaminants or pollutants.	100

No.	Media	Property	Description	%
M-10	Water	Dry Stack Building for Poultry Litter	A pole-barn type structure used to temporarily store poultry litter in an environmentally safe manner.	100
M-11	Land/ Water	Poultry Incinerator	Incinerators used to dispose of poultry carcasses.	100
M-12	Land/ Water	Structures, Enclosures, Containment Areas, Pads	Required in order to meet 'no contact' stormwater regulations.	100
M-13	Air	Methane Capture Equipment	Equipment used to capture methane generated by the decomposition of site generated waste material.	100
M-15	Land	Drilling Mud Recycling System	Consisting of only the Shaker Tank System, Shale Shakers, Desilter, Desander, & Degasser.	100
M-16	Land	Drilling Rig Spill Response Equipment	Includes only the Ram Type Blowout Preventers, Closing Unit and Choke Manifold System.	100
M-17	Air	Low NOx Combustion System	Components of power generating units designed to reduce NOx generation by operation of a drilling rig.	100
M-18	Air	Odor Neutralization and Chemical Treatment Systems	Carbon absorption, zeolite absorption, and other odor neutralizing and chemical treatment systems to meet local ordinance, or to prevent/correct nuisance odors at off-site receptors.	100
M-19	Air	Odor Dispersing and Removal Systems	Electrostatic precipitators, vertical dispersing fans, stack extensions, and other physical control equipment used to dilute, disperse, or capture nuisance odor vent streams.	100
M-20	Air	Odor Detectors	Olfactometers, gas chromatographs, and other analytical instrumentation used specifically for detecting and measuring ambient odor, either empirically or chemical specific.	100
M-21	Land	Cathodic Protection	Cathodic protection installed in order to prevent corrosion of metal tanks and piping.	100
M-22	Water	Fish and Other Aquatic Organism Protection Equipment	Equipment installed to protect fish and other aquatic organisms from entrainment or impingement in an intake cooling water structure. Equipment includes: Aquatic Filter Barrier Systems, Fine-Mesh Traveling Intake Screens, Fish Return Buckets, Sprays, Flow-Altering Louvers, Fish Trough, Fish Behavioral Deterrents, and Wetland Creation.	100
M-23	Water /Land	Double-Walled Piping	The difference between cost of single walled piping and the cost of double-walled piping, when the double-walled piping is installed in order to prevent unauthorized discharges.	100
M-24	Water/ Land	Double-walled Tanks	The difference between cost of single walled tanks and the cost of double-walled tanks, when the double-walled tanks are installed in order to prevent unauthorized discharges.	100

Equipment Located at Service Stations

No.	Media	Property	Description	%
Spill and Overfill Prevention Equipment				
T-1	Water	Tight Fill Fittings	Liquid tight connections between the delivery hose and fill pipe.	100
T-2	Water	Spill Containers	Spill containment manholes equipped with either a	100

			bottom drain valve to return liquids to the tank, or a hand pump for liquid removal.	
T-3	Water	Automatic Shut-off Valves	Flapper valves installed in the fill pipe to automatically stop the flow of product.	100
T-4	Water	Overfill Alarms	External signaling device attached to an automatic tank gauging system.	100
T-5	Water	Vent Restriction Devices	Float vent valves or ball float valves to prevent backflow through vents.	100
Secondary Containment				
T-11	Water	Double-walled Tanks	The difference between cost of single walled tanks and the cost of double-walled tanks, when the double-walled tanks are installed in order to prevent unauthorized discharges or leaks.	100
T-12	Water	Double-walled Piping	The difference between cost of single walled piping and the cost of double-walled piping, when the double-walled piping is installed in order to prevent unauthorized discharges or leaks.	100
T-13	Water	Tank Top Sumps	Liquid tight containers to contain leaks or spills that involve tank top fittings and equipment.	100
T-14	Water	Under Dispenser Sumps	Contains leaks and spills from dispensers and pumps.	100
T-15	Water	Sensing Devices	Installed to monitor for product accumulation in secondary containment sumps.	100
T-16	Land/ Water	Concrete Paving above Underground Tanks and Pipes	Required concrete paving located above underground pipes and tanks. The use determination value is limited to the difference between the cost per square foot of the concrete paving and the cost per square foot of the other paving installed at the Service Station. This item only applies to Service Stations.	100
Release Detection for Tanks and Piping				
T-21	Water	Automatic Tank Gauging	Includes tank gauging probe and control console.	100
T-22	Water	Groundwater or Soil Vapor Monitoring	Observation wells located inside the tank excavation or monitoring wells located outside the tank excavation.	100
T-23	Water	Monitoring of Secondary Containment	Liquid sensors or hydrostatic monitoring systems installed in the interstitial space for tanks or piping.	100
T-24	Water	Automatic Line Leak Detectors	Devices installed at the pump that are designed to detect leaks in underground piping. Mechanical and electronic devices are acceptable.	100
T-25	Water	Under Pump Check Valve	Valve installed to prevent back flow in the fuel dispensing line. This device is only used on suction pump piping systems.	100
T-26	Water	Tightness Testing Equipment	Equipment purchased to comply with tank and/or piping tightness testing requirements.	100
Cathodic Protection				
T-30	Water	Isolation Fittings	Dielectric bushings and fittings to separate underground piping from above ground tanks and piping.	100
T-31	Water	Sacrificial Anodes	Magnesium or zinc anodes packaged in low resistivity	100

			backfill to provide galvanic protection.	
T-32	Water	Dielectric Coatings	Factory installed coal-tar epoxies, enamels, fiberglass reinforced plastic, or urethanes on tanks and/or piping. Field installed coatings limited to exposed threads, fittings, and damaged surface areas.	100
Emissions Control Equipment				
T-40	Air	Stage I or Stage II Vapor Recovery	Includes pressure/vacuum vent relief valves, vapor return piping, stage 2 nozzles, coaxial hoses, vapor processing units, and vacuum-assist units. Used for motor vehicle fuel dispensing facilities. Does not include fuel delivery components of fuel dispensing unit.	100

Part B

Part B of the Equipment and Categories List is a list of the pollution control property categories set forth in TTC, §26.045(f). These categories are described in generic terms without the use of brand names or trademarks. Property used solely for product collection or for production purposes is not eligible for a positive use determination. The pollution control percentage for this equipment is listed as a “V”, for variable, and must be calculated on an application specific basis. Applicants should first view Part A of the Equipment and Categories List to see if their equipment is already on that list. Part B is a list adopted under TTC, §26.045(f).

No.	Property	%
B-1	Coal Cleaning or Refining Facilities	V
B-2	Atmospheric or Pressurized and Bubbling or Circulating Fluidized Bed Combustion Systems and Gasification Fluidized Bed Combustion Combined Cycle Systems	V
B-3	Ultra-Supercritical Pulverized Coal Boilers	V
B-4	Flue Gas Recirculation Components	V
B-5	Syngas Purification Systems and Gas-Cleanup Units	V
B-6	Enhanced Heat Recovery Systems	V
B-7	Exhaust Heat Recovery Boilers	V
B-8	Heat Recovery Steam Generators	V
B-9	Super-heaters and Evaporators	V
B-10	Enhanced Steam Turbine Systems	V
B-11	Methanation	V
B-12	Coal Combustion or Gasification By-product and Co-product Handling, Storage, and Treatment Facilities	V
B-13	Biomass Cofiring Storage, Distribution, and Firing Systems	V
B-14	Coal Cleaning or Drying Processes, such as coal drying/moisture reduction, air jiggling, precombustion decarbonization, and coal flow balancing technology.	V
B-15	Oxy-Fuel Combustion Technology, Amine or Chilled Ammonia Scrubbing, Catalyst based Fuel or Emission Conversion Systems, Enhanced Scrubbing Technology, Modified Combustion Technology, Cryogenic Technology	V
B-16	If the United States Environmental Protection Agency adopts a final rule or regulation regulating carbon dioxide as a pollutant, property that is used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source in this state that is geologically sequestered in this state.	V
B-17	Fuel Cells generating electricity using hydrocarbon derived from coal, biomass, petroleum coke, or solid waste.	V
B-18	Any other equipment designed to prevent, capture, abate, or monitor nitrogen oxides, volatile organic compounds, particulate matter, mercury, carbon monoxide, or any criteria pollutant.	V

(b) The commission shall review and update the ECL at least once every three years.

(1) An item may be added to the list only if there is compelling evidence to support the conclusion that the item provides pollution control benefits and a justifiable pollution control percentage is calculable.

(2) An item may be removed from the list only if there is compelling evidence to support the conclusion that the item does not render pollution control benefits.

§18.30. Partial Determinations.

A partial determination must be requested for all property that is in Part B of the figure in §18.25(a) of this title (relating to Equipment and Categories List) or that is not wholly used for pollution control. It is the responsibility of the applicant to propose a reasonable method for calculating a partial determination. The calculation must be documented and included with the application. It is the responsibility of the executive director to review the appropriateness of the proposed method and make the final determination.

§18.35. Application Fees.

(a) Fees shall be remitted with each application for a use determination as required in paragraphs (1) - (2) of this subsection.

(1) Tier I Application. A \$150 fee shall be charged for applications which contain only property that is listed in Part A of the figure in §18.25(a) of this title (relating to Equipment and Categories List) or is necessary for the installation or operation of an item listed on the Equipment and Categories List (ECL), as long as the application seeks no variance from the percentage listed on the ECL.

(2) Tier II Application. A \$500 fee shall be charged for applications for property not listed in Part A of the figure located in §18.25(a) of this title.

(b) Fees shall be forfeited for applications for use determination which are sent back under §18.15 of this title (relating to Application Review Schedule). An applicant who submits an insufficient fee will receive a deficiency notice in accordance with the procedures in §18.15 of this title. The fee must be remitted with the response to the deficiency notice before the application will be deemed administratively complete.

(c) All fees shall either be remitted in the form of a check or money order made payable to the Texas Commission on Environmental Quality or by electronic funds transfer by using the commission's ePay system.

(d) The check, money order, or electronic funds transfer receipt must be delivered with the application to the commission at the address listed on the application form.