

The Texas Natural Resource Conservation Commission (TNRCC or commission) adopts new §122.516, concerning the requirements for a Site-wide General Operating Permit (site-wide GOP or GOP), with changes to the proposed text as published in the November 21, 1997, issue of the *Texas Register* (22 TexReg 11232).

EXPLANATION OF THE ADOPTED RULE

The adopted §122.516, concerning site-wide GOP, provides an alternate permitting mechanism to owners or operators of major sources subject to the Texas Title V Operating Permit Full Program (Full Program) which have only site-wide requirements. The Texas Title V Operating Permit Program is implemented through the provisions of 30 TAC Chapter 122, concerning Federal Operating Permits. A site-wide requirement is a fairly simple requirement that applies uniformly to all of the emission units at the site as opposed to operational characteristics and requirements for individual emission units. As an example, the Operating Permits Division (OPD) has designated certain requirements of 30 TAC Chapter 111, concerning Control of Air Pollution from Visible Emissions and Particulate Matter, such as the opacity limits for stationary vents, as site-wide requirements. These requirements were designated to have site-wide applicability, since many sites have numerous stationary vents and each must comply with the appropriate opacity limit.

The qualification criteria in §122.516(a) states the criteria that owners or operators of sites must meet for authorization to operate under this GOP. The qualification criteria consists of the conditions consistent with the limitations of a permit by rule and the intended use of this GOP. Since this adopted GOP is intended for use by sites that are subject to only site-wide requirements, a criterion in this

section states that sites requiring another federal operating permit to codify any other applicable requirements will not qualify for this GOP. This criterion is also necessary because this GOP could be obtained for only the site-wide requirements that apply to a site and another federal operating permit from being acquired for all other applicable requirements at the site. Since federal operating permits, other than this GOP, issued for a site will also contain site-wide requirements, this criterion prevents the duplication of site-wide requirements in multiple federal operating permits issued for the site. Additionally, since a permit by rule cannot contain compliance provisions or a schedule for a specific site, a criterion is included in this section stating that owners or operators must apply for a site operating permit that contains a compliance schedule if the site or units at the site are out of compliance at the time of application submittal. The qualification criteria also states that the site and the units located at a site may be authorized to operate under this GOP provided that they are not subject to any federal prevention of significant deterioration (PSD) or federal nonattainment (NA) permits. This criterion was necessary, since federal PSD or federal NA permits are applicable requirements under Chapter 122; however, these permits are specific to each site and the requirements contained within each permit cannot be codified in a permit by rule. Once the owner or operator has determined that the site and the units at the site qualify for this GOP, a permit application should be submitted to the commission for review at the time specified in §122.130, concerning initial application due dates. If the commission grants authority to operate under this GOP, after reviewing the permit application, the owner or operator must comply with §122.516(b) - (f), concerning site-wide requirements; general terms and conditions; recordkeeping terms and conditions; reporting terms and conditions; and compliance certification terms and conditions.

Provisions contained in §122.516(b) codify site-wide requirements from §111.111, concerning visible emissions; §§111.133, 111.135, and 111.137, concerning Abrasive Blasting of Water Storage Tanks Performed by Portable Operations; §§111.141, 111.143, 111.145, 111.147, and 111.149, concerning Materials Handling, Construction, Roads, Streets, Alleys, and Parking Lots; §111.151, concerning Emission Limits on Nonagricultural Processes; and §§111.201, 111.205, 111.209, 111.213, 111.219, and 111.221, concerning Outdoor Burning. Since the rule proposal, periodic monitoring requirements have been added to the site-wide requirements for §111.111. These additions are based on comments received during the site-wide GOP comment period. Periodic monitoring is required whenever a monitoring method or frequency is insufficient to ensure annual compliance with the emission limitation. To ensure annual compliance with the opacity requirement in §122.516, an annual observation has been added for periodic monitoring requirements. If nothing is observed, the source is considered in compliance. Also, should the facility operate continuously for over 24 hours on liquid fuel, a similar observation is required. If nothing is observed, the facility is in compliance. However, if visible emissions are observed, the facility must either perform a certified opacity test to determine compliance or record and, if required, report an opacity deviation. This periodic monitoring requirement is also consistent with TNRCC Rule Interpretation Number 60D.001, which is available through OPD.

Additionally, provisions in §112.516(b) codify requirements from 30 TAC §§115.221, 115.222, and 115.224-115.226, concerning Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities; §§115.234-115.236, concerning Control of Volatile Organic Compound Leaks From Transport Vessels; §§115.241, 115.242, 115.244, 115.245, and 115.246, concerning Control of

Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities; §§115.252, 115.255, and 115.256, concerning Control of Reid Vapor Pressure of Gasoline; and §§115.541, 115.542, and 115.544-115.546, concerning Degassing or Cleaning of Stationary, Marine, and Transport Vessels. Since the rule proposal, a provision has been added relating to the control of Reid Vapor Pressure of gasoline for a tank, reservoir, storage vessel, or other stationary container with a nominal capacity of 500 gallons or less. This addition was necessary due to an erroneous omission of the provision in the proposed rule.

A provision for Title 40 Code of Federal Regulations, Part 82 (40 CFR 82), concerning Protection of Stratospheric Ozone, is included in §122.516(b). Also included is a provision for Title 40 Code of Federal Regulations, Part 68 (40 CFR 68) relating to Chemical Accident Prevention Provisions (Risk Management Plans).

The adopted rule provides general terms and conditions, in §122.516(c), that owners or operators must meet following the initial granting of the authorization to operate under this GOP. These general terms and conditions are consistent with Chapter 122 requirements that must be codified in a federal operating permit. The general terms and conditions provide requirements relating to jurisdiction of the commission or local air pollution program representatives, provisional terms and conditions of the permit, property rights, state-only requirements, and emissions fees. The general terms and conditions also provide requirements relating to permit term length, records, and information requested or required by the executive director. Since the rule proposal, §122.516(c)(5) and (6) were revised to be consistent with the general terms and conditions in the November 1997 revision to Chapter 122.

Recordkeeping terms and conditions required following the initial granting of the GOP are in §122.516(d). These recordkeeping terms and conditions are consistent with Chapter 122. The recordkeeping terms and conditions provide requirements relating to maintenance of records, information contained in the records, and confidentiality of records.

Section 122.516(e) of the adopted rule contains the reporting terms and conditions for this GOP. These reporting terms and conditions are consistent with Chapter 122 requirements that must be codified in a federal operating permit. The reporting terms and conditions provide requirements relating to monitoring, deviation, unauthorized emission, upset or maintenance, start-up, and shutdown reports.

Provisions in §122.516(f), relating to compliance certification terms and conditions, provide requirements for owners or operators following the initial granting of the authorization to operate under this GOP. These certification terms and conditions are consistent with Chapter 122 requirements that must be codified in a federal operating permit and specify information and due dates required for annual compliance certification.

GOPs are subject to the requirements of §122.360, concerning Public Petition. The public petition for this GOP will begin on the date the adopted rule is published in the *Texas Register*. This date is expected to be April 3, 1998.

REGULATORY IMPACT ANALYSIS

The commission has reviewed the adopted section in light of the regulatory analysis requirements of Texas Government Code (the Code), §2001.0225, and has determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a “major environmental rule” as defined in the Code, and it does not meet any of the four applicability requirements listed in §2001.0225(a). While the rule should have wide application throughout the state, it will provide a simplified permitting mechanism for owners or operators having only site-wide requirements. This will reduce the amount of time and money a regulated operator must spend to secure a permit.

TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for this adopted new section under Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of this rulemaking is to provide a simplified alternate permitting mechanism to owners or operators of major sources subject to the Full Program, having only site-wide requirements. The adopted new section will substantially advance this purpose, since it contains a GOP that is a permit by rule. It contains conditions and limitations with which owners or operators of the sources must comply. Adoption is achieved through the rulemaking process consistent with the requirements of the Government Code, Administrative Procedure Act, Chapter 2001 or 2002. The GOP is also subject to the public participation requirements of 40 CFR 70. Each general operating permit, during the rulemaking process, will be subject to review by the United States Environmental Protection Agency (EPA), public petition, and affected state review. Since a review of the adopted general operating permit occurred during rulemaking, individual permit applications are not required to undergo public

notice or EPA approval prior to sources being authorized to operate under the general operating permit. This gives the regulated community and the commission a simplified permit application and review process. Staff resources of the regulated community and the commission are used more efficiently and a considerable time savings is provided to both parties. Interested members of the public are able to participate in the GOP development during the public comment period and by using the public participation options available under 40 CFR 70. Promulgation and enforcement of the new section will not be a burden on private real property which will be subject of the section because it only codifies applicable requirements that may be used by owners or operators of sources subject to the Full Program in order to comply with Chapter 122 and 40 CFR 70. The new section will not make existing regulations less stringent. This rulemaking proposal is also exempt under Texas Government Code, §2007.003(b), since the commission is fulfilling its requirement to implement a federally mandated program, Title V of the 1990 Federal Clean Air Act Amendments.

COASTAL MANAGEMENT PLAN

The commission has 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.), the rules of the Coastal Coordination Council (31 TAC Chapters 501-506), and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with the Texas Coastal Management Program. As required by 31 TAC §505.11(b)(2), §505.22(a), and 30 TAC §281.45(a)(3) relating to actions and rules subject to the CMP, commission rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission has reviewed this rulemaking action and has determined that this

rulemaking action is consistent with the applicable CMP goals and policies. The permits issued under Chapter 122 do not authorize an increase in air emissions. Therefore, in compliance with 31 TAC §505.22(e), the commission affirms that this rule is consistent with CMP goals and policies.

HEARING AND COMMENTERS

A public hearing was held in Austin on December 18, 1997. No oral testimony was received at the hearing. The public comment period closed January 9, 1998. Two commenters submitted written comments on the proposal. The EPA and Radian International (Radian) suggested changes without directly stating their overall position on the proposal.

The EPA commented that §122.516(b)(3) states the limits for opacity and the test methods for compliance. However, the EPA added that the rule must also include an appropriate monitoring frequency, either daily or weekly, to assure compliance.

The commission has added appropriate periodic monitoring requirements into §122.516(b)(3)(A), (B), (D), and (E). Monitoring methods are specified in the sections of Chapter 111 referenced in the GOP. The commission has added the additional monitoring methods and frequencies where the requirements of Chapter 111 are insufficient for the GOP.

The EPA commented that the rule must specify monitoring methods for permit holders and testing frequency for volatile organic compounds (VOC) to assure compliance.

Monitoring methods and frequency for VOC are contained in the cited sections of Chapter 115, and these sections are referenced within the new §122.516.

The EPA commented that §122.516(c)(6) contains a conflict between two sentences. It states "If the permit holder fails to comply with any provisional terms and conditions, the original terms and conditions of this general operating permit shall be enforceable. In every case, the applicable requirements and state-only requirements are always enforceable." The EPA suggested that the first sentence "If the permit ... shall be enforceable" should be deleted. Also, the same sentence in §122.516(c)(5) "In every case, the applicable requirements and state-only requirements are always enforceable" should be also deleted.

To remain consistent with §122.143(c)(6), the first sentence "If the permit holder fails to comply with any provisional terms and conditions, the original terms and conditions of this general operating permit shall be enforceable" has been removed from §122.516(c)(6). However, to remain consistent with §122.143(c)(6), the second sentence, "In every case, the applicable requirements and only requirements are always enforceable," in §122.516(c)(6) must be retained.

The EPA commented that §122.516(e)(2)(B) allows for the permit holder to submit deviation reports to the TNRCC every six months. The EPA does not consider six-month reporting of deviations to be adequate. EPA believes that an operator or owner must notify the permitting authority within 24 - 48 hours after the emission limitation was exceeded and follow by a written report within ten days. The

EPA stated that the TNRCC must modify the site-wide GOP to require a shorter time for deviation reporting.

To maintain consistency with the deviation reporting requirements of §122.145(2)(B), the requirement in §122.516(e)(2)(B) must remain as written. In addition, 40 CFR §70.6(a)(3)(iii)(B) requires the permitting authority to define “prompt” in relation to the degree and type of deviation likely to occur and the applicable requirements. The commission requires the most significant deviations to be reported within 24 hours under the unauthorized emissions, upset or maintenance, start-up, and shutdown requirements of 30 TAC Chapter 101. Deviations must also be reported as required by any underlying applicable requirement. The commission then requires those deviations of least significant concern to be reported at least every six months. These are only those deviations that do not require reporting within 24 hours and do not require more frequent reporting by any underlying applicable requirement. This approach involves three levels of deviation reporting based on the degree and type of deviation likely to occur and the applicable requirements. If the commission were to require every deviation, regardless of significance, to be reported within 24 hours, it would be extremely difficult for staff to quickly identify serious instances requiring immediate action. In addition, through post-1990 new source performance standards, EPA itself has set a precedent for allowing some deviations to be reported within six months. Because the six-month deviation report will include not only a description of all deviations reported on the six-month schedule but also a reference to any deviations submitted under Chapter 101, this report will be a comprehensive record of all deviations that occurred over the previous six months. Receiving the information in this consolidated manner will allow staff to

easily identify trends that require attention. This comprehensive list provides more relevant information regarding the compliance of a source than individual reports of each minor deviation. For these reasons, the commission will continue to require the most serious deviations to be reported within 24 hours and allow other deviations to be reported at a frequency consistent with the reporting requirements in the permit. In every case, deviations would be reported on at least a six-month, if not more frequent, schedule. The rule language in §122.516(e)(3), which is consistent with §122.145(3), also clarifies that even if a deviation is exempt from reporting under Chapter 101, the six-month deviation reporting requirements in §122.516(e)(2) still apply.

The EPA commented that the site-wide GOP must include a statement that the source will continue to comply with applicable requirements of the permit and a statement that the source will meet, in a timely manner, applicable requirements that become effective during the life of the permit.

The GOP includes a provision in §122.516(c)(4) stating that the source will comply with the applicable requirements of the permit and the source will meet applicable requirements that become effective during the life of the permit. This provision is consistent with §122.143(4).

The EPA commented that it does not consider the state's permit revision process to be substantially equivalent to 40 CFR 70, the Operating Permit Rules. EPA is concerned with the state implementing "provisional term and conditions" as part of the revision process for general operating permits. The EPA will address this issue in the state's Title V program approval process.

The commission considers provisional terms and conditions as part of the revision process for this general operating permit, especially when newly promulgated applicable requirements have not been incorporated into the permit. Provisional terms and conditions are also necessary when rule citations change in existing applicable requirements. The provisional terms and conditions must codify the new requirements to the same level of detail as required in the permit. Provisional terms and conditions must be consistent with and accurately incorporate the applicable requirements, state-only requirements, and cannot authorize the violation of any applicable or state-only requirement. The provisional terms and conditions must be maintained with the permit and become enforceable terms and conditions of the permit. In every case, the applicable requirements and state-only requirements are always enforceable. The permit holder may also be subject to enforcement action if the permit holder makes a change using one of the revision tracks and the change is later determined not to qualify for that type of permit revision. As specified in Chapter 122, both applicable requirements and state-only requirements must be codified in provisional terms and conditions by the compliance dates of the new requirements. For the purposes of this discussion, applicable and state-only requirements refer to those requirements that can only be applied site-wide. The provisional terms and conditions will be maintained with the permit in order to provide an accurate compliance and enforcement tool for both the permit holder and inspectors. Although the commission does not agree with the EPA concerning the equivalency of the revision process in Chapter 122 as compared to that in 40 CFR part 70, the commission agrees that this issue should be addressed during the process for full program approval.

Radian commented that §122.516(a)(1)(A) states that a site does not qualify for a GOP if it is subject to a federal PSD or NA permit. Radian gave the example of a Title V permit applicant whose site includes units subject to a PSD permit and the only other applicable requirements are those in §122.516(b). If the applicant must obtain a Site Operating Permit (SOP), the application would only consist of Form OP-REQ1, Form OP-CRO1, and Form OP-SUM (merely to specify units included in the PSD permit). Unit attribute forms and a Form OP-REQ3 would not be included. Radian noted that the commission intends merely to incorporate by reference PSD permits into operating permits. Since PSD permit conditions will not be specifically addressed in the operating permit, Radian requested that the proposed site-wide GOP include a provision requiring compliance with any PSD permit issued for units at the site. In this way, the PSD permit is addressed, but sites with no specific requirements to be specified on Form OP-REQ3 can take advantage of the GOP.

Federal PSD and NA permit terms and conditions are applicable requirements under Chapter 122. By federal law, a federal operating permit must contain a list of individual units subject to the PSD or NA permit and operating conditions for those units. The commission has elected to codify these terms and conditions by referencing the PSD or NA permit number through a provision in each federal operating permit. Since a GOP is a permit by rule, referencing a PSD or NA permit number in the GOP is not possible. Because of the inability to reference these permit numbers, one of the qualification criteria in the GOP must be that emission units located at the site are not subject to any federal PSD or NA permits. Otherwise, an applicant may submit a GOP permit application for a site containing units having a PSD or NA permit and the commission would not have a mechanism to codify the respective permit numbers as applicable

requirements. It should also be noted that all GOP applications must contain Form OP-ACPS (Application Compliance Plan and Schedule), in addition to all relevant application forms, to certify compliance with the applicable requirements contained in the GOP.

STATUTORY AUTHORITY

The new section is adopted under the Texas Health and Safety Code, the Texas Clean Air Act, §382.012, which gives the commission the authority to develop a comprehensive plan for control of the state's air, and §382.017, which gives the commission authority to adopt rules. This section is also adopted under the §382.051, which establishes the permitting authority of the commission, including the authority to issue a general permit for numerous similar sources, and §382.054, which prohibits operation of a federal source without a federal operating permit.

CHAPTER 122 - FEDERAL OPERATING PERMITS
SUBCHAPTER F : GENERAL OPERATING PERMITS

§122.516. Site-wide General Operating Permit.

(a) Qualification criteria.

(1) A site and the individual emission units located at a site may be authorized to operate under this general operating permit provided that:

(A) no emission unit located at the site is subject to any federal prevention of significant deterioration permits or federal nonattainment permits;

(B) the site and each emission unit located at the site are subject to only the applicable requirements codified in subsection (b) of this section;

(C) at the time of application submittal, the site and each emission unit located at the site are in compliance with the applicable requirements codified in subsection (b) of this section;
and

(D) the site and each emission unit located at the site are not subject to any other permit or general operating permit issued under this chapter.

(b) Site-wide requirements.

(1) The permit holder shall comply with the requirements relating to general operating permits which are contained in this subchapter.

(2) The requirements of preconstruction authorizations referenced in the general operating permit application are not eligible for the permit shield provisions in §122.148 of this title (relating to Permit Shield).

(3) The permit holder shall comply with the following requirements of Chapter 111 of this title (relating to Control of Air Pollution From Visible Emissions and Particulate Matter).

(A) Visible emissions from stationary vents constructed on or before January 31, 1972, shall not exceed 30% opacity averaged over a six-minute period as required in §111.111(a)(1)(A) of this title (relating to Requirements for Specified Sources). Compliance with the visible emission standard of §111.111(a)(1)(A) of this title shall be determined as required in §111.111(a)(1)(F)(ii) of this title by Test Method 9 (40 Code of Federal Regulations (CFR) Part 60, Appendix A), or as required in §111.111(a)(1)(F)(iii) of this title by Alternate Method 1 to Method 9, Light Detection and Ranging (40 CFR Part 60, Appendix A), or other equivalent test method approved

in accordance with §111.111(a)(1)(F)(iv) of this title. The permit holder shall also comply with the following periodic monitoring requirements.

(i) For purposes of the annual compliance certification under subsection (f) of this section, the permit holder is required to conduct an observation of stationary vents once during each 12-month certification period. If liquid fuel is fired for 24 consecutive hours, the permit holder shall conduct an observation of the stationary vent to determine if visible emissions are observed.

(ii) If visible emissions are not observed during an observation required by clause (i) of this subparagraph, the responsible official may certify that the source is in compliance with the applicable opacity requirement in §111.111(a)(1) and (a)(1)(A) of this title. Documentation is not required for observations where no visible emissions are present.

(iii) If visible emissions are observed during the observation required by clause (i) of this subparagraph, the permit holder shall either list this occurrence as a deviation on the next deviation report as required under subsection (e)(2) of this section or conduct an appropriate opacity test specified in §111.111(a)(1)(F)(i) - (iii) of this title to determine if the source is in compliance with the opacity requirements.

(I) If an opacity test is performed and the source is determined to be in compliance, the responsible official may certify that the source is in compliance with the applicable opacity requirement.

(II) If an opacity test is performed and the source is determined to be out of compliance, the permit holder shall list this occurrence as a deviation on the next deviation report as required under subsection (e)(2) of this section.

(iv) Visible emissions shall be determined with all sources in clear view of the observer. The observer shall be at least 15 feet, but not more than 0.25 miles, away from the emission source during the observation. For outdoor locations, the observer shall select a position where the sun is not directly in the observer's eyes. Documentation is not required for observations where no visible emissions are present.

(B) Visible emissions from stationary vents constructed after January 31, 1972, shall not exceed 20% opacity averaged over a six-minute period as required in §111.111(a)(1)(B) of this title. Compliance with the visible emission standard of §111.111(a)(1)(B) of this title shall be determined as required in §111.111(a)(1)(F)(ii) of this title by Test Method 9 (40 CFR Part 60, Appendix A), or as required in §111.111(a)(1)(F)(iii) of this title by Alternate Method 1 to Method 9, Light Detection and Ranging (40 CFR Part 60, Appendix A), or other equivalent test method approved in accordance with §111.111(a)(1)(F)(iv) of this title. The permit holder shall also comply with the following periodic monitoring requirements.

(i) For purposes of the annual compliance certification under subsection (f) of this section, the permit holder is required to conduct an observation of stationary vents once during each 12-month certification period. If liquid fuel is fired for 24 consecutive hours, the permit holder shall conduct an observation of the stationary vent to determine if visible emissions are observed.

(ii) If visible emissions are not observed during an observation required by clause (i) of this subparagraph, the responsible official may certify that the source is in compliance with the applicable opacity requirement in §111.111(a)(1) and (a)(1)(B) of this title. Documentation is not required for observations where no visible emissions are present.

(iii) If visible emissions are observed during the observation required by clause (i) of this subparagraph, the permit holder shall either list this occurrence as a deviation on the next deviation report as required under subsection (e)(2) of this section or conduct an appropriate opacity test specified in §111.111(a)(1)(F)(i) - (iii) of this title to determine if the source is in compliance with the opacity requirements.

(I) If an opacity test is performed and the source is determined to be in compliance, the responsible official may certify that the source is in compliance with the applicable opacity requirement.

(II) If an opacity test is performed and the source is determined to be out of compliance, the permit holder shall list this occurrence as a deviation on the next deviation report as required under subsection (e)(2) of this section.

(iv) Visible emissions shall be determined with all sources in clear view of the observer. The observer shall be at least 15 feet, but not more than 0.25 miles, away from the emission source during the observation. For outdoor locations, the observer shall select a position where the sun is not directly in the observer's eyes. Documentation is not required for observations where no visible emissions are present.

(C) Visible emissions during the cleaning of a firebox or the building of a new fire, soot blowing, equipment changes, ash removal, and rapping of precipitators may exceed the limits set forth in §111.111 of this title for a period aggregating not more than six minutes in any 60 consecutive minutes, nor more than six hours in any ten-day period as required in §111.111(a)(1)(E) of this title. This exemption shall not apply to the emissions mass rate standard, as outlined in §111.151(a) of this title (relating to Allowable Emissions Limits).

(D) Visible emissions from structures shall not exceed 30% opacity for any six-minute period from any building, enclosed facility, or other structure as required in §111.111(a)(7)(A) of this title. Compliance with the visible emission standard of §111.111(a)(7)(A) of this title shall be determined as required in §111.111(a)(7)(B)(i) of this title by Test Method 9 (40 CFR Part 60, Appendix A), or other equivalent test method approved in accordance with

§111.111(a)(7)(B)(ii) of this title. The permit holder shall also comply with the following Periodic Monitoring requirements.

(i) For purposes of the annual compliance certification under subsection (f) of this section, the permit holder is required to conduct an observation of stationary vents once during each 12-month certification period.

(ii) If visible emissions are not observed during the observation of the stationary vents for the annual compliance certification, the responsible official may certify that the source is in compliance with the applicable opacity requirement in §111.111(a)(7) and §111.111(a)(7)(A) of this title. Documentation is not required for observations where no visible emissions are present.

(iii) If visible emissions are observed during the observation of the stationary vents for the annual compliance certification, the permit holder shall either list this occurrence as a deviation on the next deviation report as required under subsection (e)(2) of this section or conduct the appropriate opacity test specified in §111.111(a)(7)(B)(i) of this title to determine if the source is in compliance with the opacity requirements.

(I) If an opacity test is performed and the source is determined to be in compliance, the responsible official may certify that the source is in compliance with the applicable opacity requirement.

(II) If an opacity test is performed and the source is determined to be out of compliance, the permit holder shall list this occurrence as a deviation on the next deviation report as required under subsection (e)(2) of this section.

(iv) Visible emissions shall be determined with all sources in clear view of the observer. The observer shall be at least 15 feet, but not more than 0.25 miles, away from the emission source during the observation. For outdoor locations, the observer shall select a position where the sun is not directly in the observer's eyes. Documentation is not required for observations where no visible emissions are present.

(E) Visible emissions from all other sources not specified in §111.111(a)(1), (4), or (7) of this title shall not exceed 30% opacity for any six-minute period from any building, enclosed facility, or other structure as required in §111.111(a)(8)(A) of this title. Compliance with the visible emission standard of §111.111(a)(8)(A) of this title shall be determined by applying Test Method 9 (40 CFR Part 60, Appendix A) as required in §111.111(a)(8)(B)(i) of this title, or other equivalent test method approved in accordance with §111.111(a)(8)(B)(ii) of this title. The permit holder shall also comply with the following periodic monitoring requirements.

(i) For purposes of the annual compliance certification under subsection (f) of this section, the permit holder is required to conduct an observation of stationary vents once during each 12-month certification period.

(ii) If visible emissions are not observed during the observation of the stationary vents for the annual compliance certification, the responsible official may certify that the source is in compliance with the applicable opacity requirement in §111.111(a)(8) and §111.111(a)(8)(A) of this title. Documentation is not required for observations where no visible emissions are present.

(iii) If visible emissions are observed during the observation of the stationary vents for the annual compliance certification, the permit holder shall either list this occurrence as a deviation on the next deviation report as required under subsection (e)(2) of this section or conduct the appropriate opacity test specified in §111.111(a)(8)(B)(i) of this title to determine if the source is in compliance with the opacity requirements.

(I) If an opacity test is performed and the source is determined to be in compliance, the responsible official may certify that the source is in compliance with the applicable opacity requirement.

(II) If an opacity test is performed and the source is determined to be out of compliance, the permit holder shall list this occurrence as a deviation on the next deviation report as required under subsection (e)(2) of this section.

(iv) Visible emissions shall be determined with all sources in clear view of the observer. The observer shall be at least 15 feet, but not more than 0.25 miles, away from the emission source during the observation. For outdoor locations, the observer shall select a position where the sun is not directly in the observer's eyes. Documentation is not required for observations where no visible emissions are present.

(F) Certification of opacity readers determining opacities under Method 9 (as outlined in 40 CFR 60, Appendix A) to comply with §111.111(a)(1)(G) of this title shall be accomplished by completing the Texas Natural Resource Conservation Commission Visible Emissions Evaluators Course, or approved agency equivalent, no more than 180 days before the opacity reading.

(G) Contributions from uncombined water shall not be included in determining compliance with §111.111 of this title as required in §111.111(b) of this title.

(H) Emission limits on nonagricultural processes are as follows.

(i) Emissions of particulate matter from any source may not exceed the allowable rates specified in Table 1 as required in §111.151(a) of this title (relating to Allowable Emissions Limits). Figure 1: 30 TAC §122.516(b)(3)(H)(i)

Figure 1: 30 TAC §122.516(b)(3)(H)(i)

Table 1 - Allowable Particulate Emission Rates for Specific Flow Rates	
Effluent Flow Rate (q)	Rate of Emission (E)
(acfm)	(TSP lb/hr)
1,000	3.5
2,000	5.3
4,000	8.2
6,000	10.6
8,000	12.6
10,000	14.5
20,000	22.3
40,000	34.2
60,000	44.0
80,000	52.6
100,000	60.4
200,000	92.9
400,000	143.0
600,000	184.0
800,000	219.4
1,000,000	252.0

Interpolation and extrapolation of the data in this table shall be accomplished by the use of the equation $E = 0.048q^{0.62}$ for total suspended particulate (TSP) where:

E = allowable emission rate in pounds per hour (lb/hr)

q = stack effluent flow rate in actual cubic feet per minute (acfm)

(ii) Sources with an effective stack height (h_e) less than the standard effective stack height (H_e), as determined from Table 2, must reduce the allowable emission level by multiplying it by $[h_e/H_e]^2$ as required in §111.151(b) of this title. Figure 2: 30 TAC §122.516(b)(3)(H)(ii)

Figure 2: 30 TAC §122.516(b)(3)(H)(ii)

Table 2 - Standard Effective Stack Height Based on Specific Flow Rates	
Effluent Flow Rate (q)	Standard Effective Stack Height (H_e)
(acfm)	(ft)
1,000	12
2,000	15
4,000	19
6,000	22
8,000	24
10,000	26
20,000	34
40,000	43
60,000	49
80,000	55
100,000	59
200,000	75
400,000	96
600,000	110
800,000	122
1,000,000	132

Interpolation and extrapolation of the data in this table shall be accomplished by the use of the equation $H_e = 1.05q^{0.35}$ where:

H_e = standard effective stack height (ft)

q = stack effluent flow rate in actual cubic feet per minute (acfm)

(iii) Effective stack height shall be calculated by the following equation as required in §111.151(c) of this title. Figure 3: 30 TAC §122.516(b)(3)(H)(iii)

Figure 3: 30 TAC §122.516(b)(3)(H)(iii)

$$h_e = h + 0.083 v_e D_e \left[1.5 + 0.82 \left(\frac{T_e - 550}{T_e} \right) D_e \right]$$

where:

h_e = Effective stack height in feet (ft)

h = Physical stack height above ground level in feet (ft)

v_e = Stack exit velocity in feet per second (ft/sec)

D_e = Stack exit inside diameter in feet (ft)

T_e = Stack exit temperature in degrees Rankine ($^{\circ}\text{R}$)

(I) Open burning, as stated in §111.201 of this title (relating to General Prohibition), shall not be authorized unless the following requirements are satisfied:

(i) §111.205 of this title (relating to Exception for Fire Training);

(ii) §111.209(3) of this title (relating to Exception for Disposal Fires);

(iii) §111.213 of this title (relating to Exception for Hydrocarbon Burning);

(iv) §111.219 of this title (relating to General Requirements for Allowable Outdoor Burning); and

(v) §111.221 of this title (relating to Responsibility for Consequences of Outdoor Burning).

(J) The permit holder for a site subject to the provisions of this chapter in which the site has materials handling, construction, roads, streets, alleys, and parking lots shall comply with the requirements of §§111.143, 111.145, 111.147, and 111.149 of this title (relating to Materials Handling; Construction and Demolition; Roads, Streets, and Alleys; and Parking Lots) if they are located in the following areas:

(i) the City of El Paso, including the Fort Bliss Military Reservation, except for training areas as referenced in §111.141 of this title (relating to Geographic Areas of Application and Date of Compliance);

(ii) the area of Harris County located inside Beltway 8 (Sam Houston Tollway); or

(iii) the area of Nueces County outlined in the Group II state implementation plan for inhalable particulate matter.

(K) Abrasive blasting of water storage tanks performed by portable operations shall not be authorized unless the following state-only requirements are satisfied:

(i) §111.133(a)(1) and (2), (b), and (c) of this title (relating to Testing Requirements);

(ii) §111.135(a), (b), and (c)(1) - (4) of this title (relating to Control Requirements for Surfaces with Coatings Containing Lead); and

(iii) §111.137(a), (b)(1) - (4), and (c) of this title (relating to Control Requirements for Surfaces with Coatings Containing Less than 1.0% Lead).

(4) The permit holder for a site in the Houston/Galveston, Beaumont/Port Arthur, Dallas/Fort Worth, or El Paso ozone nonattainment area that is subject to the provisions of this chapter and affected by the requirements of Chapter 115, Subchapter C of this title (relating to Volatile Organic Compound Transfer Operations) shall comply with the following.

(A) The requirements in the undesignated head Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities in Chapter 115, Subchapter C of this title, are as follows:

(i) §115.221 of this title (relating to Emission Specifications);

(ii) §115.222 of this title (relating to Control Requirements);

(iii) §115.224 of this title (relating to Inspection Requirements);

(iv) §115.225(1) - (5) of this title (relating to Testing Requirements);

and

(v) §115.226 of this title (relating to Recordkeeping Requirements).

(B) The requirements in the undesignated head Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities in Chapter 115, Subchapter C of this title, at motor vehicle fuel dispensing facilities, constructed prior to November 15, 1992, with stationary gasoline storage containers with a nominal capacity less than or equal to 1,000 gallons are as follows:

(i) §115.224 of this title;

(ii) §115.226(1) and (2)(B) of this title; and

(iii) §115.227(1) of this title (relating to Exemptions).

(C) The requirements in the undesignated head Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities in Chapter 115, Subchapter C of this title, at motor vehicle fuel dispensing facilities, constructed prior to November 15, 1992, with transfers to stationary storage tanks located at a facility which has dispensed no more than 10,000 gallons of gasoline in any calendar month after January 1, 1991, are as follows:

(i) §115.224 of this title;

(ii) §115.226 of this title; and

(iii) §115.227(2) of this title.

(D) The requirements in the undesignated head Control of Volatile Organic Compound Leaks From Transport Vessels in Chapter 115, Subchapter C of this title, are as follows:

(i) §115.234 of this title (relating to Inspection Requirements);

(ii) §115.235(1), (2), (3)(A), and (4) of this title (relating to Approved Test Methods); and

(iii) §115.236 of this title (relating to Recordkeeping Requirements).

(E) The requirements in the undesignated head Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities in Chapter 115, Subchapter C of this title, are as follows:

(i) §115.241 of this title (relating to Emission Specifications);

(ii) §115.242 of this title (relating to Control Requirements);

(iii) §115.244 of this title (relating to Inspection Requirements);

(iv) §115.245(1), (2), (3), (5), and (6) of this title (relating to Testing Requirements); and

(v) §115.246 of this title (relating to Recordkeeping Requirements).

(5) The permit holder for a site in the El Paso ozone nonattainment area that is subject to the provisions of this chapter and affected by the requirements of Chapter 115, Subchapter C of this title shall comply with the following.

(A) The requirements in the undesignated head Control of Reid Vapor Pressure of Gasoline in Chapter 115, Subchapter C of this title, are as follows:

(i) §115.252 of this title (relating to Control Requirements);

(ii) §115.255 of this title (relating to Approved Test Methods); and

(iii) §115.256 of this title (relating to Recordkeeping Requirements).

(B) The requirements in the undesignated head Control of Reid Vapor Pressure of Gasoline in Chapter 115, Subchapter C of this title, at any stationary tank, reservoir, or other container used exclusively for the fueling of implements of agriculture are as follows:

(i) §115.255 of this title; and

(ii) §115.257(1) of this title (relating to Exemptions).

(C) The requirements in the undesignated head Control of Reid Vapor Pressure of Gasoline in Chapter 115, Subchapter C of this title, at a motor vehicle fuel dispensing facility are as follows:

(i) §115.252 of this title;

(ii) §115.255 of this title; and

(iii) Section 115.257(2) of this title.

(D) The requirements in the undesignated head Control of Reid Vapor Pressure of Gasoline in Chapter 115, Subchapter C of this title, at any tank, reservoir, storage vessel, or other stationary container with a nominal capacity of 500 gallons or less are as follows:

(i) §115.255 of this title; and

(ii) §115.257(3) of this title.

(6) The permit holder for a site which degasses or cleans any transport vessel with a nominal storage capacity of 8,000 gallons or more in the Houston/Galveston, Beaumont/Port Arthur, Dallas/Fort Worth, or El Paso ozone nonattainment area that is subject to the provisions of this chapter shall comply with the following requirements in the undesignated head Degassing or Cleaning of Stationary, Marine, and Transport Vessels in Chapter 115, Subchapter F of this title (relating to Miscellaneous Industrial Sources):

(A) §115.541(a)(2) of this title (relating to Emission Specifications);

(B) §115.542(a) of this title (relating to Control Requirements);

(C) §115.544 of this title (relating to Inspection Requirements);

(D) §115.545(1) - (9) of this title (relating to Approved Test Methods); and

(E) §115.546 of this title (relating to Monitoring and Recordkeeping Requirements).

(7) For covered processes subject to 40 CFR and specified in 40 CFR, §68.10, the permit holder shall comply with the requirements of the Accidental Release Prevention Provisions in 40 CFR 68. The permit holder shall submit to the appropriate agency, either a compliance schedule for meeting the requirements of 40 CFR 68 by the date provided in 40 CFR, §68.10(a), or as part of the

compliance certification submitted under §122.143(4) of this title (relating to General Terms and Conditions), a certification statement that the source is in compliance with all requirements of 40 CFR 68, including the registration and submission of a risk management plan. This general provision is enforceable only by the EPA.

(8) The permit holder for a site subject to Title VI of the FCAA shall meet the following requirements for protection of stratospheric ozone which are enforceable only by the EPA.

(A) Operation, servicing, maintenance, and repair on refrigeration and non-motor vehicle air conditioning appliances using ozone-depleting refrigerants on-site shall be conducted in accordance with 40 CFR 82, Subpart F. The permit holder shall ensure that repairs or refrigerant removal are performed only by properly certified technicians using approved equipment. Records shall be maintained as required by Subpart F.

(B) Servicing, maintenance, and repair of fleet vehicle air conditioning using ozone-depleting refrigerants shall be conducted in accordance with 40 CFR 82, Subpart B. The permit holder shall ensure that repairs or refrigerant removal are performed only by properly certified technicians using approved equipment. Records shall be maintained as required by Subpart B.

(c) General terms and conditions.

(1) Compliance with the permit does not relieve the permit holder of the obligation to comply with any other applicable rules, regulations, or orders of the commission, or of the EPA.

(2) The authorization to operate under this general operating permit shall not exceed five years from the date the authorization was granted or renewed.

(3) Consistent with the authority in Texas Health and Safety Code, Chapter 382, Subchapter B (relating to Powers and Duties of Commission), the permit holder shall allow representatives from the commission or the local air pollution control program having jurisdiction to do the following:

(A) enter upon the permit holder's premises where an emission unit is located or emissions-related activity is conducted, or where records must be kept under the conditions of this general operating permit;

(B) access and copy any records that must be kept under the conditions of this general operating permit;

(C) inspect any emission unit, equipment, practices, or operations regulated or required under this general operating permit; and

(D) sample or monitor substances or parameters for the purpose of assuring compliance with this general operating permit at any time.

(4) The permit holder shall comply with all terms and conditions codified in this general operating permit and any provisional terms and conditions required to be included with this general operating permit. Any noncompliance with either the permit terms and conditions or the provisional terms and conditions, if any, constitutes a violation of the FCAA and the TCAA and may be grounds for enforcement action. It shall not be a defense in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to comply with the permit terms and conditions of this general operating permit.

(5) The permit holder need not comply with terms and conditions codified in this general operating permit that have been replaced by provisional terms and conditions before the granting of a new authorization to operate under this general operating permit.

(6) In every case, the applicable requirements and state-only requirements are always enforceable.

(7) The executive director may request any information necessary to determine compliance with this general operating permit. The permit holder shall submit the information no later than 60 days after the request, unless the deadline is extended by the executive director.

(8) The permit holder shall pay fees to the commission consistent with the fee schedule in §101.27 of this title (relating to Emissions Fees).

(9) This general operating permit does not convey any property rights of any sort, or any exclusive privilege.

(10) A copy of this general operating permit, the permit application, and the authorization to operate shall be maintained at the location specified in the authorization to operate.

(11) Any report or annual compliance certification required by a permit to be submitted to the executive director shall contain a certification in accordance with §122.165 of this title (relating to Certification by a Responsible Official).

(12) State-only requirements will not be subject to any of the following requirements of this chapter: public notice, affected state review, notice and comment hearings, EPA review, public petition, recordkeeping, six-month monitoring reporting, six-month deviation reporting, compliance certification, or periodic monitoring.

(d) Recordkeeping terms and conditions.

(1) The permit holder shall maintain records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample,

measurement, report, or application. If an applicable requirement or state-only requirement specifies a longer data retention period, the records shall be maintained for at least the period of time specified in the applicable requirement or state-only requirement. The monitoring records shall include, but are not limited to, the following:

(A) the date, place as defined in this general operating permit, and time of sampling or measurements;

(B) the date(s) analyses were performed;

(C) the company or entity that performed the analyses;

(D) the analytical techniques or methods used;

(E) the results of such analyses;

(F) the relevant operating conditions which are deemed necessary to characterize emission rates at the time of sampling or measurement;

(G) the data from all calibration and maintenance records;

(H) all strip-chart recordings for continuous monitoring instrumentation; and

(1) copies of all reports required by this general operating permit.

(2) Records may be stored electronically.

(3) All records required to be maintained by this chapter shall be maintained at the location specified in the authorization to operate under this general operating permit.

(4) Records required by this general operating permit, including confidential information, shall be provided, upon request, in a legible form, to representatives from the commission or the local air pollution control program having jurisdiction within a reasonable period of time.

(5) The EPA may require that the records be sent directly to the EPA along with any claim of confidentiality. Any confidentiality claim should be made in accordance with federal law, including 40 CFR 2.

(6) Permit holders shall maintain records of the duration of the stay at a site of any temporary source.

(e) Reporting terms and conditions.

(1) Monitoring reports.

(A) Reports of monitoring data required to be submitted by an applicable requirement shall be submitted to the executive director.

(B) Reports shall be submitted for at least each six-month period following the initial granting of the authorization to operate under this general operating permit or at the frequency required by an applicable requirement which requires more frequent reporting.

(C) The monitoring reports shall be submitted no later than 30 days after the end of each reporting period.

(D) The reporting of monitoring data does not change the data collection requirements specified in an applicable requirement.

(2) Deviation reports.

(A) The permit holder shall report, in writing, to the executive director all instances of deviations, the probable cause of the deviations, and any corrective actions or preventative measures taken for each emission unit addressed by the general operating permit application.

(B) A deviation report shall be submitted for at least each six-month period following the initial granting of the authorization to operate under this general operating permit or at the

frequency required by an applicable requirement which requires more frequent reporting. However, no report is required if no deviations occurred over the six-month reporting period.

(C) The deviation reports shall be submitted no later than 30 days after the end of each reporting period.

(D) If a deviation is reported, in writing, under paragraph (3) of this subsection, the deviation report need only include a reference to the unauthorized emissions, upset or maintenance, and start-up and shutdown report containing details related to the deviation.

(3) Unauthorized emissions, upset or maintenance, and start-up and shutdown reports.

(A) Reports of deviations resulting from any unauthorized emissions, upset or maintenance, and start-up and shutdown shall be submitted in accordance with §§101.6, 101.7, and 101.11 of this title (relating to Upset Reporting and Recordkeeping Requirements; Maintenance, Start-up and Shutdown Reporting, Recordkeeping, and Operational Requirements; and Exemptions from Rules and Regulations).

(B) Nothing in this paragraph shall relieve the permit holder from submitting any deviation report in accordance with the requirements of paragraph (2) of this subsection.

(f) Compliance certification terms and conditions.

(1) The permit holder shall certify compliance with the terms and conditions of this general operating permit for at least each 12-month period following the initial granting of authority to operate under this general operating permit.

(2) The certification shall be submitted no later than 30 days after the end of the certification period.

(3) The executive director shall make a copy of the compliance certification accessible to the EPA.

(4) The certification shall be based on at a minimum, the monitoring method (or recordkeeping method, if appropriate) required by this general operating permit to be used to assess compliance.

(5) The annual compliance certification shall include or reference the following information:

(A) the identification of each term, or condition, of this general operating permit for which the permit holder is certifying compliance and the method used for determining the compliance status of each emission unit;

(B) for emission units addressed by the general operating permit application for which no deviations have occurred over the certification period, a statement that the emission units were in continuous compliance over the certification period; and

(C) for any emission unit addressed by the general operating permit application for which one or more deviations occurred over the certification period, the following information indicating the potentially intermittent compliance status of the emission unit:

(i) the identification of the emission unit;

(ii) the applicable requirement for which a deviation occurred;

(iii) the monitoring method (or recordkeeping method, if appropriate) used to assess compliance;

(iv) the frequency with which sampling, monitoring, or recordkeeping was required to be conducted by the monitoring or recordkeeping requirement of this general operating permit; and

(v) the total number of times that the assessment required by the monitoring or recordkeeping method specified in this general operating permit indicated that a deviation had occurred;

(D) the identification of all other terms and conditions of this general operating permit for which compliance was not achieved.