

The Texas Commission on Environmental Quality (TCEQ or commission) proposes an amendment to §101.1.

If adopted, the amendment will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the state implementation plan (SIP).

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULE

This rulemaking adds clarifying definitions to TCEQ rules necessary for proper implementation of new and revised federal regulations regarding the National Ambient Air Quality Standard (NAAQS) for particulate matter (PM).

On July 18, 1997, the EPA revised the NAAQS for PM to add new standards for fine particles using PM with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers ($PM_{2.5}$) as an indicator. However, at that time, certain difficulties regarding implementation of the $PM_{2.5}$ regulations remained, including the lack of necessary tools to calculate emissions of $PM_{2.5}$ and related precursors, the lack of adequate modeling techniques to project ambient impacts, and the lack of $PM_{2.5}$ monitoring sites. Therefore, on October 23, 1997, EPA issued a memorandum providing for PM with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}) to be used as a surrogate for $PM_{2.5}$. EPA reaffirmed use of the surrogate policy in a memorandum dated April 5, 2005.

On November 1, 2005, the EPA proposed regulations to implement the New Source Review (NSR) program for $PM_{2.5}$. EPA published the bulk of the major NSR program final regulations for $PM_{2.5}$ on May 16, 2008 (effective on July 15, 2008). EPA noted that this final action, with EPA's proposed rule on

increments, significant impact levels (SILs), and significant monitoring concentration (SMC) when final, will represent the final elements necessary to implement a PM_{2.5} PSD program. On February 11, 2010, the EPA proposed two actions that would end EPA's 1997 policy allowing sources and permitting authorities to use a demonstration of compliance with the Prevention of Significant Deterioration (PSD) requirements for PM₁₀ as a surrogate for meeting the PSD requirements for PM_{2.5}. In the first action, the EPA proposed to repeal the "grandfathering" provision for PM_{2.5} contained in the Federal PSD program, which allows applicants for proposed new major sources and major modifications that have submitted a complete PSD permit application prior to the effective date of an amendment to the PSD regulations but have not yet received final and effective PSD permit, to continue relying on information already in the application rather than immediately having to amend applications to demonstrate compliance with the new PSD requirements. In the second action, EPA also proposed to end early the PM₁₀ Surrogate Policy applicable in states that have an approved PSD program in their SIP. The three-year transition period for revising the SIP and for use of the surrogate policy ends in May 2011, unless revised by EPA. In an effort to ensure the TCEQ meets regulatory requirements of the Federal Clean Air Act (FCAA), the Air Permits Division (APD) is proposing amendments to Chapters 101 and 106 to add specific definitions related to PM_{2.5} regulation, and to address the known requirements for implementation.

Existing federal regulations require both major and minor NSR programs to address any pollutant for which there is a NAAQS and precursors to the formation of such pollutant when identified for regulation by the EPA. TCEQ rules outline the requirements for both major and minor NSR programs under 30 TAC §116.110 (addressing NSR applicability). This section requires any person who plans to construct any new facility or to engage in the modification of any existing facility which may emit air contaminants into the air of this state to obtain a permit under §116.111 or satisfy the conditions for another authorization

type as listed within that section. Chapter 116, Subchapter B outlines the general requirements for both minor and major NSR permits. Specifically, §116.111 covers the general application requirements for both major and minor NSR. Minor NSR sources are required to comply with all sections of §116.111 except §116.111(a)(2)(h) and (i) which only apply to major NSR (Nonattainment and PSD).

For precursors, EPA provided some clarification regarding regulation of PM_{2.5} precursors in the May 16, 2008, PM_{2.5} implementation rule, stating that generally where scientific data and modeling analyses provide reasonable certainty that the pollutant's emissions are a significant contributor to ambient PM_{2.5} concentrations, EPA believes that pollutant should be identified as a "regulated NSR pollutant" and subject to the PM_{2.5} NSR provisions. Conversely, where the effect of a pollutant's emission on ambient PM_{2.5} concentrations is subject to substantial uncertainty, such that in some circumstances, the pollutant may not result in the formation of PM_{2.5}, or control of the pollutant may have no effect or may even aggravate air quality, EPA generally believes it is unreasonable to establish a nationally-applicable presumption that the pollutant is a regulated NSR pollutant subject to the requirements of NSR for PM_{2.5}. Therefore, EPA has established certain presumptions regarding the PM_{2.5} precursors, sulfur dioxide (SO₂), nitrogen oxide (NO_x), volatile organic compound (VOC) and ammonia. Specifically, EPA presumes SO₂ and NO_x to be significant contributors to ambient PM_{2.5} concentrations in all areas and thus, have termed these pollutants "presumed in," meaning requiring regulation as a precursor for PM_{2.5}. Conversely, the final rule does not require regulation of VOC or ammonia as a precursor to PM_{2.5} for the NSR program because additional research and technical tools are necessary to characterize the emissions inventories for VOC, and there is considerable uncertainty related to ammonia as a precursor. Therefore, EPA has categorized these pollutants as "presumed out," meaning not regulated as a precursor for PM_{2.5} regulation. However, states have the option to exclude NO_x, as a precursor by demonstrating that NO_x,

emissions are not a significant contributor to ambient $PM_{2.5}$ concentrations in a particular area. In addition, states have the option of identifying VOC and/or ammonia as precursor(s) by demonstrating that emissions for VOC and/or ammonia are a significant contributor in an area, and thus, should be subject to major NSR.

EPA has also provided clarification regarding regulation of condensable PM under the $PM_{2.5}$ regulations stating they will not require states to address condensable PM in establishing enforceable emissions limits for either PM_{10} or $PM_{2.5}$ in NSR permits during the transitional period that ends on January 1, 2011. During this transitional period, EPA is assessing the capabilities of test methods available for measuring condensable emissions. As specified in 40 Code of Regulations (CFR) Part 51, Method 202 is used in the determination of condensable particulate emissions from stationary sources, and Method 201 is used in the determination of PM_{10} emissions. It is presumed that the appropriate test method set forth by EPA once promulgated will be provided in 40 CFR Part 51 for measuring condensable emissions.

Finally, EPA clarified that there will be no changes to the implementation of Best Available Control Technology (BACT) requirements for $PM_{2.5}$ at major sources that are subject to the PSD program. If a new major source will emit, or has the potential to emit, a significant amount of a regulated NSR pollutant in an attainment area for that pollutant, the source must apply BACT for each emissions unit that emits the pollutant. In addition, if a physical change or operational change at an existing major source will result in a significant emissions increase and significant net emissions increase of a regulated NSR pollutant, the source must apply BACT to each proposed emissions unit experiencing a net increase in emissions of that pollutant as a result of the physical or operational change in the unit. Under the $PM_{2.5}$ PSD program, these requirements will apply to direct $PM_{2.5}$ emissions; SO_2 emissions; NO_x emissions,

unless states demonstrate that NO_x is not a significant contributor to ambient $\text{PM}_{2.5}$ concentrations in that area; and to VOC if identified by a state as a precursor in the $\text{PM}_{2.5}$ attainment area where the source is located. Although EPA has specified that direct emissions of $\text{PM}_{2.5}$ at or above the significant emission rate (SER) would trigger a BACT analysis, EPA has not specified whether a precursor's emissions above the precursor's SER would trigger a BACT analysis for $\text{PM}_{2.5}$ if direct emissions of $\text{PM}_{2.5}$ are below the $\text{PM}_{2.5}$ SER. Therefore it is presumed that BACT for direct $\text{PM}_{2.5}$ will apply only if direct $\text{PM}_{2.5}$ emissions are significant, and BACT for precursor pollutants will apply only if the precursor emissions equal or exceed the specific SER for the precursor pollutant.

SECTION DISCUSSION

The commission proposes to amend §101.1, Definitions, to remove Figure: 30 TAC §101.1(25) providing the de minimis impact levels for SO_2 , PM_{10} , nitrogen dioxide and carbon monoxide (CO). In its place, the definition will reference 40 CFR §51.165(b)(2). 40 CFR §51.165(b)(2) provides the significance levels above which a major source or major modification would be considered to cause or contribute to a violation of the NAAQS when such source or modification would, at a minimum, exceed the listed significance levels. In addition, the commission is proposing changes to §101.1(75), which currently defines PM. The proposal will move the definition for PM_{10} from §101.1(78) to §101.1(75)(A), and add the definition for $\text{PM}_{2.5}$ under §101.1(75)(B). PM emissions is defined under §101.1(76). This section will be amended to include §101.1(76)(A) and (B), which will define direct and secondary PM emissions. $\text{PM}_{2.5}$ emissions will be defined under existing §101.1(78) when the definition for PM_{10} is moved to new §101.1(75)(A). These changes will provide the definitions for PM_{10} and $\text{PM}_{2.5}$ emissions and the definitions for direct and secondary PM emissions which currently do not exist.

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

Nina Chamness, Analyst, Strategic Planning and Assessment, has determined that for the first five-year period the proposed rule is in effect, no significant fiscal implications are anticipated for the agency or other units of state or local government as a result of administration or enforcement of the proposed rule.

The proposed rulemaking amends 30 TAC Chapters 101 and 106 to modify definitions regarding particulate matter. This fiscal note addresses the fiscal impact of definition changes to Chapter 101, and the fiscal impact of definition changes to Chapter 106 will be addressed in a separate but related fiscal note.

The proposed amendment to Chapter 101 incorporates federal regulatory requirements for the FCAA into state rules. EPA finalized PM_{2.5} for the PSD program in 2008, and allowed states with approved SIPs to continue to implement a surrogate PM₁₀ policy until May 2011, or until revised PSD programs for PM_{2.5} were approved by EPA, whichever came first. During this time, the agency issued guidance to all regulated parties to aid them in complying with the federal regulations. The proposed rule amends the definitions in Chapter 101, General Air Quality Rules, to incorporate definitions of PM for PM₁₀ and PM_{2.5} as well as definitions of direct PM emissions, secondary PM emissions, and PM_{2.5} emissions.

Local government and other state agencies that own or operate facilities that generate PM are not expected to experience any fiscal impact as a result of the proposed rule. All regulated entities have already been required to comply with federal law and implement BACT with regards to PM₁₀ and PM_{2.5}. The incorporation of definitions will not require the implementation of additional controls until such time that EPA issues additional guidance.

PUBLIC BENEFITS AND COSTS

Nina Chamness also determined that for each year of the first five years the proposed rule is in effect, the public benefit anticipated from the changes seen in the proposed rule will be compliance with the FCAA and maintenance of the state's delegation authority.

The proposed rule is not expected to have a fiscal impact on individuals or businesses that own or operate facilities that emit PM. Regulated entities have already been required to comply with federal regulations concerning PM and utilize BACT. The proposed rule incorporates current agency guidance and federal regulations into state regulations, and no other implementation of control technologies is required until EPA issues additional guidance.

SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

No adverse fiscal implications are anticipated for small or micro-businesses since they have already been required to implement BACT as a result of federal regulations and agency guidance. The proposed rule will not require implementation of other control technologies until EPA issues additional guidance.

SMALL BUSINESS REGULATORY FLEXIBILITY ANALYSIS

The commission has reviewed this proposed rulemaking and determined that a small business regulatory flexibility analysis is not required because the proposed rule is required to comply with federal regulations.

LOCAL EMPLOYMENT IMPACT STATEMENT

The commission has reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rule does not adversely affect a local economy in a material way for the first five years that the proposed rule is in effect.

DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225 and determined that the proposed rule does not meet the definition of a "major environmental rule." Texas Government Code, §2001.0225 states that a "major environmental rule" is "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." While the purpose of this rulemaking is to increase protection of the environment and reduce risk to human health, it is not expected that this rulemaking will adversely affect in a material way the economy, a sector of the economy, productivity, jobs, the environment, or the public health and safety of the state or a sector of the state.

Furthermore, while the proposed rulemaking does not constitute a major environmental rule, even if it did, a regulatory impact analysis would not be required because the proposed rulemaking does not meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule. 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 proposed rulemaking does not meet any of the four applicability criteria listed in Texas Government Code, §2001.0225 because: 1) the proposed rulemaking is designed to meet, not exceed the relevant standard set by federal law; 2) parts of the proposed rulemaking are directly required by state law; 3) no contract or delegation agreement covers the topic that is the subject of this rulemaking; and 4) the proposed rulemaking is authorized by specific sections of Texas Health and Safety Code, Chapter 382 (also known as the Texas Clean Air Act), which is cited in the STATUTORY AUTHORITY section.

The specific intent of the proposed rulemaking is to amend Chapter 101 to add new definitions necessary for implementation of PM_{2.5} NSR regulations, and replace current definitions with references to federal definitions for efficiency. The preamble to this rulemaking clarifies how precursors and condensable emissions are addressed, that EPA has made no changes to the BACT analysis process for PM_{2.5}, and provides a basis for regulation of PM_{2.5} emissions when the use of PM₁₀ as a surrogate for PM_{2.5} is no longer applicable.

Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the SUBMITTAL OF COMMENTS section of this preamble.

TAKINGS IMPACT ASSESSMENT

The commission evaluated the proposed rule and performed an analysis of whether this proposed rule constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of the rulemaking is to facilitate implementation of new federal regulations under the NSR program. The

proposed amendment would substantially advance this stated purpose by adding new definitions to Chapter 101, necessary for implementation of the PM_{2.5} regulations. The commission's analysis indicates that the Texas Government Code, Chapter 2007 does not apply to this proposed rulemaking because this is an action that is reasonably taken to fulfill an obligation mandated by federal law, which is exempt under Texas Government Code, §2007.003(b)(4). Specifically, EPA has promulgated new NSR regulations for PM_{2.5} in accordance with 40 CFR §§52.21, 52.24, 51.160 - 51.165, 51.165(b), 51.166, and Part 51, Appendix S. TCEQ, as the administrator of the NSR program for Texas, is tasked with implementing the new federal regulations in accordance with 40 CFR §51.166 and FCAA, §107(d)(1)(A)(ii) or (iii).

Nevertheless, the commission further evaluated this proposed rule and performed an assessment of whether this proposed rule constitutes a takings under Texas Government Code, Chapter 2007. The specific purpose of this proposed rule is to facilitate implementation of new federal regulations under the NSR program. The proposed rule would substantially advance this stated purpose by adding new definitions to Chapter 101 of TCEQ rules, necessary for implementation of the PM_{2.5} regulations.

Promulgation and enforcement of this proposed rule would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject proposed regulations do not affect a landowner's rights in private real property because this rulemaking does not burden (constitutionally); nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations. In other words, this rule does not affect private property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of a governmental action. Consequently, this rulemaking action does not meet the definition of a

takings under Texas Government Code, §2007.002(5).

CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission determined that this rulemaking action relates to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code, §§33.201 *et seq.*), and commission rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with the Texas Coastal Management Program. As required by §281.45(a)(3) and 31 TAC §505.11(b)(2), relating to Actions and Rules Subject to the Coastal Management Program, commission rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission reviewed this action for consistency with the CMP goals and policies in accordance with the rules of the Coastal Coordination Council and determined that the action is consistent with the applicable CMP goals and policies.

The CMP goal applicable to this proposed rulemaking action is the goal to protect, preserve, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (31 TAC §501.12(l)). The proposed amendment will indirectly benefit the environment because it will require PM_{2.5} emissions to be evaluated for compliance not to exceed significance levels which will ensure that there will be fewer adverse impacts to public health and the environment. The CMP policy applicable to this rulemaking action is the policy that commission rules comply with federal regulations in CFR, to protect and enhance air quality in the coastal areas (31 TAC §501.32). Therefore, in accordance with 31 TAC §505.22(e), the commission affirms that this rulemaking action is consistent with CMP goals and policies.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the SUBMITTAL OF COMMENTS section of this preamble.

EFFECT ON SITES SUBJECT TO THE FEDERAL OPERATING PERMITS PROGRAM

There should be no effect on facilities subject to the Federal Operating Permits Program since APD is currently conducting reviews of sources subject to PSD and minor NSR that meet federal definitions and requirements. Permit holders may need to conduct an evaluation and determine if a revision to a Federal Operating Permit is needed to update the applicable requirements.

ANNOUNCEMENT OF HEARING

The commission will hold a public hearing on this proposal in Austin on December 13, 2010, at 10:00 a.m. in Building E, Room 201S, at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Charlotte Horn, Office of Legal Services at (512) 239-0779. Requests should be made as far in advance as possible.

SUBMITTAL OF COMMENTS

Written comments may be submitted to Devon Ryan, MC 205, Office of Legal Services, Texas

Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512)

239-4808. Electronic comments may be submitted at: <http://www5.tceq.state.tx.us/rules/ecomments/>.

File size restrictions may apply to comments being submitted via the eComments system. All comments

should reference Rule Project Number 2010-020-101-PR. The comment period closes December 20,

2010. Copies of the proposed rulemaking can be obtained from the commission's Web site at

http://www.tceq.state.tx.us/nav/rules/propose_adopt.html. For further information, please contact Johnny

Bowers, Air Permits Division, at (512) 239-6770.

SUBCHAPTER A: GENERAL RULES

§101.1

STATUTORY AUTHORITY

The amendment is proposed under Texas Water Code (TWC), §5.102, concerning General Powers, that provides the commission with the general powers to carry out its duties under the TWC; §5.103, concerning Rules, and §5.105, concerning General Policy, which authorize the commission to adopt rules necessary to carry out its powers and duties under the TWC; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The amendment is also proposed under THSC, §382.002, concerning Policy and Purpose, which establishes the commission purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.003, concerning Definitions; §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; §382.051, concerning Permitting Authority of Commission; Rules, which authorizes the commission to issue a permit by rule for types of facilities that will not significantly contribute air contaminants to the atmosphere; §382.0513, concerning Permit Conditions, which authorizes the commission to establish and enforce permit conditions; and §382.0514, concerning Sampling, Monitoring, and Certification.

This rulemaking implements THSC, §§382.002, 382.003, 382.011, 382.012, 382.051, 382.0513, and 382.0514.

§101.1. Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the commission, the terms used by the commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms that are defined by the TCAA, the following terms, when used in the air quality rules in this title, have the following meanings, unless the context clearly indicates otherwise.

(1) **Account**--For those sources required to be permitted under Chapter 122 of this title (relating to Federal Operating Permits Program), all sources that are aggregated as a site. For all other sources, any combination of sources under common ownership or control and located on one or more contiguous properties, or properties contiguous except for intervening roads, railroads, rights-of-way, waterways, or similar divisions.

(2) **Acid gas flare**--A flare used exclusively for the incineration of hydrogen sulfide and other acidic gases derived from natural gas sweetening processes.

(3) **Agency established facility identification number**--For the purposes of Subchapter F of this chapter (relating to Emissions Events and Scheduled Maintenance, Startup, and Shutdown Activities), a unique alphanumeric code required to be assigned by the owner or operator of a regulated entity that the emission inventory reporting requirements of §101.10 of this title (relating to Emissions Inventory Requirements) are applicable to each facility at that regulated entity.

(4) **Ambient air**--That portion of the atmosphere, external to buildings, to which the general public has access.

(5) **Background**--Background concentration, the level of air contaminants that cannot be reduced by controlling emissions from man-made sources. It is determined by measuring levels in non-urban areas.

(6) **Boiler**--Any combustion equipment fired with solid, liquid, and/or gaseous fuel used to produce steam or to heat water.

(7) **Capture system**--All equipment (including, but not limited to, hoods, ducts, fans, booths, ovens, dryers, etc.) that contains, collects, and transports an air pollutant to a control device.

(8) **Captured facility**--A manufacturing or production facility that generates an industrial solid waste or hazardous waste that is routinely stored, processed, or disposed of on a shared basis in an integrated waste management unit owned, operated by, and located within a contiguous manufacturing complex.

(9) **Carbon adsorber**--An add-on control device that uses activated carbon to adsorb volatile organic compounds from a gas stream.

(10) **Carbon adsorption system**--A carbon adsorber with an inlet and outlet for exhaust gases and a system to regenerate the saturated adsorbent.

(11) **Coating**--A material applied onto or impregnated into a substrate for protective, decorative, or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealants, adhesives, thinners, diluents, inks, maskants, and temporary protective coatings.

(12) **Cold solvent cleaning**--A batch process that uses liquid solvent to remove soils from the surfaces of parts or to dry the parts by spraying, brushing, flushing, and/or immersion while maintaining the solvent below its boiling point. Wipe cleaning (hand cleaning) is not included in this definition.

(13) **Combustion unit**--Any boiler plant, furnace, incinerator, flare, engine, or other device or system used to oxidize solid, liquid, or gaseous fuels, but excluding motors and engines used in propelling land, water, and air vehicles.

(14) **Combustion turbine**--Any gas turbine system that is gas and/or liquid fuel fired with or without power augmentation. This unit is either attached to a foundation or is portable equipment operated at a specific minor or major source for more than 90 days in any 12-month period. Two or more gas turbines powering one shaft will be treated as one unit.

(15) **Commercial hazardous waste management facility**--Any hazardous waste management facility that accepts hazardous waste or polychlorinated biphenyl compounds for a charge,

except a captured facility that disposes only waste generated on-site or a facility that accepts waste only from other facilities owned or effectively controlled by the same person.

(16) **Commercial incinerator**--An incinerator used to dispose of waste material from retail and wholesale trade establishments.

(17) **Commercial medical waste incinerator**--A facility that accepts for incineration medical waste generated outside the property boundaries of the facility.

(18) **Component**--A piece of equipment, including, but not limited to, pumps, valves, compressors, and pressure relief valves that has the potential to leak volatile organic compounds.

(19) **Condensate**--Liquids that result from the cooling and/or pressure changes of produced natural gas. Once these liquids are processed at gas plants or refineries or in any other manner, they are no longer considered condensates.

(20) **Construction-demolition waste**--Waste resulting from construction or demolition projects.

(21) **Control system or control device**--Any part, chemical, machine, equipment, contrivance, or combination of same, used to destroy, eliminate, reduce, or control the emission of air contaminants to the atmosphere.

(22) **Conveyorized degreasing**--A solvent cleaning process that uses an automated parts handling system, typically a conveyor, to automatically provide a continuous supply of parts to be cleaned or dried using either cold solvent or vaporized solvent. A conveyorized degreasing process is fully enclosed except for the conveyor inlet and exit portals.

(23) **Criteria pollutant or standard**--Any pollutant for which there is a national ambient air quality standard established under 40 Code of Federal Regulations Part 50.

(24) **Custody transfer**--The transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.

(25) **De minimis impact**--A change in ground level concentration of an air contaminant as a result of the operation of any new major stationary source or of the operation of any existing source that has undergone a major modification that does not exceed the significance levels as specified in 40 Code of Regulations (CFR) §51.165(b)(2) [following specified amounts].

[Figure: 30 TAC §101.1(25)]

AIR CONTAMINANT	ANNUAL	24-HOUR	8-HOUR	3-HOUR	1-HOUR
Inhalable Particulate Matter (PM ₁₀)	1.0 µg/m ³	5 µg/m ³			

Sulfur Dioxide	1.0 $\mu\text{g}/\text{m}^3$	5 $\mu\text{g}/\text{m}^3$		25 $\mu\text{g}/\text{m}^3$	
Nitrogen Dioxide	1.0 $\mu\text{g}/\text{m}^3$				
Carbon Monoxide			0.5 mg/m^3		2 mg/m^3

(26) Domestic wastes--The garbage and rubbish normally resulting from the functions of life within a residence.

(27) **Emissions banking**--A system for recording emissions reduction credits so they may be used or transferred for future use.

(28) **Emissions event**--Any upset event or unscheduled maintenance, startup, or shutdown activity, from a common cause that results in unauthorized emissions of air contaminants from one or more emissions points at a regulated entity.

(29) **Emissions reduction credit**--Any stationary source emissions reduction that has been banked in accordance with Chapter 101, Subchapter H, Division 1 of this title (relating to Emission Credit Banking and Trading).

(30) **Emissions reduction credit certificate**--The certificate issued by the executive director that indicates the amount of qualified reduction available for use as offsets and the length of time the reduction is eligible for use.

(31) **Emissions unit**--Any part of a stationary source that emits, or would have the potential to emit, any pollutant subject to regulation under the Federal Clean Air Act.

(32) **Excess opacity event**--When an opacity reading is equal to or exceeds 15 additional percentage points above an applicable opacity limit, averaged over a six-minute period.

(33) **Exempt solvent**--Those carbon compounds or mixtures of carbon compounds used as solvents that have been excluded from the definition of volatile organic compound.

(34) **External floating roof**--A cover or roof in an open top tank that rests upon or is floated upon the liquid being contained and is equipped with a single or double seal to close the space between the roof edge and tank shell. A double seal consists of two complete and separate closure seals, one above the other, containing an enclosed space between them.

(35) **Federal motor vehicle regulation**--Control of Air Pollution from Motor Vehicles and Motor Vehicle Engines, 40 Code of Federal Regulations Part 85.

(36) **Federally enforceable**--All limitations and conditions that are enforceable by the United States Environmental Protection Agency administrator, including those requirements developed

under 40 Code of Federal Regulations (CFR) Parts 60 and 61; requirements within any applicable state implementation plan (SIP); and any permit requirements established under 40 CFR §52.21 or under regulations approved under 40 CFR Part 51, Subpart 1, including operating permits issued under the approved program that is incorporated into the SIP and that expressly requires adherence to any permit issued under such program.

(37) **Flare**--An open combustion unit (i.e., lacking an enclosed combustion chamber) whose combustion air is provided by uncontrolled ambient air around the flame, and that is used as a control device. A flare may be equipped with a radiant heat shield (with or without a refractory lining), but is not equipped with a flame air control damping system to control the air/fuel mixture. In addition, a flare may also use auxiliary fuel. The combustion flame may be elevated or at ground level. A vapor combustor, as defined in this section, is not considered a flare.

(38) **Fuel oil**--Any oil meeting the American Society for Testing and Materials (ASTM) specifications for fuel oil in ASTM D396-01, Standard Specifications for Fuel Oils, revised 2001. This includes fuel oil grades 1, 1 (Low Sulfur), 2, 2 (Low Sulfur), 4 (Light), 4, 5 (Light), 5 (Heavy), and 6.

(39) **Fugitive emission**--Any gaseous or particulate contaminant entering the atmosphere that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening designed to direct or control its flow.

(40) **Garbage**--Solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, and handling and sale of produce and other food products.

(41) **Gasoline**--Any petroleum distillate having a Reid vapor pressure of four pounds per square inch (27.6 kilopascals) or greater that is produced for use as a motor fuel, and is commonly called gasoline.

(42) **Hazardous wastes**--Any solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by Resource Conservation and Recovery Act, 42 United States Code, §§6901 *et seq.*, as amended.

(43) **Heatset (used in offset lithographic printing)**--Any operation where heat is required to evaporate ink oil from the printing ink. Hot air dryers are used to deliver the heat.

(44) **High-bake coatings**--Coatings designed to cure at temperatures above 194 degrees Fahrenheit.

(45) **High-volume low-pressure spray guns**--Equipment used to apply coatings by means of a spray gun that operates between 0.1 and 10.0 pounds per square inch gauge air pressure measured at the air cap.

(46) **Incinerator**--An enclosed combustion apparatus and attachments that is used in the process of burning wastes for the primary purpose of reducing its volume and weight by removing the combustibles of the waste and is equipped with a flue for conducting products of combustion to the atmosphere. Any combustion device that burns 10% or more of solid waste on a total British thermal unit (Btu) heat input basis averaged over any one-hour period is considered to be an incinerator. A combustion device without instrumentation or methodology to determine hourly flow rates of solid waste and burning 1.0% or more of solid waste on a total Btu heat input basis averaged annually is also considered to be an incinerator. An open-trench type (with closed ends) combustion unit may be considered an incinerator when approved by the executive director. Devices burning untreated wood scraps, waste wood, or sludge from the treatment of wastewater from the process mills as a primary fuel for heat recovery are not included under this definition. Combustion devices permitted under this title as combustion devices other than incinerators will not be considered incinerators for application of any rule within this title provided they are installed and operated in compliance with the condition of all applicable permits.

(47) **Industrial boiler**--A boiler located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes.

(48) **Industrial furnace**--Cement kilns; lime kilns; aggregate kilns; phosphate kilns; coke ovens; blast furnaces; smelting, melting, or refining furnaces, including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, or foundry furnaces; titanium dioxide chloride process oxidation reactors; methane reforming furnaces; pulping recovery furnaces; combustion

devices used in the recovery of sulfur values from spent sulfuric acid; and other devices the commission may list.

(49) **Industrial solid waste**--Solid waste resulting from, or incidental to, any process of industry or manufacturing, or mining or agricultural operations, classified as follows.

(A) Class 1 industrial solid waste or Class 1 waste is any industrial solid waste designated as Class 1 by the executive director as any industrial solid waste or mixture of industrial solid wastes that because of its concentration or physical or chemical characteristics is toxic, corrosive, flammable, a strong sensitizer or irritant, a generator of sudden pressure by decomposition, heat, or other means, and may pose a substantial present or potential danger to human health or the environment when improperly processed, stored, transported, or otherwise managed, including hazardous industrial waste, as defined in §335.1 and §335.505 of this title (relating to Definitions and Class 1 Waste Determination).

(B) Class 2 industrial solid waste is any individual solid waste or combination of industrial solid wastes that cannot be described as Class 1 or Class 3, as defined in §335.506 of this title (relating to Class 2 Waste Determination).

(C) Class 3 industrial solid waste is any inert and essentially insoluble industrial solid waste, including materials such as rock, brick, glass, dirt, and certain plastics and rubber, etc., that are not readily decomposable as defined in §335.507 of this title (relating to Class 3 Waste Determination).

(50) **Internal floating cover**--A cover or floating roof in a fixed roof tank that rests upon or is floated upon the liquid being contained, and is equipped with a closure seal or seals to close the space between the cover edge and tank shell.

(51) **Leak**--A volatile organic compound concentration greater than 10,000 parts per million by volume or the amount specified by applicable rule, whichever is lower; or the dripping or exuding of process fluid based on sight, smell, or sound.

(52) **Liquid fuel**--A liquid combustible mixture, not derived from hazardous waste, with a heating value of at least 5,000 British thermal units per pound.

(53) **Liquid-mounted seal**--A primary seal mounted in continuous contact with the liquid between the tank wall and the floating roof around the circumference of the tank.

(54) **Maintenance area**--A geographic region of the state previously designated nonattainment under the Federal Clean Air Act Amendments of 1990 and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under 42 United States Code, §7505a. The following are the maintenance areas within the state:

(A) Victoria Ozone Maintenance Area 60 (*Federal Register* (FR) 12453) -
Victoria County; and

(B) Collin County Lead Maintenance Area (64 FR 55421) - Portion of Collin County. Eastside: Starting at the intersection of South Fifth Street and the fence line approximately 1,000 feet south of the Exide property line going north to the intersection of South Fifth Street and Eubanks Street; Northside: Proceeding west on Eubanks to the Burlington Railroad tracks; Westside: Along the Burlington Railroad tracks to the fence line approximately 1,000 feet south of the Exide property line; Southside: Fence line approximately 1,000 feet south of the Exide property line.

(55) **Maintenance plan**--A revision to the applicable state implementation plan, meeting the requirements of 42 United States Code, §7505a.

(56) **Marine vessel**--Any watercraft used, or capable of being used, as a means of transportation on water, and that is constructed or adapted to carry, or that carries, oil, gasoline, or other volatile organic liquid in bulk as a cargo or cargo residue.

(57) **Mechanical shoe seal**--A metal sheet that is held vertically against the storage tank wall by springs or weighted levers and is connected by braces to the floating roof. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

(58) **Medical waste**--Waste materials identified by the Department of State Health Services as "special waste from health care-related facilities" and those waste materials commingled and discarded with special waste from health care-related facilities.

(59) **Metropolitan Planning Organization**--That organization designated as being responsible, together with the state, for conducting the continuing, cooperative, and comprehensive planning process under 23 United States Code (USC), §134 and 49 USC, §1607.

(60) **Mobile emissions reduction credit**--The credit obtained from an enforceable, permanent, quantifiable, and surplus (to other federal and state rules) emissions reduction generated by a mobile source as set forth in Chapter 114, Subchapter F of this title (relating to Vehicle Retirement and Mobile Emission Reduction Credits), and that has been banked in accordance with Subchapter H, Division 1 of this chapter.

(61) **Motor vehicle**--A self-propelled vehicle designed for transporting persons or property on a street or highway.

(62) **Motor vehicle fuel dispensing facility**--Any site where gasoline is dispensed to motor vehicle fuel tanks from stationary storage tanks.

(63) **Municipal solid waste**--Solid waste resulting from, or incidental to, municipal, community, commercial, institutional, and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste except industrial solid waste.

(64) **Municipal solid waste facility**--All contiguous land, structures, other appurtenances, and improvements on the land used for processing, storing, or disposing of solid waste. A

facility may be publicly or privately owned and may consist of several processing, storage, or disposal operational units, e.g., one or more landfills, surface impoundments, or combinations of them.

(65) **Municipal solid waste landfill**--A discrete area of land or an excavation that receives household waste and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 Code of Federal Regulations §257.2. A municipal solid waste landfill (MSWLF) unit also may receive other types of Resource Conservation and Recovery Act Subtitle D wastes, such as commercial solid waste, nonhazardous sludge, conditionally exempt small-quantity generator waste, and industrial solid waste. Such a landfill may be publicly or privately owned. An MSWLF unit may be a new MSWLF unit, an existing MSWLF unit, or a lateral expansion.

(66) **National ambient air quality standard**--Those standards established under 42 United States Code, §7409, including standards for carbon monoxide, lead, nitrogen dioxide, ozone, inhalable particulate matter, and sulfur dioxide.

(67) **Net ground-level concentration**--The concentration of an air contaminant as measured at or beyond the property boundary minus the representative concentration flowing onto a property as measured at any point. Where there is no expected influence of the air contaminant flowing onto a property from other sources, the net ground level concentration may be determined by a measurement at or beyond the property boundary.

(68) **New source**--Any stationary source, the construction or modification of which was commenced after March 5, 1972.

(69) **Nitrogen oxides (NO_x)**--The sum of the nitric oxide and nitrogen dioxide in the flue gas or emission point, collectively expressed as nitrogen dioxide.

(70) **Nonattainment area**--A defined region within the state that is designated by the United States Environmental Protection Agency (EPA) as failing to meet the national ambient air quality standard for a pollutant for which a standard exists. The EPA will designate the area as nonattainment under the provisions of 42 United States Code, §7407(d). For the official list and boundaries of nonattainment areas, see 40 Code of Federal Regulations Part 81 and pertinent Federal Register (FR) notices. The following areas comprise the nonattainment areas within the state for all national ambient air quality standards (NAAQS). EPA has indicated that it will revoke the one-hour ozone standard in full, including the associated designations and classifications, on June 15, 2005, which is one year following the effective date of the designations for the eight-hour NAAQS of June 15, 2004.

(A) Carbon monoxide (CO). El Paso CO nonattainment area (56 FR 56694)-- Classified as a Moderate CO nonattainment area with a design value less than or equal to 12.7 parts per million. Portion of El Paso County. Portion of the city limits of El Paso: That portion of the City of El Paso bounded on the north by Highway 10 from Porfirio Diaz Street to Reynolds Street, Reynolds Street from Highway 10 to the Southern Pacific Railroad lines, the Southern Pacific Railroad lines from Reynolds Street to Highway 62, Highway 62 from the Southern Pacific Railroad lines to Highway 20, and Highway 20 from Highway 62 to Polo Inn Road. Bounded on the east by Polo Inn Road from Highway 20 to the Texas-Mexico border. Bounded on the south by the Texas-Mexico border from Polo Inn Road to

Porfirio Diaz Street. Bounded on the west by Porfirio Diaz Street from the Texas-Mexico border to Highway 10.

(B) Inhalable particulate matter (PM 10). El Paso PM10 nonattainment area (56 FR 56694)--Classified as a Moderate PM10 nonattainment area. Portion of El Paso County that comprises the El Paso city limit boundaries as they existed on November 15, 1990.

(C) Lead. No designated nonattainment areas.

(D) Nitrogen dioxide. No designated nonattainment areas.

(E) Ozone (one-hour).

(i) Houston-Galveston-Brazoria (HGB) one-hour ozone nonattainment area (56 FR 56694) - Classified as a Severe-17 ozone nonattainment area. Consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties.

(ii) El Paso one-hour ozone nonattainment area (56 FR 56694) - Classified as a Serious ozone nonattainment area. Consists of El Paso County.

(iii) Beaumont-Port Arthur (BPA) one-hour ozone nonattainment area (69 FR 16483) - Classified as a Serious ozone nonattainment area. Consists of Hardin, Jefferson, and Orange Counties.

(iv) Dallas-Fort Worth one-hour ozone nonattainment area (63 FR 8128)

- Classified as a Serious ozone nonattainment area. Consists of Collin, Dallas, Denton, and Tarrant Counties.

(F) Ozone (eight-hour).

(i) HGB eight-hour ozone nonattainment area (69 FR 23936) - Classified as a Moderate ozone nonattainment area. Consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties.

(ii) BPA eight-hour ozone nonattainment area (69 FR 23936) - Classified as a Marginal ozone nonattainment area. Consists of Hardin, Jefferson, and Orange Counties.

(iii) Dallas-Fort Worth eight-hour ozone nonattainment area (69 FR 23936) - Classified as a Moderate ozone nonattainment area. Consists of Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties.

(iv) San Antonio eight-hour ozone nonattainment area (69 FR 23936) - Classified under the Federal Clean Air Act, Title I, Part D, Subpart 1 (42 United States Code, §7502), nonattainment deferred to September 30, 2005, or as extended by EPA.

(G) Sulfur dioxide. No designated nonattainment areas.

(71) **Non-reportable emissions event**--Any emissions event that in any 24-hour period does not result in an unauthorized emission from any emissions point equal to or in excess of the reportable quantity as defined in this section.

(72) **Opacity**--The degree to which an emission of air contaminants obstructs the transmission of light expressed as the percentage of light obstructed as measured by an optical instrument or trained observer.

(73) **Open-top vapor degreasing**--A batch solvent cleaning process that is open to the air and that uses boiling solvent to create solvent vapor used to clean or dry parts through condensation of the hot solvent vapors on the parts.

(74) **Outdoor burning**--Any fire or smoke-producing process that is not conducted in a combustion unit.

(75) **Particulate matter**--Any material, except uncombined water, that exists as a solid or liquid in the atmosphere or in a gas stream at standard conditions.

(A) Particulate matter with diameters less than 10 micrometers (PM₁₀)--
Particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers as
measured by a reference method based on 40 Code of Federal Regulations (CFR) Part 50, Appendix J.

and designated in accordance with 40 CFR Part 53, or by an equivalent method designated with that Part 53.

(B) Particulate matter with diameters less than 2.5 micrometers (PM_{2.5})--
Particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as
measured by a reference method based on 40 CFR Part 50, Appendix L, and designated in accordance
with 40 CFR Part 53, or by an equivalent method designated with that Part 53.

(76) Particulate matter emissions--All finely-divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by United States Environmental Protection Agency Reference Method 5, as specified at 40 Code of Federal Regulations (CFR) Part 60, Appendix A, modified to include particulate caught by an impinger train; by an equivalent or alternative method, as specified at 40 CFR Part 51; or by a test method specified in an approved state implementation plan.

(A) Direct PM emissions--Particulate matter that is emitted directly into the air as
a solid or liquid particle (e.g. elemental carbon from diesel engines or fire activities, or condensable
organic particles from gasoline engines).

(B) Secondary PM emissions--Particulate matter that is formed in the atmosphere
as a result of various chemical reactions (e.g. sulfate and nitrate).

(77) Petroleum refinery--Any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of crude oil, or

through the redistillation, cracking, extraction, reforming, or other processing of unfinished petroleum derivatives.

(78) **PM_{2.5} emissions**--Finely-divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method specified in 40 Code of Federal Regulations Part 51, or by a test method specified in an approved state implementation plan. [PM10 -- Particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers as measured by a reference method based on 40 Code of Federal Regulations (CFR) Part 50, Appendix J, and designated in accordance with 40 CFR Part 53, or by an equivalent method designated with that Part 53.]

(79) **PM10 emissions**--Finely-divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal ten micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method specified in 40 Code of Federal Regulations Part 51, or by a test method specified in an approved state implementation plan.

(80) **Polychlorinated biphenyl compound**--A compound subject to 40 Code of Federal Regulations Part 761.

(81) **Process or processes**--Any action, operation, or treatment embracing chemical, commercial, industrial, or manufacturing factors such as combustion units, kilns, stills, dryers, roasters,

and equipment used in connection therewith, and all other methods or forms of manufacturing or processing that may emit smoke, particulate matter, gaseous matter, or visible emissions.

(82) **Process weight per hour**--"Process weight" is the total weight of all materials introduced or recirculated into any specific process that may cause any discharge of air contaminants into the atmosphere. Solid fuels charged into the process will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. The "process weight per hour" will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during that the equipment used to conduct the process is idle. For continuous operation, the "process weight per hour" will be derived by dividing the total process weight for a 24-hour period by 24.

(83) **Property**--All land under common control or ownership coupled with all improvements on such land, and all fixed or movable objects on such land, or any vessel on the waters of this state.

(84) **Reasonable further progress**--Annual incremental reductions in emissions of the applicable air contaminant that are sufficient to provide for attainment of the applicable national ambient air quality standard in the designated nonattainment areas by the date required in the state implementation plan.

(85) **Regulated entity**--All regulated units, facilities, equipment, structures, or sources at one street address or location that are owned or operated by the same person. The term includes any

property under common ownership or control identified in a permit or used in conjunction with the regulated activity at the same street address or location. Owners or operators of pipelines, gathering lines, and flowlines under common ownership or control in a particular county may be treated as a single regulated entity for purposes of assessment and regulation of emissions events.

(86) **Remote reservoir cold solvent cleaning**--Any cold solvent cleaning operation in which liquid solvent is pumped to a sink-like work area that drains solvent back into an enclosed container while parts are being cleaned, allowing no solvent to pool in the work area.

(87) **Reportable emissions event**--Any emissions event that in any 24-hour period, results in an unauthorized emission from any emissions point equal to or in excess of the reportable quantity as defined in this section.

(88) **Reportable quantity (RQ)**--Is as follows:

(A) for individual air contaminant compounds and specifically listed mixtures by name or Chemical Abstracts Service (CAS) number, either:

(i) the lowest of the quantities:

(I) listed in 40 Code of Federal Regulations (CFR) Part 302, Table 302.4, the column "final RQ";

(II) listed in 40 CFR Part 355, Appendix A, the column
"Reportable Quantity"; or

(III) listed as follows:

(-a-) acetaldehyde - 1,000 pounds, except in the
Houston-Galveston-Brazoria (HGB) and Beaumont-Port Arthur (BPA) ozone nonattainment areas as
defined in paragraph (70)(E)(i) and (iii) of this section, where the RQ must be 100 pounds;

(-b-) butanes (any isomer) - 5,000 pounds;

(-c-) butenes (any isomer, except 1,3-butadiene) - 5,000
pounds, except in the HGB and BPA ozone nonattainment areas as defined in paragraph (70)(E)(i) and
(iii) of this section, where the RQ must be 100 pounds;

(-d-) carbon monoxide - 5,000 pounds;

(-e-) 1-chloro-1,1-difluoroethane (HCFC-142b) - 5,000
pounds;

(-f-) chlorodifluoromethane (HCFC-22) - 5,000 pounds;

(-g-) 1-chloro-1-fluoroethane (HCFC-151a) - 5,000
pounds;

(-h-) chlorofluoromethane (HCFC-31) - 5,000 pounds;

(-i-) chloropentafluoroethane (CFC-115) - 5,000 pounds;

(-j-) 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124) -
5,000 pounds;

(-k-) 1-chloro-1,1,2,2 tetrafluoroethane (HCFC-124a) -
5,000 pounds;

(-l-) 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-
10mee) - 5,000 pounds;

(-m-) decanes (any isomer) - 5,000 pounds;

(-n-) 1,1-dichloro-1-fluoroethane (HCFC-141b) - 5,000
pounds;

(-o-) 3,3-dichloro-1,1,2,2-pentafluoropropane (HCFC-
225ca) - 5,000 pounds;

(-p-) 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb) - 5,000 pounds;

(-q-) 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFR-114) - 5,000 pounds;

(-r-) 1,1-dichlorotetrafluoroethane (CFC-114a) - 5,000 pounds;

(-s-) 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a) - 5,000 pounds;

(-t-) 1,1-difluoroethane (HFC-152a) - 5,000 pounds;

(-u-) difluoromethane (HFC-32) - 5,000 pounds;

(-v-) ethanol - 5,000 pounds;

(-w-) ethylene - 5,000 pounds, except in the HGB and BPA ozone nonattainment areas as defined in paragraph (70)(E)(i) and (iii) of this section, where the RQ must be 100 pounds;

(-x-) ethylfluoride (HFC-161) - 5,000 pounds;

(-y-) 1,1,1,2,3,3,3-heptafluoropropane (HFC-227ea) -
5,000 pounds;

(-z-) 1,1,1,3,3,3-hexafluoropropane (HFC-236fa) - 5,000
pounds;

(-aa-) 1,1,1,2,3,3-hexafluoropropane (HFC-236ea) -
5,000 pounds;

(-bb-) hexanes (any isomer) - 5,000 pounds;

(-cc-) isopropyl alcohol - 5,000 pounds;

(-dd-) mineral spirits - 5,000 pounds;

(-ee-) octanes (any isomer) - 5,000 pounds;

(-ff-) oxides of nitrogen - 200 pounds in ozone
nonattainment, ozone maintenance, early action compact areas, Nueces County, and San Patricio County,
and 5,000 pounds in all other areas of the state, which should be used instead of the RQs for nitrogen
oxide and nitrogen dioxide provided in 40 CFR Part 302, Table 302.4, the column "final RQ";

(-gg-) pentachlorofluoroethane (CFR-111) - 5,000

pounds;

(-hh-) 1,1,1,3,3-pentafluorobutane (HFC-365mfc) -

5,000 pounds;

(-ii-) pentafluoroethane (HFC-125) - 5,000 pounds;

(-jj-) 1,1,2,2,3-pentafluoropropane (HFC-245ca) - 5,000

pounds;

(-kk-) 1,1,2,3,3-pentafluoropropane (HFC-245ea) -

5,000 pounds;

(-ll-) 1,1,1,2,3-pentafluoropropane (HFC-245eb) - 5,000

pounds;

(-mm-) 1,1,1,3,3-pentafluoropropane (HFC-245fa) -

5,000 pounds;

(-nn-) pentanes (any isomer) - 5,000 pounds;

(-oo-) propane - 5,000 pounds;

(-pp-) propylene - 5,000 pounds, except in the HGB and BPA ozone nonattainment areas as defined in paragraph (70)(E)(i) and (iii) of this section, where the RQ must be 100 pounds;

(-qq-) 1,1,2,2-tetrachlorodifluoroethane (CFR -112) -
5,000 pounds;

(-rr-) 1,1,1,2-tetrachlorodifluoroethane (CFC-112a) -
5,000 pounds;

(-ss-) 1,1,2,2-tetrafluoroethane (HFC-134) - 5,000
pounds;

(-tt-) 1,1,1,2-tetrafluoroethane (HFC-134a) - 5,000
pounds;

(-uu-) 1,1,2-trichloro-1,2,2-trifluoroethane (CFR-113) -
5,000 pounds;

(-vv-) 1,1,1-trichloro- 2,2,2- trifluoroethane (CFC- 113a)
- 5,000 pounds;

(-ww-) 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123) -
5,000 pounds;

(-xx-) 1,1,1-trifluoroethane (HFC-143a) - 5,000 pounds;

(-yy-) trifluoromethane (HFC-23) - 5,000 pounds; or

(-zz-) toluene - 1,000 pounds, except in the HGB and
BPA ozone nonattainment areas as defined in paragraph (70)(E)(i) and (iii) of this section, where the RQ
must be 100 pounds;

(ii) if not listed in clause (i) of this subparagraph, 100 pounds;

(B) for mixtures of air contaminant compounds:

(i) where the relative amount of individual air contaminant compounds is
known through common process knowledge or prior engineering analysis or testing, any amount of an
individual air contaminant compound that equals or exceeds the amount specified in subparagraph (A) of
this paragraph;

(ii) where the relative amount of individual air contaminant compounds
in subparagraph (A)(i) of this paragraph is not known, any amount of the mixture that equals or exceeds

the amount for any single air contaminant compound that is present in the mixture and listed in subparagraph (A)(i) of this paragraph;

(iii) where each of the individual air contaminant compounds listed in subparagraph (A)(i) of this paragraph are known to be less than 0.02% by weight of the mixture, and each of the other individual air contaminant compounds covered by subparagraph (A)(ii) of this paragraph are known to be less than 2.0% by weight of the mixture, any total amount of the mixture of air contaminant compounds greater than or equal to 5,000 pounds; or

(iv) where natural gas excluding carbon dioxide, water, nitrogen, methane, ethane, noble gases, hydrogen, and oxygen or air emissions from crude oil are known to be in an amount greater than or equal to 5,000 pounds or the associated hydrogen sulfide and mercaptans in a total amount greater than 100 pounds, whichever occurs first;

(C) for opacity from boilers and combustion turbines as defined in this section fueled by natural gas, coal, lignite, wood, fuel oil containing hazardous air pollutants at a concentration of less than 0.02% by weight, opacity that is equal to or exceeds 15 additional percentage points above the applicable limit, averaged over a six-minute period. Opacity is the only RQ applicable to boilers and combustion turbines described in this paragraph; or

(D) for facilities where air contaminant compounds are measured directly by a continuous emission monitoring system providing updated readings at a minimum 15-minute interval an amount, approved by the executive director based on any relevant conditions and a screening model, that

would be reported prior to ground level concentrations reaching at any distance beyond the closest regulated entity property line:

(i) less than one-half of any applicable ambient air standards; and

(ii) less than two times the concentration of applicable air emission

limitations.

(89) **Rubbish**--Nonputrescible solid waste, consisting of both combustible and noncombustible waste materials. Combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials. Noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and like materials that will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).

(90) **Scheduled maintenance, startup, or shutdown activity**--For activities with unauthorized emissions that are expected to exceed a reportable quantity (RQ), a scheduled maintenance, startup, or shutdown activity is an activity that the owner or operator of the regulated entity whether performing or otherwise affected by the activity, provides prior notice and a final report as required by §101.211 of this title (relating to Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements); the notice or final report includes the information required in §101.211 of this title; and the actual unauthorized emissions from the activity do not exceed the emissions estimates submitted in the initial notification by more than an RQ. For activities with unauthorized emissions that are not expected to, and do not, exceed an RQ, a scheduled maintenance, startup, or shutdown activity is

one that is recorded as required by §101.211 of this title. Expected excess opacity events as described in §101.201(e) of this title (relating to Emissions Event Reporting and Recordkeeping Requirements) resulting from scheduled maintenance, startup, or shutdown activities are those that provide prior notice (if required), and are recorded and reported as required by §101.211 of this title.

(91) **Sludge**--Any solid or semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant; water supply treatment plant, exclusive of the treated effluent from a wastewater treatment plant; or air pollution control equipment.

(92) **Smoke**--Small gas-born particles resulting from incomplete combustion consisting predominately of carbon and other combustible material and present in sufficient quantity to be visible.

(93) **Solid waste**--Garbage, rubbish, refuse, sludge from a waste water treatment plant, water supply treatment plant, or air pollution control equipment, and other discarded material, including solid, liquid, semisolid, or containerized gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities. The term does not include:

(A) solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued under the Texas Water Code, Chapter 26;

(B) soil, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land, if the object of the fill is to make the land suitable for the construction of surface improvements; or

(C) waste materials that result from activities associated with the exploration, development, or production of oil or gas, or geothermal resources, and other substance or material regulated by the Railroad Commission of Texas under Natural Resources Code, §91.101, unless the waste, substance, or material results from activities associated with gasoline plants, natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants and is hazardous waste as defined by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by Resource Conservation and Recovery Act, as amended (42 United States Code, §§6901 et seq.).

(94) **Sour crude**--A crude oil that will emit a sour gas when in equilibrium at atmospheric pressure.

(95) **Sour gas**--Any natural gas containing more than 1.5 grains of hydrogen sulfide per 100 cubic feet, or more than 30 grains of total sulfur per 100 cubic feet.

(96) **Source**--A point of origin of air contaminants, whether privately or publicly owned or operated. Upon request of a source owner, the executive director shall determine whether multiple processes emitting air contaminants from a single point of emission will be treated as a single source or as multiple sources.

(97) **Special waste from health care-related facilities**--A solid waste that if improperly treated or handled, may serve to transmit infectious disease(s) and that is comprised of the following: animal waste, bulk blood and blood products, microbiological waste, pathological waste, and sharps.

(98) **Standard conditions**--A condition at a temperature of 68 degrees Fahrenheit (20 degrees Centigrade) and a pressure of 14.7 pounds per square inch absolute (101.3 kiloPascals).

(99) **Standard metropolitan statistical area**--An area consisting of a county or one or more contiguous counties that is officially so designated by the United States Bureau of the Budget.

(100) **Submerged fill pipe**--A fill pipe that extends from the top of a tank to have a maximum clearance of six inches (15.2 centimeters) from the bottom or, when applied to a tank that is loaded from the side, that has a discharge opening entirely submerged when the pipe used to withdraw liquid from the tank can no longer withdraw liquid in normal operation.

(101) **Sulfur compounds**--All inorganic or organic chemicals having an atom or atoms of sulfur in their chemical structure.

(102) **Sulfuric acid mist/sulfuric acid**--Emissions of sulfuric acid mist and sulfuric acid are considered to be the same air contaminant calculated as H₂SO₄ and must include sulfuric acid liquid mist, sulfur trioxide, and sulfuric acid vapor as measured by Test Method 8 in 40 Code of Federal Regulations Part 60, Appendix A.

(103) **Sweet crude oil and gas**--Those crude petroleum hydrocarbons that are not "sour" as defined in this section.

(104) **Total suspended particulate**--Particulate matter as measured by the method described in 40 Code of Federal Regulations Part 50, Appendix B.

(105) **Transfer efficiency**--The amount of coating solids deposited onto the surface or a part of product divided by the total amount of coating solids delivered to the coating application system.

(106) **True vapor pressure**--The absolute aggregate partial vapor pressure, measured in pounds per square inch absolute, of all volatile organic compounds at the temperature of storage, handling, or processing.

(107) **Unauthorized emissions**--Emissions of any air contaminant except carbon dioxide, water, nitrogen, methane, ethane, noble gases, hydrogen, and oxygen that exceed any air emission limitation in a permit, rule, or order of the commission or as authorized by Texas Clean Air Act, §382.0518(g).

(108) **Unplanned maintenance, startup, or shutdown activity**--For activities with unauthorized emissions that are expected to exceed a reportable quantity or with excess opacity, an unplanned maintenance, startup, or shutdown activity is:

(A) a startup or shutdown that was not part of normal or routine facility operations, is unpredictable as to timing, and is not the type of event normally authorized by permit; or

(B) a maintenance activity that arises from sudden and unforeseeable events beyond the control of the operator that requires the immediate corrective action to minimize or avoid an upset or malfunction.

(109) **Upset event**--An unplanned and unavoidable breakdown or excursion of a process or operation that results in unauthorized emissions. A maintenance, startup, or shutdown activity that was reported under §101.211 of this title (relating to Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements), but had emissions that exceeded the reported amount by more than a reportable quantity due to an unplanned and unavoidable breakdown or excursion of a process or operation is an upset event.

(110) **Utility boiler**--A boiler used to produce electric power, steam, or heated or cooled air, or other gases or fluids for sale.

(111) **Vapor combustor**--A partially enclosed combustion device used to destroy volatile organic compounds by smokeless combustion without extracting energy in the form of process heat or steam. The combustion flame may be partially visible, but at no time does the device operate with an uncontrolled flame. Auxiliary fuel and/or a flame air control damping system that can operate at all times to control the air/fuel mixture to the combustor's flame zone, may be required to ensure smokeless combustion during operation.

(112) **Vapor-mounted seal**--A primary seal mounted so there is an annular space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the tank wall, the liquid surface, and the floating roof or cover.

(113) **Vent**--Any duct, stack, chimney, flue, conduit, or other device used to conduct air contaminants into the atmosphere.

(114) **Visible emissions**--Particulate or gaseous matter that can be detected by the human eye. The radiant energy from an open flame is not considered a visible emission under this definition.

(115) **Volatile organic compound**--As defined in 40 Code of Federal Regulations §51.100(s), except §51.100(s)(2) - (4), as amended on January 21, 2009 (74 FR 3441).

(116) **Volatile organic compound (VOC) water separator**--Any tank, box, sump, or other container in which any VOC, floating on or contained in water entering such tank, box, sump, or other container, is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.