

The Texas Commission on Environmental Quality (TCEQ, agency, commission) proposes amendments to §§18.2, 18.10, 18.15, 18.25, 18.30, and 18.35. The commission also proposes new §18.26.

### **Background and Summary of the Factual Basis for the Proposed Rules**

The commission proposes amendments to Chapter 18 to implement 2007 legislation, perform the required review of property on the Tier I Table and Expedited Review List, and make various editorial or administrative changes within the chapter for the rollback tax relief program.

In 1993, the 73rd Legislature, enacted House Bill (HB) 1920, which created Texas Tax Code, §11.31 and §26.045. Texas Tax Code, §11.31 established a property tax exemption program for property that is used wholly or partly for pollution control. Texas Tax Code, §26.045 created a rollback tax relief program for political subdivisions. Texas Tax Code, §11.31 required the TCEQ to adopt rules to implement the pollution control property program. Texas Tax Code, §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 277, Use Determinations for Tax Exemptions for Pollution Control Equipment, on September 30, 1994, to implement Texas Tax Code, §11.31. During the 1994 rulemaking, the commission chose not to adopt a separate rule to implement Texas Tax Code, §26.045. Section 277.1, Scope and Purpose, included political subdivisions in the

definition of the applicability of the rule. Chapter 277 was later repealed and replaced with 30 TAC Chapter 17, Tax Relief for Property Used for Environmental Protection, through rulemaking adopted May 26, 1999.

In 2007, the 80th Legislature modified the Rollback Relief for Pollution Control Requirements program (Texas Tax Code, §26.045) through the passage of HB 3732. The legislature modified Texas Tax Code, §26.045 by adding three new subsections, (f), (g), and (h). Texas Tax Code, §26.045(f) requires the commission to adopt by rule a list of 18 categories of property listed in Texas Tax Code, §26.045(f). Texas Tax Code, §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. Texas Tax Code, §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 Texas Tax Code, §26.045(c)(1), within 30 days of receipt of the required application documents. On January 16, 2008, the commission adopted new Chapter 18 to implement the requirements of HB 3732.

The current rulemaking proposal implements change from the required once every three-year review of the list of property contained in Texas Tax Code, §26.045(f) and would make other changes in order to bring Chapter 18 into agreement with Chapter 17.

In a corresponding rulemaking published in this issue of the *Texas Register*, the commission proposes to also amend 30 TAC Chapter 17, Tax Relief for Property Used for Environmental Protection.

### **Section by Section Discussion**

In addition to the proposed amendments and new section associated with the rulemaking for Chapter 18, various stylistic non-substantive changes are included to update rule language to current *Texas Register* style and format requirements. Such changes include appropriate and consistent use of acronyms, section references, rule structure, and certain terminology. These changes are non-substantive and generally are not specifically discussed in this preamble.

#### *§18.2, Definitions*

The amendment to §18.2 would add 30 TAC §3.2 to the list of laws with definitions pertinent to this chapter in the introductory paragraph. Section 3.2 contains general definitions that are applicable to all commission rules and the addition is only for clarity.

The commission proposes to delete several definitions that are not necessary, to amend several definitions in response to other proposed changes contained in this rulemaking, and to renumber definitions as needed. Specifically, this rulemaking would delete the

definition "ePay" because the use of the term is clear in the rules; the definition "Equipment and Categories List (ECL)" as this proposal renames Part A of the ECL as the Tier I Table and Part B of the ECL as the "Expedited Review List" and this definition is not applicable; the definition of "Installation" as the use of the term is consistent with the standard dictionary definition making the inclusion of the definition in this section unnecessary; and the definition "Use determination letter" as the meaning of the term is clear and a definition is unnecessary.

The commission proposes to amend the definition of "Tier I" to reflect the replacement of Part A of the Equipment and Categories List with the Tier I Table; and to amend the definition of "Tier II" to reflect the replacement of Part B of The Equipment and Categories List with the Expedited Review List.

To reflect the removal of the definitions in existing §18.2(1), (2) and (3), the remaining definitions would be renumbered accordingly.

#### *§18.10, Application for Use Determination*

As discussed elsewhere in the Section by Section discussion of this preamble, the commission is proposing to remove Part B of the Equipment and Categories List and replace it with the Expedited Review List that would be located in new §18.26. The proposed revisions to §18.10 would change the reference to Part B in §18.10(c)(1) to

"Expedited Review List" and change the rule reference from §18.25(a) to §18.26.

As discussed elsewhere in the Section by Section discussion of this preamble, the commission is proposing to remove Part A of the Equipment and Categories List and replace it with the Tier I Table, which will be located in §18.25(a). The proposed revisions to §18.10(c)(5) would change references from "Part A" and "Part B" of the Equipment and Categories List to the "Tier I Table" and the "Expedited Review List" respectively.

*§18.15. Application Review Schedule.*

The commission proposes to amend §18.15(1) to replace "Within three days of" with "As soon as practicable after" to allow sufficient time for the review of applications while still allowing payment processing of application fees to occur. The short time period was not practical. The commission also proposes to amend §18.15(2) by replacing the reference to "Part B of the Equipment and Categories List" with a reference to the "Expedited Review List."

*§18.25. Equipment and Categories List*

The commission proposes to rename §18.25 to Tier I Eligible Equipment.

The proposed amendment to §18.25 would also delete the Equipment and Categories

List located in §18.25(a) and replace it with the Tier I Table located in §17.14(a). Chapter 18 was not amended during the previous revisions to Chapter 17 and the Tier I Table in §17.14(a), adopted November 18, 2010. The commission is proposing to incorporate into §18.25(a) all previous edits adopted for the Tier I Table in existing §17.14(a). As such, equipment listed in the current table in §18.25(a) that is not listed in existing §17.14(a) would not be included in the new Tier I Table in §18.25(a). Additional information regarding the previous revisions to the Tier I Table in §17.14(a) adopted on November 18, 2010 may be found in the December 10, 2010, publication of the *Texas Register* (35 TexReg 10980). Additionally, the commission proposes to amend the Tier I Table by modifying property names and descriptions to better reflect the equipment eligible for a 100% positive use determination and to delete equipment that is not eligible for a 100% positive use determination. These proposed revisions are consistent with proposed changes to the Tier I Table in §17.14(a). The proposed revisions would also reformat the table to make the figure accessible as well as make non-substantive changes including punctuation and spelling corrections and renumber items as necessary.

Specifically, the commission proposes the following revisions and deletions to the Air Pollution Control Equipment section of the Tier I Table. The property name for item A-1 would be changed from "Baghouse Dust Collectors" to "Dust Collection Systems" to reflect that not all dust collection systems include a baghouse. The description for item A-1 would be clarified by adding "in order to prevent release of particulate matter to

ambient air" after "streams." Item A-42, Chlorofluorocarbon (CFC) Replacement Projects, would be removed from the list since there is no adopted environmental rule or regulation that requires the gas in a refrigeration system to be converted from one chlorofluorocarbon to another. Item A-43, Halon Replacement Projects, would be removed since there is no adopted environmental rule or regulation that requires the replacement of halon with another gas for environmental purposes. The description of item A-61, Continuous and Noncontinuous Emission Monitors, would be clarified by adding "used" between "instruments" and "to demonstrate" to grammatically correct the sentence. Item A-67, Automotive Dynamometers, would be removed since the use of automotive dynamometers does not control, monitor, or prevent air, water, or land pollution. The property description of item A-110, Carbon Adsorption Systems, will be clarified by replacing "VOCs or odors" with "VOC emissions and odors" to more accurately describe the use of the equipment. The property description of item A-130, Sorbent Injection Systems, will be clarified by changing "reacts" to "react" in the first sentence and inserting a "," between "nozzles" and "ductwork" in the second sentence to grammatically correct the sentences. The property description for item A-180, Hoods, Duct and Collection Systems connected to Final Control Devices, will be modified by replacing "pumps" with "blowers" to clarify that the eligible equipment is used to capture and control a gas stream. The property description for item A-184, Vapor/Liquid Recovery Equipment (for venting to a control device), will be clarified by adding "those" between "including" and "used" to grammatically correct the sentence.

The property name for item A-186 would be changed from "Blast Cleaning System – Connected to a Control Device" to "Particulate Control Device Connected to a Blast Cleaning System" to better reflect the portion of the blast cleaning system that is eligible for a positive use determination. The description for item A-186 would be amended by removing "and blast material recycling system." Marketable product is defined in §17.2(5) as "Marketable product--Anything produced or recovered using pollution control property that is sold as a product, is accumulated for later use, or is used as a raw material in a manufacturing process. Marketable product includes, but is not limited to, anything recovered or produced using the pollution control property and sold, traded, accumulated for later use, or used in a manufacturing process (including at a different facility)." The recovered and reused blast material from the blast material recycling system meets the definition of marketable product; therefore blast material recycling systems are not eligible for a 100% positive use determination and do not belong on the Tier I Table.

The commission proposes the following revisions and deletions to the Water and Wastewater Pollution Control Equipment section of the Tier I Table. The description of item W-30, Activated Sludge, would be deleted and replaced with "Wastewater treatment using microorganisms to metabolize biodegradable organic matter in aqueous waste streams. Can include tanks, aeration equipment, clarifiers, and equipment used to handle sludge" in order to more accurately reflect the activated sludge process. The

description of item W-31, Adsorption, would be clarified by removing "water" from between "organic" and "contaminants" and adding "from wastewater" after "contaminants" to reflect that the eligible equipment is used for the treatment of wastewater. The description of item W-36, Wetlands and Lagoons (artificial), would be modified by adding "from wastewater or stormwater" after "pollutants" to reflect that the eligible equipment must be used to treat wastewater or stormwater. The description of item W-56, Ultra-filtration, would be clarified by adding "from wastewater" after "solutes" to reflect that the eligible equipment must be used to treat wastewater. Items W-58 Water Recycling Systems and W-62 Recycled Water Cleaning System would be deleted. The water collected and recycled by these systems meets the definition of marketable product; therefore, water recycling systems are not eligible for a 100% positive use determination and do not belong on the Tier I Table.

The commission proposes the following deletion to the Solid Waste Management Pollution Control Equipment section of the Tier I Table. Item S-27, Concrete Reclaiming Equipment, would be removed since the materials reclaimed by concrete reclaiming equipment meet the definition of marketable product; therefore, concrete reclaiming equipment is not eligible for a 100% positive use determination and does not belong on the Tier I Table. Existing S-28, Land, would be re-lettered as S-27.

The commission proposes the following revisions and deletions to the Miscellaneous

Pollution Control Equipment section of the Tier I Table. The description for M-2, Hazardous Air Pollutant Abatement Equipment – required removal material contaminated with asbestos, lead, or some other hazardous air pollutant, would be amended by adding the word "Containers" after "Disposal" to clarify that the eligible item is the disposal containers and not the cost of disposal. The description of Item M-4, Compactors, Barrel Crushers, Balers, Shredders, would be amended by removing "recycling/reuse purposes or" from between "for" and "on-site" to reflect that equipment used to reuse or recycle material generates a marketable product and is not eligible for a 100% positive use determination. Item M-5, Solvent Recovery Systems, would be removed because the solvent recovered by a solvent recovery system meets the definition of marketable product; therefore, solvent recovery systems are not eligible for a 100% positive use determination and do not belong on the Tier I Table. Item M-6 Boxes, Bins, Carts, Barrels, Storage Bunkers would be removed because the materials collected in the boxes, bins, carts, barrels, and storage bunkers for recycling or reuse purposes meet the definition of marketable product; therefore, collection and storage containers used for source separation of materials for recycling or reuse purposes are not eligible for a 100% positive use determination and do not belong on the Tier I Table. Remaining M items would be re-lettered to account for the removal of M-5 and M-6. The Media for item M-7 (now re-lettered M-5), Environmental Paving located at Industrial Facilities, would be amended by removing "land and water." The description for M-7 (now re-lettered M-5) limits this item to paving of outdoor vehicular traffic

areas in order to meet or exceed an adopted air quality rule, regulation, or law; therefore, the media should be air and not air/land/water. The description of item M-15 (now re-lettered as M-13), Odor Neutralization and Chemical Treatment Systems, would be amended by changing "absorption" to "adsorption" in two locations to reflect the correct chemical process used to treat odors. Item M-17, Low NO<sub>x</sub> Combustion System for drilling rigs, would be removed. At the time this item was added to the list, it was anticipated that drilling rig manufacturers would be able to identify nitrogen oxide (NO<sub>x</sub>) control systems installed on internal combustion engines. Applicable NO<sub>x</sub> control items are identified elsewhere on the Tier I Table under items A-80 Selective Catalytic and Non-catalytic Reduction Systems, A-81 Catalytic Converters for Stationary Sources, A-82 Air/Fuel Ratio Controllers for Piston-Driven Internal Combustion Engines, and A-86 Low NO<sub>x</sub> Burners.

The proposed revisions to the table would also amend the heading of the Equipment Located at Service Stations section to Equipment Located at Tank Installations including Service Stations to reflect that equipment located in this section is often used at tank farms and other facilities with tanks for the same pollution control purposes as when used at service stations.

The proposed revisions would also amend §18.25(b) by replacing the reference to "ECL" with "Tier I Table" to reflect the proposal to rename Part A of the ECL as the Tier I

Table.

*§18.26, Expedited Review List*

The commission proposes new §18.26, Expedited Review List, which will be the location of the table of equipment located in Texas Tax Code, §26.045(f). Proposed new §18.26 would contain a description of the Expedited Review List, a requirement that the list be reviewed at least once every three years, and an explanation that items can only be added to or removed from the list if there is compelling evidence that the item does or does not provide a pollution control benefit. The proposed new table in §18.26 would contain the Expedited Review List, which consists of the categories of equipment located in Texas Tax Code, §26.045(f). The list of equipment in the proposed Expedited Review List is currently identified as Part B of the Equipment and Categories List in §18.25(a), which is proposed to be deleted. The Expedited Review List in proposed new §18.26 is identical to the list located in §17.17(b).

*§18.30, Partial Determinations*

The commission proposes to amend §18.30 by removing the reference to Part B, by changing the section number to reflect the correct location of the Expedited Review List, and changing the reference to the "Equipment and Categories List" to the "Expedited Review List" to reflect the replacement of Part B of the Equipment and Categories List with the Expedited Review List.

*§18.35, Application Fees*

The commission proposes to amend §18.35(a)(1) to reflect the revisions to the title of §18.25 and to the title of the table contained in §18.25(a). The proposed revisions to §18.35 would also amend §18.35(a)(2) to reflect the revisions to §18.25(a) and the replacement of Part B of the Equipment and Categories List with the Expedited Review List in proposed new §18.26.

**Fiscal Note: Costs to State and Local Government**

Jeffrey Horvath, Analyst in the Chief Financial Officer Division, has determined that for the first five-year period the proposed rules are in effect, no fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rules.

The 73rd Legislature enacted HB 1920 and created Texas Tax Code, §11.31 and §26.045. Texas Tax Code, §11.31 established a property tax exemption program for property that is used wholly or partly for pollution control. This program is contained in Chapter 17. Texas Tax Code, §26.045 created a rollback tax relief program for political subdivisions that use property to meet pollution control requirements. This program is contained in Chapter 18. The proposed rules would implement the required triennial review of the list of property contained in Texas Tax Code, §26.045(f) and make other administrative

changes to make Chapter 18 consistent with Chapter 17 and to reflect changes made to Chapter 17 in 2010. Chapter 18 requires the commission to determine whether property is used to meet pollution control requirements while applying the rollback tax rate for a political subdivision. In many ways, Chapter 18 contains the same information that Chapter 17 contains.

The proposed changes to Chapter 18 would remove Part A of the Equipment and Categories List and replace it with the Tier I Table and change the reference of Part A of the Equipment and Categories List to the "Tier I Table." The proposed rulemaking would also remove Part B of the Equipment and Categories List and replace it with the Expedited Review List and change the reference to Part B to the "Expedited Review List."

Several items on the Tier I Table (currently Part A) are also being proposed for removal or modification. The items proposed for removal or modifications are ineligible for a 100% positive use determination; the items do not control, monitor, or prevent air, water or land pollution; or the process or equipment listed in the table creates a marketable product. If a marketable product is recovered (not including materials that are disposed) from property listed in the Tier I Table, a Tier III application is required, and the item is ineligible for a 100% positive use determination. The proposed changes to the Tier I Table are not anticipated to produce fiscal implications for the agency or for

the applicant.

The proposed rules contain the Expedited Review List, which consists of the categories of equipment located in Texas Tax Code, §26.045(f) and was formerly known as Part B of the Equipment and Categories List, which the commission proposes deleting from §18.25(a). The Texas Tax Code requires the TCEQ to review the items on the Expedited Review List at least once every three years. This list has been reviewed and no changes are being proposed.

The rest of the proposed changes to Chapter 18 are administrative in nature and are not anticipated to result in fiscal implications for the agency or other units of state or local government.

### **Public Benefits and Costs**

Mr. Horvath has also determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated from the changes seen in the proposed rules will be compliance with state law and the potential for a more efficient use determination application process.

The proposed rules are not expected to have fiscal implications for businesses or individuals. The proposed changes to the Tier I Table are not anticipated to have fiscal

implications for the agency or for the applicant. The items proposed to be removed from the list are not required by an environmental rule or regulation; do not control, monitor, or prevent air, water, or land pollution; or the process or equipment listed in the table creates a marketable product, thus making the item ineligible for a 100% positive use determination.

### **Small Business and Micro-Business Assessment**

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rules for the first five-year period the proposed rules are in effect. The proposed rules would remove or modify items from the Tier I Table that are not eligible; do not provide pollution control; or have an associated marketable product. No fiscal implications are anticipated for small or micro-businesses.

### **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 rules do not adversely affect small or micro-businesses and are required to implement state law and therefore are consistent with the health, safety, or environmental and economic welfare of the state.

### **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 rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are 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 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 proposed rulemaking implements a Rollback Relief for Pollution Control Requirements program as described in the background and summary of the factual basis for the proposed rules and section by section discussion sections above. Because the proposed rules are not specifically intended to protect the environment or reduce risks to human health from environmental exposure but to implement a tax exemption 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.

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 these proposed 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 proposed rules and Section by Section discussion sections of this preamble.

Promulgation and enforcement of these proposed rules will be neither a statutory or constitutional taking of private real property. Specifically, the proposed rules do not affect a landowner's rights in private real property, because this rulemaking action does not burden, restrict, nor 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 proposed regulations.

### **Consistency with the Coastal Management Program**

The commission reviewed the proposed rulemaking and found the proposal is not a rulemaking identified in the Coastal Coordination Act Implementation Rules, 31 TAC §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.

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.

### **Announcement of Hearing**

The commission will hold a public hearing on this proposal in Austin on April 3, 2014, at 2:00 p.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 Sandy Wong, Office of Legal Services at (512) 239-1802. Requests should be made as far in advance as possible.

### **Submittal of Comments**

Written comments may be submitted to Bruce McNally 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.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2013-045-017-AI. The comment period closes April 14, 2014. Copies of the proposed rulemaking can be obtained from the commission's Web site at

*[http://www.tceq.texas.gov/nav/rules/propose\\_adopt.html](http://www.tceq.texas.gov/nav/rules/propose_adopt.html)*. For further information,  
please contact Ron Hatlett, Air Quality Division, (512) 239-6348.

**CHAPTER 18: ROLLBACK RELIEF FOR POLLUTION  
CONTROL REQUIREMENTS**  
**§§18.2, 18.10, 18.15, 18.25, 18.26, 18.30, 18.35**

**Statutory Authority**

The new and amended sections are proposed 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 and amended sections are also proposed under Texas Tax Code, §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 Texas Tax Code, §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 proposed new and amended sections implement Texas Tax Code, §26.045.

**§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 that[which] are defined by §3.2 of this title (relating to Definitions), 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](http://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.]

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

(2) [(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).

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

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

(5) [(8)] Tier II--An application containing property that is listed or contained on the Expedited Review List [in Part B of the figure] in §18.26 [§18.25(a)] of this title (relating to Expedited Review List) or that is not listed on the Tier I Table [Equipment and Categories List].

(6) [(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.]

**§18.10. 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 the Expedited Review List located in §18.26 of this title (relating to Expedited Review List) [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 on the Tier I Table [in Part A of the figure in §18.25(a) of this title] or is property that [which] is listed on the Expedited Review List [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) As soon as practicable [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 that [which] is listed on the Expedited Review List in §18.26 of this title (relating to Expedited Review List) [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 use 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 that[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. Tier I Eligible Equipment [and Categories List].**

(a) For [The Equipment and Categories List (ECL) is a two-part list. Part A is a list of] the property listed on the Tier I Table located in this subsection that [the executive director has determined] is used [either] wholly [or partly] for pollution

control purposes, a Tier I application is required. A Tier I application must not include any property that is not listed in this subsection or that is used for pollution control purposes at a use percentage that is different than what is listed in the table in this subsection. If a marketable product is recovered (not including materials that are disposed) from property listed in this subsection, a Tier II application is required. [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)

[Figure: 30 TAC §18.25(a)]

### **Tier I Table**

The property listed in this table is property that the executive director has determined is used wholly for pollution control purposes when used as shown in the Description section of the table and when no marketable product arises from using the property. The items listed are described in generic terms without the use of brand names or trademarks. The use percentages on all property on the table 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 (e.g., use in production or recovery of a marketable product), the executive director may require that a Tier III application, using the Cost Analysis Procedure, be filed by the applicant to calculate the appropriate use determination percentage. For items where the description limits the use determination to the incremental cost difference, the cost of the property or device with the pollution control feature is compared to a similar device or property without the pollution control feature. The table is a list adopted under Texas Tax Code, §11.31(g).

***Air Pollution Control Equipment***

**Particulate Control Devices**

<u>No.</u>	<u>Media</u>	<u>Property</u>	<u>Description</u>	<u>%</u>
A-1	Air	<u>Dust Collection Systems</u>	<u>Structures containing filters, blowers, ductwork - used to remove particulate matter from exhaust gas streams in order to prevent release of particulate matter to ambient air.</u>	100
A-2	Air	<u>Demisters or Mist Eliminators Added</u>	<u>Mesh pads or cartridges - used to remove entrained liquid droplets from exhaust gas streams.</u>	100
A-3	Air	<u>Electrostatic Precipitators</u>	<u>Wet or dry particulate collection created by an electric field between positive or negative electrodes and collection surface.</u>	100
A-4	Air	<u>Dry Cyclone Separators</u>	<u>Single or multiple inertial separators with blowers and ductwork used to remove particulate matter from exhaust gas streams.</u>	100
A-5	Air	<u>Scrubbers</u>	<u>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, and blowers needed for the equipment to function.</u>	100
A-6	Air	<u>Water/ Chemical Sprays and Enclosures for Particulate Suppression</u>	<u>Spray nozzles, conveyor and chute covers, windshields, piping, and pumps used to reduce fugitive particulate emissions.</u>	100
A-7	Air	<u>Smokeless Ignitors</u>	<u>Installed on electric generating units to control particulate emissions and opacity on start-up.</u>	100

**Combustion Based Control Devices**

<u>No.</u>	<u>Media</u>	<u>Property</u>	<u>Description</u>	<u>%</u>
A-20	Air	<u>Thermal Oxidizers</u>	<u>Thermal destruction of air pollutants by direct flame combustion.</u>	100
A-21	Air	<u>Catalytic Oxidizer</u>	<u>Thermal destruction of air pollutants that uses a catalyst to promote oxidation.</u>	100

<u>A-22</u>	<u>Air</u>	<u>Flare/Vapor Combustor</u>	<u>Stack, burner, flare tip, and blowers used to destroy air contaminants in a vent gas stream.</u>	<u>100</u>
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**Non-Volatile Organic Compounds Gaseous Control Devices**

<u>No.</u>	<u>Media</u>	<u>Property</u>	<u>Description</u>	<u>%</u>
<u>A-40</u>	<u>Air</u>	<u>Molecular Sieve</u>	<u>Microporous filter used to remove hydrogen sulfide (H<sub>2</sub>S) or nitrogen oxides (NO<sub>x</sub>) from a waste gas stream.</u>	<u>100</u>
<u>A-41</u>	<u>Air</u>	<u>Strippers Used in Conjunction with Final Control Device</u>	<u>Stripper, with associated pumps, piping - used to remove contaminants from a waste gas stream or waste liquid stream.</u>	<u>100</u>

**Monitoring and Sampling Equipment**

<u>No.</u>	<u>Media</u>	<u>Property</u>	<u>Description</u>	<u>%</u>
<u>A-60</u>	<u>Air</u>	<u>Fugitive Emission Monitors</u>	<u>Organic vapor analyzers - used to discover leaking piping components.</u>	<u>100</u>
<u>A-61</u>	<u>Air</u>	<u>Continuous &amp; Noncontinuous Emission Monitors</u>	<u>Monitors, analyzers, buildings, air conditioning equipment, and optical gas imaging instruments used to demonstrate compliance with emission limitations of regulated air contaminants, (including flow and diluent gas monitors and dedicated buildings).</u>	<u>100</u>
<u>A-62</u>	<u>Air</u>	<u>Monitoring Equipment on Final Control Devices</u>	<u>Temperature monitor or controller, flow-meter, pH meter, and other meters for a pollution control device. Monitoring of production equipment or processes is not included.</u>	<u>100</u>
<u>A-63</u>	<u>Air</u>	<u>On or Off-Site Ambient Air Monitoring Facilities</u>	<u>Towers, structures, analytical equipment, sample collectors, monitors, and power supplies used to monitor for levels of contaminants in ambient air.</u>	<u>100</u>
<u>A-64</u>	<u>Air</u>	<u>Noncontinuous Emission Monitors, Portable</u>	<u>Portable monitors, analyzers, structures, trailers, air conditioning equipment, and optical gas imaging instruments used to demonstrate compliance with emission limitations.</u>	<u>100</u>
<u>A-65</u>	<u>Air</u>	<u>Predictive Emission Monitors</u>	<u>Monitoring of process and operational parameters that are used solely to calculate or determine compliance with emission limitations.</u>	<u>100</u>

<u>A-66</u>	<u>Air</u>	<u>Sampling Ports</u>	<u>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.</u>	<u>100</u>
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**Nitrogen Oxides Controls**

<u>No.</u>	<u>Media</u>	<u>Property</u>	<u>Description</u>	<u>%</u>
<u>A-80</u>	<u>Air</u>	<u>Selective Catalytic and Non-catalytic Reduction Systems</u>	<u>Catalyst bed, reducing agent injection and storage, monitors - used to reduce nitrogen oxides (NO<sub>x</sub>) emissions from combustion sources. Non-catalytic systems use a reducing agent without a catalyst.</u>	<u>100</u>
<u>A-81</u>	<u>Air</u>	<u>Catalytic Converters for Stationary Sources</u>	<u>Used to reduce NO<sub>x</sub> emissions from internal combustion engines.</u>	<u>100</u>
<u>A-82</u>	<u>Air</u>	<u>Air/Fuel Ratio Controllers for Piston- Driven Internal Combustion Engines</u>	<u>Used to control the air/fuel mixtures and reduce NO<sub>x</sub> formation for fuel injected, naturally aspirated, or turbocharged engines.</u>	<u>100</u>
<u>A-83</u>	<u>Air</u>	<u>Flue Gas Recirculation</u>	<u>Ductwork and blowers used to redirect part of the flue gas back to the combustion chamber for reduction of NO<sub>x</sub> formation. May include fly ash collection in coal fired units.</u>	<u>100</u>
<u>A-84</u>	<u>Air</u>	<u>Water/Steam Injection</u>	<u>Piping, nozzles, and pumps 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<sub>x</sub> formation.</u>	<u>100</u>
<u>A-85</u>	<u>Air</u>	<u>Over-fire Air &amp; Combination of asymmetric over-fire air with the injection of anhydrous ammonia or other pollutant- reducing agents</u>	<u>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.</u>	<u>100</u>

<u>A-86</u>	<u>Air</u>	<u>Low-NO<sub>x</sub> Burners</u>	<u>Installation of low-NO<sub>x</sub> burners. The eligible portion is the incremental cost difference. For a replacement burner, the incremental cost difference is calculated by comparing the cost of the new burner with the cost of the existing burner. For new installations, the incremental cost difference is calculated by comparing the cost of the new burner to the cost of a similarly sized burner without NO<sub>x</sub> controls from the most recent generation of burners.</u>	<u>100</u>
<u>A-87</u>	<u>Air</u>	<u>Water Lances</u>	<u>Installed in the fire box of boilers and industrial furnaces to eliminate hot spots, thereby reducing NO<sub>x</sub> formation.</u>	<u>100</u>
<u>A-88</u>	<u>Air</u>	<u>Electric Power Generation Burner Retrofit</u>	<u>Retrofit of existing burners on electric power generating units with components for reducing NO<sub>x</sub> including directly related equipment.</u>	<u>100</u>
<u>A-89</u>	<u>Air</u>	<u>Wet or Dry Sorbent Injection Systems</u>	<u>Use of a sorbent for flue gas desulfurization or NO<sub>x</sub> control.</u>	<u>100</u>

**Volatile Organic Compounds (VOC) Control**

<u>No.</u>	<u>Media</u>	<u>Property</u>	<u>Description</u>	<u>%</u>
<u>A-110</u>	<u>Air</u>	<u>Carbon Adsorption Systems</u>	<u>Carbon beds or liquid-jacketed systems, blowers, piping, condensers - used to remove VOC emissions and odors from exhaust gas streams.</u>	<u>100</u>
<u>A-111</u>	<u>Air</u>	<u>Storage Tank Secondary Seals and Internal Floating Roofs</u>	<u>Used to reduce VOC emissions caused by evaporation losses from aboveground storage tanks.</u>	<u>100</u>
<u>A-112</u>	<u>Air</u>	<u>Replacement of Existing Pumps, Valves, or Seals in Piping Service</u>	<u>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 VOCs. New systems do not qualify for this item.</u>	<u>100</u>
<u>A-113</u>	<u>Air</u>	<u>Welding of Pipe Joints in VOC Service (Existing Pipelines)</u>	<u>Welding of existing threaded or flanged pipe joints to eliminate fugitive emission leaks.</u>	<u>100</u>

<u>A-114</u>	<u>Air</u>	<u>Welding of Pipe Joints in VOC Service (New Construction)</u>	<u>The incremental cost difference between the cost of using threaded or flanged joints and welding of pipe joints in VOC service.</u>	<u>100</u>
<u>A-115</u>	<u>Air</u>	<u>External Floating Roofs</u>	<u>Used to reduce VOC emissions caused by evaporation losses from aboveground storage tanks. Must be installed to meet or exceed §115.112 of this title (relating to Control Requirements).</u>	<u>100</u>

**Mercury Control**

<u>No.</u>	<u>Media</u>	<u>Property</u>	<u>Description</u>	<u>%</u>
<u>A-130</u>	<u>Air</u>	<u>Sorbent Injection Systems</u>	<u>Sorbents sprayed into the flue gas that chemically react to absorb mercury. The sorbents are then removed by a particulate removal device. Equipment may include pumps, tanks, blowers, nozzles, ductwork, hoppers, and particulate collection devices needed for the equipment to function.</u>	<u>100</u>
<u>A-131</u>	<u>Air</u>	<u>Fixed Sorbent Systems</u>	<u>Equipment, such as stainless steel plate with a gold coating that is installed in the flue gas to absorb mercury.</u>	<u>100</u>
<u>A-132</u>	<u>Air</u>	<u>Mercury Absorbing Filters</u>	<u>Filters that absorb mercury such as those using the affinity between mercury and metallic selenium.</u>	<u>100</u>
<u>A-133</u>	<u>Air</u>	<u>Oxidation Systems</u>	<u>Equipment used to change elemental mercury to oxidized mercury. This can be catalysts (similar to Selective Catalytic Reduction (SCR) catalyst) or chemical additives that can be added to the flue gas or directly to the fuel.</u>	<u>100</u>
<u>A-134</u>	<u>Air</u>	<u>Photochemical Oxidation</u>	<u>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. These units are only eligible if mercury is removed from flue gas.</u>	<u>100</u>
<u>A-135</u>	<u>Air</u>	<u>Chemical Injection Systems</u>	<u>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.</u>	<u>100</u>

**Sulfur Oxides Controls**

<u>No.</u>	<u>Media</u>	<u>Property</u>	<u>Description</u>	<u>%</u>
<u>A-160</u>	<u>Air</u>	<u>Wet and Dry Scrubbers</u>	<u>Circulating fluid bed and moving bed technologies using a dry sorbent or various wet scrubber designs that inject a wet sorbent into the scrubber.</u>	<u>100</u>
<u>A-161</u>	<u>Air</u>	<u>Selective Catalytic and Non-catalytic Reduction Systems</u>	<u>Catalyst bed, reducing agent injection and storage, monitors - used to reduce sulfur oxide emissions from combustion sources. Non-catalytic systems use a reducing agent without a catalyst.</u>	<u>100</u>

**Miscellaneous Control Equipment**

<u>No.</u>	<u>Media</u>	<u>Property</u>	<u>Description</u>	<u>%</u>
<u>A-180</u>	<u>Air</u>	<u>Hoods, Duct and Collection Systems connected to Final Control Devices</u>	<u>Piping, headers, blowers, hoods, and ducts used to collect air contaminants and route them to a control device.</u>	<u>100</u>
<u>A-181</u>	<u>Air</u>	<u>Stack Modifications</u>	<u>Construction of stack extensions to meet a permit requirement.</u>	<u>100</u>
<u>A-182</u>	<u>Air</u>	<u>New Stack Construction</u>	<u>The incremental cost difference between the stack height required for production purposes and the stack height required for pollution control purposes.</u>	<u>100</u>
<u>A-183</u>	<u>Air</u>	<u>Stack Repairs</u>	<u>Repairs made to an existing stack for that stack to provide the same level of pollution control as was previously provided.</u>	<u>100</u>
<u>A-184</u>	<u>Air</u>	<u>Vapor/Liquid Recovery Equipment (for venting to a control device)</u>	<u>Piping, blowers, vacuum pumps, and compressors 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.</u>	<u>100</u>
<u>A-185</u>	<u>Air</u>	<u>Paint Booth Control Devices</u>	<u>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.</u>	<u>100</u>

<u>A-186</u>	<u>Air</u>	<u>Particulate Control Device Connected to a Blast Cleaning System</u>	<u>Particulate control device.</u>	<u>100</u>
<u>A-187</u>	<u>Air</u>	<u>Amine or Chilled Ammonia Scrubber</u>	<u>Installed to provide post combustion capture of pollutants (including carbon dioxide upon the effective date of a final rule adopted by the United States Environmental Protection Agency (EPA) regulating carbon dioxide as a pollutant).</u>	<u>100</u>
<u>A-188</u>	<u>Air</u>	<u>Catalyst-based Systems</u>	<u>Installed to allow the use of catalysts to reduce pollutants in emission streams.</u>	<u>100</u>
<u>A-189</u>	<u>Air</u>	<u>Enhanced Scrubbing Technology</u>	<u>Installed to enhance scrubber performance, including equipment that promotes the oxidation of elemental mercury in the flue gas prior to entering the scrubber.</u>	<u>100</u>

**Water and Wastewater Pollution Control Equipment**

**Solid Separation and De-watering**

<u>No.</u>	<u>Media</u>	<u>Property</u>	<u>Description</u>	<u>%</u>
<u>W-1</u>	<u>Water</u>	<u>API Separator</u>	<u>Separates oil, water, and solids by settling and skimming.</u>	<u>100</u>
<u>W-2</u>	<u>Waste water</u>	<u>CPI Separator</u>	<u>Mechanical oil, water, and solids separator.</u>	<u>100</u>
<u>W-3</u>	<u>Waste water</u>	<u>Dissolved Air Flotation</u>	<u>Mechanical oil, water, and solids separator.</u>	<u>100</u>
<u>W-4</u>	<u>Waste water</u>	<u>Skimmer</u>	<u>Used to remove hydrocarbon from process wastewater.</u>	<u>100</u>
<u>W-5</u>	<u>Waste water</u>	<u>Decanter</u>	<u>Used to decant hydrocarbon from process wastewater.</u>	<u>100</u>
<u>W-6</u>	<u>Waste water</u>	<u>Belt Press, Filter Press, or Plate and Frame</u>	<u>Mechanical de-watering devices.</u>	<u>100</u>
<u>W-7</u>	<u>Water</u>	<u>Centrifuge</u>	<u>Separation of liquid and solid waste by centrifugal force, typically a rotating drum.</u>	<u>100</u>
<u>W-8</u>	<u>Water</u>	<u>Settling Basin</u>	<u>Simple tank or basin for gravity separation of suspended solids.</u>	<u>100</u>
<u>W-9</u>	<u>Water</u>	<u>Equalization</u>	<u>Tank, sump, or headbox used to settle solids and equilibrate process wastewater streams.</u>	<u>100</u>

<u>W-10</u>	<u>Water</u>	<u>Clarifier</u>	<u>Circular settling basins usually containing surface skimmers and sludge removal rakes.</u>	<u>100</u>
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**Disinfection**

<u>No.</u>	<u>Media</u>	<u>Property</u>	<u>Description</u>	<u>%</u>
<u>W-20</u>	<u>Water</u>	<u>Chlorination</u>	<u>Wastewater disinfection treatment using chlorine.</u>	<u>100</u>
<u>W-21</u>	<u>Water</u>	<u>De-chlorination</u>	<u>Equipment for removal of chlorine from water or wastewater.</u>	<u>100</u>
<u>W-22</u>	<u>Water</u>	<u>Electrolytic Disinfection</u>	<u>Disinfect water by the use of electrolytic cells.</u>	<u>100</u>
<u>W-23</u>	<u>Water</u>	<u>Ozonization</u>	<u>Equipment that generates ozone for the disinfection of wastewater.</u>	<u>100</u>
<u>W-24</u>	<u>Water</u>	<u>Ultraviolet</u>	<u>Disinfection of wastewater by the use of ultraviolet light.</u>	<u>100</u>
<u>W-25</u>	<u>Water</u>	<u>Mixed Oxidant Solution</u>	<u>Solution of chlorine, chlorine dioxide, and ozone to replace chlorine for disinfection.</u>	<u>100</u>

**Biological Systems**

<u>No.</u>	<u>Media</u>	<u>Property</u>	<u>Description</u>	<u>%</u>
<u>W-30</u>	<u>Water</u>	<u>Activated Sludge</u>	<u>Wastewater treatment using microorganisms to metabolize biodegradable organic matter in aqueous waste streams. Can include tanks, aeration equipment, clarifiers, and equipment used to handle sludge.</u>	<u>100</u>
<u>W-31</u>	<u>Water</u>	<u>Adsorption</u>	<u>Use of activated carbon to remove organic contaminants from wastewater.</u>	<u>100</u>
<u>W-32</u>	<u>Water</u>	<u>Aeration</u>	<u>Passing air through wastewater to increase oxygen available for bacterial activities that remove contaminants.</u>	<u>100</u>
<u>W-33</u>	<u>Water</u>	<u>Rotary Biological Contactor</u>	<u>Use of large rotating discs that contain a bio-film of microorganisms that promote biological purification of the wastewater.</u>	<u>100</u>
<u>W-35</u>	<u>Water</u>	<u>Trickling Filter</u>	<u>Fixed bed of highly permeable media in which wastewater passes through and forms a slime layer to remove contaminants.</u>	<u>100</u>
<u>W-36</u>	<u>Water</u>	<u>Wetlands and Lagoons (artificial)</u>	<u>Artificial marsh, swamp, or pond that uses vegetation and natural microorganisms as bio-filters to remove sediment and other pollutants from wastewater or stormwater.</u>	<u>100</u>

<u>W-37</u>	<u>Water</u>	<u>Digester</u>	<u>Enclosed, heated tanks for treatment of sludge that is broken down by bacterial action.</u>	<u>100</u>
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**Other Equipment**

<u>No.</u>	<u>Media</u>	<u>Property</u>	<u>Description</u>	<u>%</u>
<u>W-50</u>	<u>Water</u>	<u>Irrigation</u>	<u>Equipment that is used to disburse treated wastewater through irrigation on the site.</u>	<u>100</u>
<u>W-51</u>	<u>Water</u>	<u>Outfall Diffuser</u>	<u>Device used to diffuse effluent discharge from an outfall.</u>	<u>100</u>
<u>W-52</u>	<u>Water</u>	<u>Activated Carbon Treatment</u>	<u>Use of carbon media such as coke or coal to remove organics and particulate from wastewater. May be used in either fixed or fluidized beds.</u>	<u>100</u>
<u>W-53</u>	<u>Water</u>	<u>Oxidation Ditches and Ponds</u>	<u>Process of pumping air bubbles into a pond to assist in oxidizing organic and mineral pollution.</u>	<u>100</u>
<u>W-54</u>	<u>Water</u>	<u>Filters: Sand, Gravel, or Microbial</u>	<u>Passing wastewater through a sand or gravel bed to remove solids and reduce bacteria.</u>	<u>100</u>
<u>W-55</u>	<u>Water</u>	<u>Chemical Precipitation</u>	<u>Process used to remove heavy metals from wastewater.</u>	<u>100</u>
<u>W-56</u>	<u>Water</u>	<u>Ultra-filtration</u>	<u>Use of semi-permeable membrane and hydrostatic pressure to filter solids and high molecular weight solutes from wastewater.</u>	<u>100</u>
<u>W-57</u>	<u>Water</u>	<u>Conveyances, Pumps, Sumps, Tanks, Basins</u>	<u>Used to segregate storm water from process water, control storm water runoff, or convey contaminated process water.</u>	<u>100</u>
<u>W-58</u>	<u>Water</u>	<u>Wastewater Treatment Facility/Plant</u>	<u>New wastewater treatment facilities (including on-site septic systems) constructed to process wastewater generated on site.</u>	<u>100</u>
<u>W-59</u>	<u>Water</u>	<u>High-Pressure Reverse Osmosis</u>	<u>The passing of a contaminated water stream over a permeable membrane at high pressure to collect contaminants.</u>	<u>100</u>
<u>W-60</u>	<u>Water</u>	<u>Hydro-cyclone Vapor Extraction</u>	<u>An air-sparged hydro-cyclone for the removal of VOCs from a wastewater stream.</u>	<u>100</u>
<u>W-61</u>	<u>Water</u>	<u>Chemical Oxidation</u>	<u>Use of hydrogen peroxide or other oxidants for wastewater treatment.</u>	<u>100</u>
<u>W-62</u>	<u>Water</u>	<u>Storm Water Containment Systems</u>	<u>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.</u>	<u>100</u>

W-63	Water	Wastewater Impoundments	Ponds used for the collection of water after use and before circulation.	100
W-64	Water	Oil/Water Separator	Mechanical device used to separate oils from storm water.	100

**Control/Monitoring Equipment**

No.	Media	Property	Description	%
W-70	Water	pH Meter, Dissolved Oxygen Meter, or Chart Recorder	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 <sub>2</sub> ) 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 land that is actually occupied by the diversion 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**

**Solid Waste Management**

No.	Media	Property	Description	%
S-1	Land/ Water	Stationary Mixing and Sizing Equipment	Immobile equipment used for solidification, stabilization, or grinding of self-generated waste material for the purpose of disposal.	100

S-2	<u>Land/ Water</u>	<u>Decontamination Equipment</u>	<u>Equipment used to remove waste contamination or residues from vehicles that leave the facility.</u>	<u>100</u>
S-3	<u>Land/ Water</u>	<u>Solid Waste Incinerator (not used for energy recovery and export or material recovery)</u>	<u>Solid waste incinerators, feed systems, ash handling systems, and controls.</u>	<u>100</u>
S-4	<u>Land/ Water/Air</u>	<u>Monitoring and Control Equipment</u>	<u>Alarms, indicators, and controllers, for high liquid level, pH, temperature, or flow in waste treatment system. Does not include fire alarms.</u>	<u>100</u>
S-5	<u>Land/ Water</u>	<u>Solid Waste Treatment Vessels</u>	<u>Any vessel used for waste treatment.</u>	<u>100</u>
S-6	<u>Land/ Water</u>	<u>Secondary Containment</u>	<u>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 groundwater or soil contamination.</u>	<u>100</u>
S-7	<u>Land/ Water</u>	<u>Liners (Noncommercial Landfills and Impoundments)</u>	<u>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 or landfill.</u>	<u>100</u>
S-8	<u>Land/ Water</u>	<u>Leachate Collection and Removal Systems</u>	<u>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, and piping.</u>	<u>100</u>
S-9	<u>Land/ Water</u>	<u>Leak Detection Systems</u>	<u>A system capable of detecting the failure of a primary or secondary containment structure or the presence of a liquid or waste in a containment structure.</u>	<u>100</u>
S-10	<u>Land/ Water</u>	<u>Final Cover Systems for Landfills (Noncommercial)</u>	<u>A system of liners and materials to provide drainage, erosion prevention, infiltration minimization, gas venting, and a biotic barrier.</u>	<u>100</u>
S-11	<u>Land/ Water</u>	<u>Lysimeters</u>	<u>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).</u>	<u>100</u>

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 or compliance monitoring systems).	100
S-13	Air	Fugitive Emission Monitors	A monitoring device used to monitor or detect fugitive emissions from a waste management unit or ancillary equipment.	100
S-14	Land/ Water	Slurry Walls/Barrier Walls	A pollution control method using a barrier to minimize lateral migration of pollutants in soils and groundwater.	100
S-15	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).	100
S-16	Water	Noncommercial Injection Wells (Including Saltwater Disposal Wells) and Ancillary Equipment	Injection well, pumps, collection tanks and piping, pretreatment equipment, and monitoring equipment.	100
S-17	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-18	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 §335.431 of this title (relating to Purpose, Scope, and Applicability).	100

S-19	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, and pumps.	100
S-20	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, and vent controls (e.g., Resource Conservation Recovery Act Storage Tanks, 90-Day Storage Facilities, Feed Tanks to Treatment Facilities).	100
S-21	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).	100
S-22	Water	Double-Hulled Barge	If double-hulled to reduce chance of leakage into public waters, calculate the incremental cost difference between a single-hulled barge and a double-hulled barge.	100
S-23	Land	Composting Equipment	Used to compost material where the compost will be used on site. (Does not include commercial composting facilities.)	100
S-24	Land	Compost Application Equipment	Equipment used to apply compost that has been generated on-site.	100
S-25	Land	Vegetated Compost Sock	Put in place as part of a facility's permanent Best Management Plan (BMP).	100
S-26	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-27	Land	Fencing installed for the control of windblown trash or access control.	Fencing installed at landfills, solid waste transfer stations, or storage/treatment areas located at hazardous waste management facilities to meet environmental regulations.	100

***Miscellaneous Pollution Control Equipment***

No.	Media	Property	Description	%
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M-1	<u>Air/ Land/ Water</u>	<u>Spill Response/ Cleanup Equipment Pre-positioned and Stored for Addressing Future Emergencies</u>	<u>Boats, barges, booms, skimmers, trawls, pumps, power units, packaging materials and containers, vacuum trailers, storage sheds, diversion basins, tanks, and dispersants.</u>	100
M-2	<u>Air/ Land</u>	<u>Hazardous Air Pollutant Abatement Equipment - required removal material contaminated with asbestos, lead, or some other hazardous air pollutant</u>	<u>High-Efficiency Particulate Arresting (HEPA) Vacuum Equipment, Negative Air Pressure Enclosures, Glove Bags, and Disposal Containers.</u>	100
M-3	<u>Air/ Land/ Water</u>	<u>Vacuum Trucks, Street Sweepers and Watering Trucks</u>	<u>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.)</u>	100
M-4	<u>Land</u>	<u>Compactors, Barrel Crushers, Balers, Shredders</u>	<u>Compactors and similar equipment used to change the physical format of waste material for on-site disposal of facility-generated waste.</u>	100
M-5	<u>Air</u>	<u>Environmental Paving Located at Industrial Facilities</u>	<u>Paving of outdoor vehicular traffic areas in order to meet or exceed an adopted air quality rule, regulation, or law. Does not include paving of parking areas or driveways for convenience purposes or storm water control. Does not include dirt or gravel. Value of the paving must be stated on a square foot basis with a plot plan provided that shows the paving in question.</u>	100
M-6	<u>Air/ Land/ Water</u>	<u>Sampling Equipment</u>	<u>Equipment used to collect samples of exhaust gas, wastewater, soil, or other solid waste to be analyzed for specific contaminants or pollutants.</u>	100
M-7	<u>Water</u>	<u>Dry Stack Building for Poultry Litter</u>	<u>A pole-barn type structure used to temporarily store poultry litter in an environmentally safe manner.</u>	100

M-8	Land/ Water	Poultry Incinerator	Incinerators used to dispose of poultry carcasses.	100
M-9	Land/ Water	Structures, Enclosures, Containment Areas, Pads for Composting Operations	Required to meet 'no exposure' storm water regulations.	100
M-10	Air	Methane Capture Equipment	Equipment used to capture methane generated by the decomposition of waste material on site. Methane must be sent to a control device rather than used.	100
M-11	Land	Drilling Mud Recycling System	Consisting of only the Shaker Tank System, Shale Shakers, Desilter, Desander, and Degasser.	100
M-12	Land	Drilling Rig Spill Response Equipment	Includes only the Ram Type Blowout Preventers, Closing Units, and Choke Manifold Systems.	100
M-13	Air	Odor Neutralization and Chemical Treatment Systems	Carbon adsorption, zeolite adsorption, and other odor neutralizing and chemical treatment systems to meet local ordinance or to prevent/correct nuisance odors at off-site receptors.	100
M-14	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-15	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-16	Land	Cathodic Protection	Cathodic protection installed to prevent corrosion of metal tanks and piping.	100
M-17	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-18	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 to prevent unauthorized discharges.	100
M-19	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 to prevent unauthorized discharges.	100

**Equipment Located at Tank Installations including Service Stations**

**Spill and Overfill Prevention Equipment**

No.	Media	Property	Description	%
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 bottom drain valve to return liquids to the tank or a hand pump for liquid removal.	100
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**

No.	Media	Property	Description	%
T-10	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 to prevent unauthorized discharges or leaks.	100
T-11	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 to prevent unauthorized discharges or leaks.	100

T-12	Water	Tank Top Sumps	Liquid tight containers to contain leaks or spills that involve tank top fittings and equipment.	100
T-13	Water	Under Dispenser Sumps	Contains leaks and spills from dispensers and pumps.	100
T-14	Water	Sensing Devices	Installed to monitor for product accumulation in secondary containment sumps.	100
T-15	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**

No.	Media	Property	Description	%
T-20	Water	Automatic Tank Gauging	Includes tank gauging probe and control console.	100
T-21	Water	Groundwater or Soil Vapor Monitoring	Observation wells located inside the tank excavation or monitoring wells located outside the tank excavation.	100
T-22	Water	Monitoring of Secondary Containment	Liquid sensors or hydrostatic monitoring systems installed in the interstitial space for tanks or piping.	100
T-23	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-24	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-25	Water	Tightness Testing Equipment	Equipment purchased to comply with tank and/or piping tightness testing requirements.	100

**Cathodic Protection**

No.	Media	Property	Description	%
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<u>T-30</u>	<u>Water</u>	<u>Isolation Fittings</u>	<u>Dielectric bushings and fittings to separate underground piping from aboveground tanks and piping.</u>	<u>100</u>
<u>T-31</u>	<u>Water</u>	<u>Sacrificial Anodes</u>	<u>Magnesium or zinc anodes packaged in low resistivity backfill to provide galvanic protection.</u>	<u>100</u>
<u>T-32</u>	<u>Water</u>	<u>Dielectric Coatings</u>	<u>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.</u>	<u>100</u>

**Emissions Control Equipment**

<u>No.</u>	<u>Media</u>	<u>Property</u>	<u>Description</u>	<u>%</u>
<u>T-40</u>	<u>Air</u>	<u>Stage I or Stage II Vapor Recovery</u>	<u>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.</u>	<u>100</u>

(b) The commission shall review and update the Tier I Table [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.

**§18.26. Expedited Review List.**

The Expedited Review List in this section is a nonexclusive list of facilities, devices, or methods for the control of air, water, and/or land pollution. This table consists of the list located in Texas Tax Code, §26.045(f) with changes as authorized by Texas Tax Code, §26.045(g). The commission shall review and add to the items listed in this table only if there is compelling evidence to support the conclusion that the item provide pollution control benefits. The commission may remove an item from this table only if there is compelling evidence to support the conclusion that the item does not render pollution control benefits.

Figure: 30 TAC §18.26

Expedited Review List

<u>No.</u>	<u>Property</u>	<u>Description</u>
<u>B-1</u>	<u>Coal Cleaning or Refining Facilities</u>	<u>Used to remove impurities from coal in order to boost the heat content and to reduce potential air pollutants.</u>
<u>B-2</u>	<u>Atmospheric or Pressurized and</u>	<u>Combustion systems that reduce</u>

	<u>Bubbling or Circulating Fluidized Bed Combustion Systems and Gasification Fluidized Bed Combustion Combined Cycle Systems</u>	<u>pollution through the use of a fluidized bed that can be atmospheric and bubbling or circulating; gasification combined cycle systems; or pressurized and bubbling or circulating systems.</u>
B-3	<u>Ultra-Supercritical Pulverized Coal Boilers</u>	<u>Boiler system designed to provide 4500 pounds per square inch gauge (psig)/1100°/1100°/1100° double reheat configuration.</u>
B-4	<u>Flue Gas Recirculation Components</u>	<u>Ductwork, blowers, and ancillary equipment used to redirect part of the flue gas back to the combustion chamber for reduction of nitrogen oxides (NOx) formation. May include fly ash collection in coal fired units.</u>
B-5	<u>Syngas Purification Systems and Gas-Cleanup Units</u>	<u>A system, including all necessary appurtenances, that: (1) produces synthesis gas from coal, biomass, petroleum coke, or solid waste and is then converted to electricity via combined cycle power generation equipment; and, (2) equipment that removes sulfur, carbon, and other polluting compounds from synthesis gas streams.</u>
B-6	<u>Enhanced Heat Recovery Systems</u>	<u>A heating system used to reduce the temperature and humidity of the exhaust gas stream and recover the heat so that it can be returned to the steam generator so as to increase the quantity of steam generated per quantity of fuel consumed.</u>
B-7	<u>Exhaust Heat Recovery Boilers</u>	<u>Used to recover the heat from boiler to generate additional steam.</u>
B-8	<u>Heat Recovery Steam Generators</u>	<u>A counter-flow heat exchanger consisting of a series of super-heater, boiler (or evaporator) and economizer tube sections, arranged from the gas inlet to the gas outlet to maximize heat recovery from the gas turbine exhaust gas.</u>

B-9	<u>Heat Transfer Sections for Heat Recovery Steam Generators</u>	<u>Super-heaters, Evaporators, Re-heaters and Economizers.</u>
B-10	<u>Enhanced Steam Turbine Systems</u>	<u>Enhanced efficiency steam turbines.</u>
B-11	<u>Methanation</u>	<u>Coal Gasification process that removes carbon and produces methane, including the necessary support systems and appurtenances.</u>
B-12	<u>Coal Combustion or Gasification By-product and Co-product Handling, Storage, and Treatment Facilities</u>	<u>Used for handling, storage, or treatment of by-products or co-products produced (resulting) from the combustion or gasification of coal such as boiler and Gasifier slag, bottom ash, flue gas desulfurization (FGD) material, fly ash, and sulfur.</u>
B-13	<u>Biomass Cofiring Storage, Distribution, and Firing Systems</u>	<u>Installed to reduce pollution by using biomass as a supplementary fuel.</u>
B-14	<u>Coal Cleaning or Drying Processes, such as coal drying/moisture reduction, air jigging, precombustion decarbonization, and coal flow balancing technology</u>	<u>Used to produce a cleaner burning coal (such as coal drying, moisture reduction, air jigging, precombustion decarbonization, or coal flow balancing technology).</u>
B-15a	<u>Oxy-Fuel Combustion Technology</u>	<u>Installed to allow the feeding of oxygen, rather than air, and a proportion of recycled flue gases to the boiler.</u>
B-15b	<u>Amine or Chilled Ammonia Scrubbing</u>	<u>Installed to provide post combustion capture of pollutants (including carbon dioxide upon the effective date of a final rule adopted by the United States Environmental Protection Agency (EPA) regulating carbon dioxide as a pollutant).</u>
B-15c	<u>Catalyst based Systems</u>	<u>Installed to allow the use of catalysts to reduce emissions.</u>
B-15d	<u>Enhanced Scrubbing Technology</u>	<u>Installed to enhance scrubber performance, including equipment that promotes the oxidation of elemental mercury in the flue gas prior to entering the scrubber.</u>
B-15e	<u>Modified Combustion Technologies</u>	<u>Systems such as chemical looping and</u>

		<u>biomass co-firing that are designed to enhance pollutant removal.</u>
<u>B-15f</u>	<u>Cryogenic Technology</u>	<u>Cryogenic cooling systems used to reduce pollution (including carbon dioxide upon the effective date of a final rule adopted by the EPA regulating carbon dioxide as a pollutant).</u>
<u>B-16</u>	<u>Carbon Dioxide Capture and Geological Sequestration Equipment</u>	<u>Used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source in this state that is then geologically sequestered in this state. (This item is only in effect upon the effective date of an EPA final rule regulating carbon dioxide as a pollutant.)</u>
<u>B-17</u>	<u>Fuel Cells</u>	<u>Used to generate electricity using hydrogen derived from coal, biomass, petroleum coke, or solid waste.</u>
<u>B-18</u>	<u>Regulated Air Pollutant Control Equipment</u>	<u>Any other facility, device, or method designed to prevent, capture, abate, or monitor nitrogen oxides, volatile organic compounds, particulate matter, mercury, carbon monoxide, or any criteria pollutant.</u>

**§18.30. Partial Determinations.**

A partial determination must be requested for all property that is in [Part B of] the figure in §18.26 [§18.25(a)] of this title (relating to Expedited Review List [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 Tier I Eligible Equipment [and Categories List]) or is necessary for the installation or operation of an item listed on the Tier I Table [Equipment and Categories List (ECL)], as long as the application seeks no variance from the percentage listed on the Tier I Table [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 or that is listed in the figure located in §18.26 of this title (relating to Expedited Review List).

(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.