

The Texas Natural Resource Conservation Commission (commission) proposes amendments to Chapter 106, Subchapter A, §§106.1, 106.2, 106.4, 106.6, and 106.13, General Requirements; Subchapter C, §§106.101-106.103, Domestic and Comfort Heating and Cooling; Subchapter D, §§106.121-106.124, Analysis and Testing; Subchapter E, §§106.141-106.150, Aggregate and Pavement; Subchapter F, §§106.161-106.163, Animal Confinement; Subchapter G, §§106.181-106.183, Combustion; Subchapter H, §§106.201-106.203, Concrete Batch Plants; Subchapter I, §§106.221, §106.223-106.229, and 106.231, Manufacturing; Subchapter J, §§106.241-106.245, Food Preparation and Processing; Subchapter K, §§106.261-106.266, General; Subchapter L, §§106.281-106.283, 106.291, 106.301, and 106.302, Feed, Fiber, and Fertilizer; Subchapter M, §§106.311-106.322, Metallurgy; Subchapter N, §§106.331-106.333, Mixers, Blenders, and Packaging; Subchapter O, §§106.351-106.355, Oil and Gas; Subchapter P, §§106.371-106.376, Plant Operations; Subchapter Q, §§106.391-106.396, Plastics and Rubber; Subchapter R, §§106.411-106.419, Service Industries; Subchapter S, §§106.431-106.436, Surface Coating; Subchapter T, §§106.451-106.454, Surface Preparation; Subchapter U, §§106.471-106.478, Tanks, Storage, and Loading; Subchapter V, §§106.491-106.496, Thermal Control Devices; Subchapter W, §106.511, and §106.512, Turbines and Engines; and Subchapter X, §§106.531-106.534, Waste Processes and Remediation.

BACKGROUND AND SUMMARY OF THE FACTUAL BASE FOR THE PROPOSED RULES

The 76th Legislature passed Senate Bill (SB) 766 in 1999. In general, SB 766 recategorized the new source review authorizations under the Texas Clean Air Act (TCAA) and created the new program for the voluntary permitting of grandfathered facilities. Prior to the revisions by SB 766, the TCAA authorized the commission to issue permits for the construction or modification of facilities that will

emit air contaminants; standard permits adopted by rule; and exemptions from permitting, also adopted by rule. SB 766 modified this structure by authorizing the commission to issue standard permits using a process that does not require each standard permit to be in a rule. SB 766 provided a new name, permits by rule, for authorization of certain types of facilities which would not make a significant contribution of air contaminants to the atmosphere. Exemptions from permitting now authorize only changes at insignificant facilities. Finally, the commission is now authorized to develop criteria for facilities that emit a de minimis amount of air contaminants that do not need preconstruction authorization. Within the category of permits, SB 766 created two new permitting options: the Voluntary Emission Reduction Permit (VERP) program for permitting of grandfathered facilities, and the multiple plant permit. SB 766 also amended TCAA, §382.0621(d) to require increasing emission fees for the largest grandfathered facilities which do not have a permit application pending on or after September 1, 2001.

The commission is implementing this legislation in two phases. The first phase of the implementation of SB 766 was adopted by the commission on December 16, 1999. Included in the first phase were the VERP program and the new standard permit issuance procedures. This proposal implements the elements of SB 766 relating to exemptions from permitting and permits by rule. Other elements of SB 766, including emissions fees, multiple plant permits, and de minimis criteria, as well as additional elements relating to exemptions from permitting and permits by rule, are being addressed in concurrent proposals for new and amended sections in 30 TAC Chapter 101 and Chapter 116.

Prior to passage of SB 766, under TCAA, §382.057, the commission had the authority to exempt, from permitting requirements, changes within any facility and certain types of facilities that would not make a significant contribution of air contaminants to the atmosphere. These exemptions from permitting are currently contained in Chapter 106, and are also considered to be permits by rule, with many containing emission control requirements or operational restrictions to ensure insignificance. In order to remove the appearance that these insignificant facilities were exempt from environmental regulation in addition to being exempt from permitting, the new TCAA, §382.05196 gives the commission authority to adopt permits by rule for certain types of facilities that will not make a significant contribution of air contaminants to the atmosphere if all of the conditions of an applicable permit by rule are observed. Permits by rule may be used to authorize new construction and/or modifications or changes at the types of facilities listed in Subchapters C - X of this chapter.

The authority for exemptions from permitting is in TCAA, §382.057, concerning Exemption. The authority for permits by rule is in TCAA, §382.051, concerning Permitting Authority of the Commission; Rules; and in TCAA, §382.05196, concerning Permits by Rule.

SECTION BY SECTION DISCUSSION

The proposed new title for Chapter 106 is “Permits by Rule.”

The proposed amendments to Subchapter A, concerning General Requirements, clarify that the general requirements apply to permits by rule. Section 106.13 would be amended to clarify that the authorizations formerly known as standard exemptions and exemptions from permitting would be referred to as permits by rule in commission rules, though the conditions of their use would not change.

The proposed amendments to Subchapters C - X revise these sections to delete the word "exempt" and insert the term "permit by rule." The proposal also contains administrative changes, such as changing references to the Office of Air Quality to references to the Office of Permitting, Remediation, and Registration. In addition, the name of §106.332 is proposed to be changed from "Coating" to "Chlorine Repackaging." This name change corrects a mistake made during a previous adoption.

Sections 106.201, 106.202, and 106.203 of Subchapter H, concerning Concrete Batch Plants, would be amended to state that registrations for concrete batch plants under those sections would no longer be accepted by the commission upon issuance of a concrete batch plant standard permit. The commission is currently developing a standard permit for concrete batch plants, with issuance anticipated in August 2000. Until the standard permit is issued, registrations for these exemptions will continue to be accepted. Since standard permits will be issued by the commission during a commission agenda, the affected public will have notice of the action prior to issuance.

This proposal would delete the cross-reference to old exemption from permitting numbers currently listed after the title of each exemption.

FISCAL NOTE

Bob Orozco, Strategic Planning and Appropriations Section, has determined that for the first five-year period the proposed new sections and amendments are in effect there will be no significant fiscal implications for the commission and other units of state and local government as a result of administration or enforcement of the proposed new sections and amendments. The proposed amendments to Chapter 106, Exemptions from Permitting and Permits by Rule, would implement certain provisions of SB 766, 76th Legislature, 1999, relating to the issuance of certain permits for the emission of air contaminants. The commission is implementing this legislation in two phases. The first phase of the implementation of SB 766 was adopted by the commission on December 16, 1999.

Included in the first phase were the VERP program and the new standard permit issuance procedures. These proposed amendments are the second phase of the commission's implementation of SB 766. Other elements of SB 766 are addressed in concurrent proposals for new and amended sections in Chapters 101 and 116.

The proposed changes to Chapter 106 are primarily administrative in nature, do not add any additional regulatory requirements, and clarify that certain facilities, while being exempt from case-by-case permitting, are not exempt from environmental regulation. In addition, other changes to §§106.201-106.203 would only have an impact upon issuance of a standard permit for concrete batch plants. The fiscal implications, if any, would be addressed during the development process for the standard permit, which includes opportunity for public comment. Prior to the passage of SB 766, the commission had the authority to exempt from permitting requirements, changes within any facility and certain types of

facilities that would not make a significant contribution of air contaminants to the atmosphere. Exemptions from permitting are currently contained in Chapter 106 and are also considered to be permits by rule, with many containing emission control requirements or operational restrictions to ensure that these facilities' emissions remain insignificant contributors of contaminants to the atmosphere. The proposal would clarify that the authorizations formerly known as standard exemptions and exemptions from permitting would be referred to as permits by rule in commission rules, though the conditions of their use would not change.

PUBLIC BENEFIT

Mr. Orozco has also determined that for each year of the first five years the proposed new sections and amendments are in effect, the public benefit anticipated from enforcement of and compliance with the proposed amendments will be clarification that certain facilities, while being exempt from case-by-case permitting, are not exempt from environmental regulation.

The proposed amendments to Chapter 106 are not anticipated to have adverse fiscal implications to any person or business as a result of implementing the proposed amendments. The proposed amendments are administrative in nature, do not add any additional regulatory requirements, and clarify that certain facilities, while being exempt from case-by-case permitting, are not exempt from environmental regulation. In addition, other changes to §§106.201-106.203 would only have an impact upon issuance of a standard permit for concrete batch plants. The fiscal implications, if any, would be addressed during the development process for the standard permit, which includes opportunity for public comment. Prior to the passage of SB 766, the commission had the authority to exempt from permitting

requirements, changes within any facility and certain types of facilities that would not make a significant contribution of air contaminants to the atmosphere. Exemptions from permitting are currently contained in Chapter 106 and are also considered to be permits by rule, with many containing emission control requirements or operational restrictions to ensure that these facilities' emissions remain insignificant contributors of air contaminants to the atmosphere. The proposal would clarify that the authorizations formerly known as standard exemptions and exemptions from permitting would be referred to as permits by rule in commission rules, though the conditions of their use would not change.

SMALL AND MICRO-BUSINESS ANALYSES

No significant adverse effects are anticipated to small or micro-businesses as a result of implementing the proposed amendments. The proposed amendments are administrative in nature, do not add any additional regulatory requirements, and clarify that certain facilities, while being exempt from case-by-case permitting, are not exempt from environmental regulation. In addition, other changes to §§106.201-106.203 would only have an impact upon issuance of a standard permit for concrete batch plants. The fiscal implications, if any, would be addressed during the development process for the standard permit, which includes opportunity for public comment. Exemptions from permitting are currently contained in Chapter 106 and are also considered to be permits by rule, with many containing emission control requirements or operational restrictions to ensure that these facilities' emissions remain insignificant contributors of air contaminants to the atmosphere. The proposal would clarify that the authorizations formerly known as standard exemptions and exemptions from permitting would be referred to as permits by rule in commission rules, though the conditions of their use would not change. Existing facilities at small or micro-businesses currently authorized under Chapter 106 would

be able to retain that authorization and make future changes or new construction using permits by rule, as appropriate.

DRAFT REGULATORY IMPACT ANALYSIS

The commission has reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and has determined that the rulemaking does not meet the definition of a “major environmental rule” as defined in that statute. “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. The proposed amendments to Chapter 106 are administrative in nature, do not add regulatory requirements, and are intended to clarify that certain facilities, while being exempt from case-by case permitting, are not exempt from environmental regulation. The proposed amendments do not impose any additional regulatory requirements beyond those that currently exist. The proposed amendments do not meet the definition of “major environmental rule” because there is no adverse material effect on 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. In addition, §2001.0225(a) only applies to a major environmental rule, the result of which is to: 1. exceed a standard set by federal law, unless the rule is specifically required by state law; 2. exceed an express requirement of state law, unless the rule is specifically required by federal law; 3. exceed 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. adopt a rule solely under the general powers of the agency instead of under a specific state law.

This rulemaking does not meet any of these four applicability requirements of §2001.0225(a). Specifically, these new sections amendments do not exceed a standard set by state or federal law, but are proposed to clarify the exemption from permitting process under the Texas Health and Safety Code. The proposed amendments do not exceed a requirement of a delegation agreement and were not developed solely under the general powers of the agency, but were specifically developed to implement the provisions of SB 766. The commission invites public comment on the draft regulatory impact analysis.

TAKINGS IMPACT ANALYSIS

The commission has prepared a takings impact assessment for these proposed rules under Texas Government Code, §2007.043. The following is a summary of that assessment. The commission has determined that this action does not restrict or limit an owner's right to their property that would otherwise exist in the absence of governmental action and therefore does not constitute a takings. The majority of the proposed amendments are administrative and do not impose any new regulatory requirements. The bulk of the proposal merely changes the name of exemptions from permitting to permits by rule. The changes to §§106.201-106.203 are intended to provide notice that upon issuance of the standard permit for concrete batch plants, registrations under those exemptions will no longer be accepted by the commission. This change does not impact existing authorization under these exemptions. The proposed rules are reasonably taken to fulfill requirements of state law.

COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The commission has determined that this rulemaking relates to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code, §§33.201 et seq.), and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with Texas Coastal Management Program. As required by 31 TAC §505.11(b)(2) 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 action for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Council. The proposed rules are administrative changes, and the commission has determined that the rules are consistent with the applicable CMP goal expressed in 31 TAC §501.12(1) of protecting and preserving the quality and values of coastal natural resource areas, and the policy in 31 TAC §501.14(q), which requires that the commission protect air quality in coastal areas. This action does not authorize any new emissions. This action is consistent with Title 40 Code of Federal Regulations because it does not authorize an emission rate in excess of that specified by federal requirements. Interested persons may submit comments during the public comment period on the consistency of the proposed rule with the CMP goals and policies.

PUBLIC HEARING

The commission will hold a public hearing on this proposal in Austin at 10:00 a.m. on May 4, 2000 in Room 201A of Texas Natural Resource Conservation Commission Building B, 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, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearings and will answer questions before and after the hearing.

SUBMITTAL OF COMMENTS

Comments may be submitted to Lisa Martin, MC 205, Office of Environmental Policy, Analysis, and Assessment, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. All comments should reference Rule Log Number 1999-029B-116-AI. Comments must be received by 5:00 p.m. on May 8, 2000. For further information, please contact Beecher Cameron, Policy and Regulations Division, (512) 239-1495.

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

CHAPTER 106 : PERMITS BY RULE [EXEMPTIONS FROM PERMITTING]

SUBCHAPTER A : GENERAL REQUIREMENTS

§§106.1, 106.2, 106.4-106.6, 106.13

§106.1. Purpose.

This chapter identifies changes within facilities or certain types of facilities which the commission has determined will not make a significant contribution of air contaminants to the atmosphere [and] pursuant to the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.057 and §382.05196. [are exempt from the permit requirements of the TCAA, §382.0518.]

§106.2. Applicability.

This chapter applies to changes within facilities or types of facilities listed in this chapter where construction is commenced on or after the effective date of the relevant permit by rule. [exemption.]

§106.4. Requirements for Permitting by Rule [Exemptions from Permitting].

(a) To qualify for a permit by rule, [an exemption] the following general requirements must be met.

(1) Total actual emissions authorized under permit by rule [exemption] from the [proposed] facility shall not exceed 250 tons per year (tpy) of carbon monoxide (CO) or nitrogen oxides (NO_x); or 25 tpy of volatile organic compounds (VOC) or sulfur dioxide (SO₂) or inhalable particulate matter (PM₁₀); or 25 tpy of any other air contaminant except carbon dioxide, water, nitrogen, methane, ethane, hydrogen, and oxygen.

(2) Any facility or group of facilities, which constitutes a new major stationary source, as defined in §116.12 of this title (relating to Nonattainment Review Definitions), or any modification which constitutes a major modification, as defined in §116.12 of this title, under the new source review requirements of the Federal Clean Air Act (FCAA), Part D (Nonattainment) as amended by the FCAA Amendments of 1990, and regulations promulgated thereunder, must meet the permitting requirements of Chapter 116, Subchapter B of this title (relating to New Source Review Permits) and cannot qualify for a permit by rule [an exemption] under this chapter. Persons claiming a permit by rule [an exemption] under this chapter should see the requirements of §116.150 of this title (relating to New Major Source or Major Modification in Ozone Nonattainment Areas) to ensure that any applicable netting requirements have been satisfied.

(3) Any facility or group of facilities, which constitutes a new major stationary source, as defined in 40 Code of Federal Regulations (CFR) §52.21, or any change which constitutes a major modification, as defined in 40 CFR §52.21, under the new source review requirements of the FCAA, Part C (Prevention of Significant Deterioration) as amended by the FCAA Amendments of 1990, and

regulations promulgated thereunder, must meet the permitting requirements of Chapter 116, Subchapter B of this title and cannot qualify for a permit by rule [an exemption] under this chapter.

(4) Unless at least one facility at an account has been subject to public notification and comment as required in Chapter 116, Subchapter B or Subchapter D of this title (relating to New Source Review Permits or Permit Renewals), total actual emissions from all facilities permitted by rule [exempted facilities] at an account shall not exceed 250 tpy of CO or NO_x; or 25 tpy of VOC or SO₂ or PM₁₀; or 25 tpy of any other air contaminant except carbon dioxide, water, nitrogen, methane, ethane, hydrogen, and oxygen.

(5) Construction or modification of a facility commenced on or after the effective date of a revision of this section or the effective date of a revision to a specific permit by rule [exemption] in this chapter must meet the revised requirements to qualify for a permit by rule [an exemption].

(6) A [proposed] facility shall comply with all applicable provisions of the FCAA, §111 (Federal New Source Performance Standards) and §112 (Hazardous Air Pollutants), and the new source review requirements of the FCAA, Part C and Part D and regulations promulgated thereunder.

(7) There are no permits under the same commission [Texas Natural Resource Conservation Commission] account number that contain a condition or conditions precluding the use of permit by rule [standard exemption or an exemption] under this chapter.

(b) - (c) (No change.)

(d) Facilities permitted by rule under [exempted by] this chapter are not exempted from any permits or registrations required by local air pollution control agencies. Any such requirements must be in accordance with TCAA, §382.113 and any other applicable law.

§106.6. Registration of Emissions.

(a) An owner or operator may certify and register the maximum emission rates from facilities permitted by rule [exempted] under this chapter in order to establish enforceable allowable emission rates which are below the emission limitations in §106.4 of this title (relating to Requirements for Permitting by Rule [Exemption from Permitting]).

(b) All representations with regard to construction plans, operating procedures, and maximum emission rates in any certified registration under this section become conditions upon which the facility permitted by rule [exempt facility] shall be constructed and operated.

(c) - (d) (No change.)

(e) The certified registration shall be maintained on-site and be provided immediately upon request by representatives of the commission [Texas Natural Resource Conservation Commission] or any air pollution control agency having jurisdiction. If the plant site is unmanned, the regional manager

may authorize an alternative site to maintain this documentation. Copies of the certified registration shall be included in applications for permits subject to review under the divisions [undesigned heads] in Chapter 116, Subchapter B of this title (relating to New Source Review Permits).

§106.13. References to Standard Exemptions and Exemptions from Permitting [Permits by Rule].

The authorizations formerly known as standard exemptions and exemptions from permitting are referred to as permits by rule in this title. Types of facilities and changes within facilities authorized by those standard exemptions and exemptions from permitting continue to be authorized unless modifications or changes to those facilities has caused them to no longer meet the conditions of the former standard exemption or exemption from permitting and the general requirements of this subchapter. [Exemption from permitting in this chapter are also permits by rule.]

SUBCHAPTER C : DOMESTIC AND COMFORT HEATING AND COOLING

§§106.101 -106.103

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.101. Domestic Use Facilities [(Previously SE 1)].

Any facility constructed and operated at a domestic residence for domestic use is permitted by rule [exempt].

§106.102. Comfort Heating [(Previously SE 3)].

This section permits by rule [exempts] combustion units designed and used exclusively for comfort heating purposes employing liquid petroleum gas, natural gas, solid wood, or distillate fuel oil. Distillate fuel oil includes diesel fuel, kerosene, and heating oil Grades 4 and lighter. Distillate fuel oil does not include heavier residual oils such as Grades 5 and 6 fuel oil. Combustion of bark chips, sawdust, wood chips, treated wood, or wood contaminated with chemicals is not included. Used oil that has not been mixed with hazardous waste may be used as fuel in space heaters provided that:

(1) - (3) (No change.)

§106.103. Air Conditioning and Ventilation Systems [(Previously SE 4)].

Comfort air conditioning systems or comfort ventilating systems which are not used to remove air contaminants generated by or released from specific units of equipment are permitted by rule [exempt].

SUBCHAPTER D : ANALYSIS AND TESTING

§§106.121-106.124

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.121. Hydraulic and Hydrostatic Testing Equipment [(Previously SE 12)].

Equipment used for hydraulic or hydrostatic testing is permitted by rule [exempt].

§106.122. Bench Scale Laboratory Equipment [(Previously SE 34)].

Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analyses are permitted by rule [exempt].

§106.123. Vacuum-producing Devices for Laboratory Use [(Previously SE 49)].

Vacuum-producing devices used in laboratory operations are permitted by rule [exempt].

§106.124. Pilot Plants [(Previously SE 76)].

Any new or modified pilot plant is permitted by rule [exempt], provided the following conditions of this section are met.

(1) - (5) (No change.)

SUBCHAPTER E : AGGREGATE AND PAVEMENT

§§106.141 -106.150

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.141. Batch Mixers [(Previously SE 25)].

Batch mixers with rated capacity of five cubic feet or less for mixing cement, sand, aggregate, additives, and/or water or similar materials are permitted by rule [exempt].

§106.142. Rock Crushers [(Previously SE 73)].

Any rock crusher with a maximum rated capacity of 200 tons per hour or less that operates according to the following conditions of this section is permitted by rule [exempt]:

(1) - (6) (No change.)

§106.143. Wet Sand and Gravel Production [(Previously SE 77)].

Any wet sand and gravel production facility that obtains its material from subterranean and subaqueous beds where the deposits of sand and gravel are consolidated granular materials resulting from natural disintegration of rock and stone and whose production rate is 500 tons per hour or less is permitted by rule [exempt]. All permanent in-plant roads shall be paved and cleaned as necessary or watered as necessary to achieve maximum control of dust emissions.

§106.144. Bulk Mineral Handling [(Previously SE 91)].

All bulk mineral product (except asbestos) handling facilities that operate in compliance with the following conditions of this section are permitted by rule [exempt].

(1) - (3) (No change.)

(4) Before construction begins, written site approval must be received from the executive director and the facility shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7.

§106.145. Bulk Sand Handling [(Previously SE 92)].

All oil well servicing bulk sand handling facilities that operate according to the following conditions of this section are permitted by rule [exempt].

(1) - (4) (No change.)

(5) Before construction begins, the owner or operator shall file with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin a completed Form PI-7 and supporting documentation demonstrating that all of the requirements of the permit by rule [exemption] will be met.

§106.146. Soil Stabilization Plants [(Previously SE 94)].

Any soil stabilization facility that operates according to the following conditions of this section is permitted by rule [exempt].

(1) - (7) (No change.)

(8) Before construction of the facility begins, written site approval shall be received from the executive director and the facility shall be registered with the commission's Office of Permitting, Remediating, and Registration [Air Quality] in Austin using Form PI-7.

(9) (No change.)

§106.147. Asphalt Concrete Plants [(Previously SE 99)].

Any asphalt concrete facility that complies with 40 Code of Federal Regulations Part 60, Subparts A and I and operates according to the following conditions of this section is permitted by rule [exempt].

(1) (No change.)

(2) Fuel for dryers shall be sweet natural gases as defined in Chapter 101 of this title (relating to General Air Quality Rules) or liquid petroleum gas, diesel, or fuel oil with a maximum sulfur content of 1.5%

(3) - (5) (No change.)

(6) Before construction of the facility begins, written site approval shall be received from the executive director and the facility shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7, including a current Table 22.

(7) (No change.)

§106.148. Material Unloading [(Previously SE 112)].

Railcar or truck unloading of wet sand, gravel, aggregate, coal, lignite, and scrap iron or scrap steel (but not including metal ores, metal oxides, battery parts, or fine dry materials) into trucks or other railcars for transportation to other locations is permitted by rule [exempt], provided the following conditions of this section are met.

(1) - (3) (No change.)

§106.149. Sand and Gravel Processing [(Previously SE 114)].

Any sand and gravel production facility that obtains its material from deposits of sand and gravel consisting of natural disintegration of rock and stone is permitted by rule [exempt], provided that the following conditions of this section are satisfied:

(1) - (7) (No change.)

§106.150. Asphalt Silos [(Previously SE 122)].

Any silo used to store hot mix asphalt or asphalt emulsion concrete mixtures which meets the following conditions of this section is permitted by rule [exempt]:

(1) - (2) (No change.)

(3) fuel used for heating the silo is sweet natural gas as defined in Chapter 101 of this title (relating to General Air Quality Rules) or liquid petroleum gas or first run refinery grade diesel or Number 2 fuel oil that is not a blend containing waste oils or solvents and that contains less than 0.5% by weight sulfur;

(4) (No change.)

(5) before construction begins, written site approval is received from the executive director and the facility is registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7.

SUBCHAPTER F : ANIMAL CONFINEMENT

§§106.161 -106.163

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.161. Animal Feeding Operations [(Previously SE 62)].

Animal feeding operations which confine animals in numbers specified in paragraph (1) of this section and any associated on-site feed handling and/or feed milling operations which satisfy the following conditions of this section are permitted by rule [exempt].

(1) - (7) (No change.)

(8) All caged poultry operations designed to feed more than 30,000 birds when a dry manure storage and handling system is used and when located at least 1/4 mile from any recreational area or residence or other structure not occupied or used solely by the owner of the egg laying or caged pullet operation. Before construction of the caged laying and caged pullet operations begins, written site approval shall be received from the executive director and the facility shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] using Form PI-7.

(9) (No change.)

§106.162. Livestock Auction Facilities [(Previously SE 63)].

Livestock auction sales facilities are permitted by rule [exempt], provided the following conditions of this section are satisfied.

(1) - (5) (No change.)

(6) Before construction of the facility begins, written site approval shall be received from the executive director and the facility shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7.

§106.163. Race Tracks, Zoos, and Animal Shelters [(Previously SE 72)].

All animal racing facilities, domestic animal shelters, zoos, and their associated confinement areas, stables, feeding areas, and waste collection and treatment facilities are permitted by rule [exempt]. Incineration units are not authorized under this section.

SUBCHAPTER G : COMBUSTION

§§106.181 - 106.183

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.181. Small Boilers, Heaters, and Other Combustion Devices.

(a) Small boilers, heaters, drying or curing ovens, furnaces, or other combustion units, but not including stationary internal combustion engines or turbines, are permitted by rule [exempt] provided that all the conditions of this section are met.

(b) (No change.)

§106.182. Ceramic Kilns [(Previously SE 33)].

Kilns used for firing ceramic ware, heated exclusively by natural gas, liquid petroleum gas, electricity, or any combination thereof are permitted by rule [exempt] where the conditions of this section are met:

(1) - (2) (No change.)

§106.183. Boilers, Heaters, and Other Combustion Devices [(Previously SE 7)].

Boilers, heaters, drying or curing ovens, furnaces, or other combustion units, but not including stationary internal combustion engines or turbines are permitted by rule [exempt], provided that the following conditions are met.

(1) - (5) (No change.)

SUBCHAPTER H : CONCRETE BATCH PLANTS

§§106.201 -106.203

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.201. Permanent and Temporary Concrete Batch Plants [(Previously SE 71)].

Any permanently or temporarily located concrete plant that accomplishes wet batching, dry batching, or central mixing, and operates in compliance with the following conditions of this section is permitted by rule [exempt]. For purposes of this section, a temporarily located concrete facility is one that occupies a designated site for not more than 180 consecutive days or supplies concrete for a single public works project or for the same contractor for related project segments, but not other unrelated projects.

(1) - (9) (No change.)

(10) Before construction of the facility begins, written site approval shall be received from the executive director and the facility shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7, including a current Table 20.

(11) Upon issuance of a standard permit for concrete batch plants, registrations under this section will no longer be accepted.

§106.202. Temporary Concrete Batch Plants [(Previously SE 93)].

Any temporarily located concrete facility that accomplishes wet batching, dry batching, or central mixing and operates according to the following conditions of this section is permitted by rule [exempt]. For purposes of this section, a temporarily located concrete facility is one that occupies a designated site for not more than 180 consecutive days or supplies concrete for a single public works project or for the same contractor for related project segments, but not other unrelated projects.

(1) - (11) (No change.)

(12) Before construction of the facility begins, written site approval shall be received from the executive director and the facility shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7, including a current Table 20. The current Table 20 shall be on file at each plant site.

(13) (No change.)

(14) Upon issuance of a standard permit for concrete batch plants, registrations under this section will no longer be accepted.

§106.203. Specialty Batch Plants [(Previously SE 117)].

Any specialty wet batch, concrete, mortar, grout mixing, or pre-cast concrete products plant that operates according to the following conditions of this section is permitted by rule [exempt].

(1) - (9) (No change.)

(10) Before construction of the facility begins, written site approval is received from the executive director and the facility shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7, including a current Table 20.

(11) (No change.)

(12) Upon issuance of a concrete batch plant standard permit, registrations under this section will no longer be accepted.

SUBCHAPTER I : MANUFACTURING

§§106.221, 106.223-106.229, 106.231

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.221. Extrusion Presses [(Previously SE 10)].

Presses used exclusively for extruding metals, minerals, plastics, rubber, or wood are permitted by rule [exempt] except where halogenated carbon compounds or hydrocarbon solvents are used as foaming agents. Presses used for extruding scrap materials or reclaiming scrap materials are not permitted by rule [exempt].

§106.223. Saw Mills [(Previously SE 120)].

Sawmills processing no more than 25 million board feet, green lumber tally of wood per year, in which no mechanical drying of lumber is performed and which meet all of the following provisions of this section are permitted by rule [exempt].

(1) - (7) (No change.)

(8) Before construction of the facility begins, written site approval must be received from the director of the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin and the facility shall be registered with that office using Form PI-7.

§106.224. Aerospace Equipment and Parts Manufacturing [(Previously SE 123)].

Any new aerospace equipment and parts manufacturing plant, or physical and operational change to an existing aerospace equipment and parts manufacturing plant are permitted by rule [exempt], provided that the following conditions of this section are satisfied.

(1) For purposes of this section, aerospace equipment and parts manufacturing plant means the entire operation on the property which engages in the fabrication or assembly of parts, tools, or completed components of any aircraft, helicopter, dirigible, balloon, missile, drone, rocket, or space vehicle. This permit by rule [exemption] will not include composite aerospace equipment and parts manufacturing plants. Composite plants are defined to be plants whose products are less than 50% metal, by weight, based on annual production figures. This definition excludes those operations specifically authorized by other permits by rule [exemptions]. For example, a boiler would not be considered a part of the aerospace manufacturing plant, but could be authorized under §106.181 of this title (relating to Boilers, Heaters, and Other Combustion Devices), if all pertinent requirements were met.

(2) - (4) (No change.)

(5) Before construction or change in operation begins, registration shall be submitted to the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using a completed Form PI-7. The emission data provided in the PI-7 shall include all process emission

sources at the plant, both existing and proposed, and shall be the maximum allowed emissions for permitted units, the actual emissions for existing grandfathered [or exempted] units or units permitted by rule, and the projected maximum allowable emissions for proposed units. Emissions shall be speciated by chemical compound and the stack parameters, as appropriate, for each emission source shall be provided. Registration shall include a description of the project, calculations, and data identifying specific chemical names, “L” values, “D” values, and a description of pollution control equipment, if any.

(6) - (8) (No change.)

§106.225. Semiconductor Manufacturing [(Previously SE 115)].

Modifications, additions, or relocations of equipment (excluding add-on controls) used for semiconductor manufacturing operations that result in the addition, increase, or substitution of an air contaminant are permitted by rule [exempt] provided the following conditions of this section are satisfied.

(1) - (12) (No change.)

§106.226. Paints, Varnishes, Ink, and Other Coating Manufacturing [(Previously SE 125)].

Coating manufacturing operations including raw material storage, weighing, mixing, milling, grinding, thinning, and packaging are permitted by rule [exempt], provided the conditions of this section are met. Coating manufacturing is defined as combining ingredients that are manufactured off-site to make paints, varnishes, sealants, stains, adhesives, inks, pigments, maskants, and paint strippers, etc. Resin manufacturing is not permitted by rule [exempt] under this section.

(1) - (5) (No change.)

§106.227. Soldering, Brazing, Welding [(Previously SE 39)].

Brazing, soldering, or welding equipment, except those which emit 0.6 ton per year or more of lead, are permitted by rule [exempt].

§106.228. Platen Presses for Laminating [(Previously SE 30)].

Platen presses used for laminating are permitted by rule [exempt].

§106.229. Textile Dyeing and Stripping Equipment [(Previously SE 15)].

Equipment used exclusively for the dyeing or stripping of textiles is permitted by rule [exempt].

§106.231. Manufacturing, Refinishing, and Restoring Wood Products.

Facilities, including drying or curing ovens, and hand-held or manually operated equipment, used for manufacturing, refinishing, and/or restoring wood products that meet the following requirements are permitted by rule [exempt from obtaining an air quality permit].

(1) - (4) (No change.)

SUBCHAPTER J : FOOD PREPARATION AND PROCESSING

§§106.241 -106.245

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.241. Slaughterhouses [(Previously SE 109)].

Any facility where animals or poultry are slaughtered and prepared for human consumption provided that waste products such as blood, offal, and feathers are stored in such a manner as to prevent the creation of a nuisance condition and these waste products are removed from the premises daily or stored under refrigeration until removed are permitted by rule [exempt]. In addition, areas used to hold animals or poultry for slaughter shall be kept dry and clean to control odors.

§106.242. Food Preparation [(Previously SE 20)].

Equipment used in eating establishments for the purpose of preparing food for human consumption is permitted by rule [exempt].

§106.243. Smokehouses [(Previously SE 29)].

Smokehouses in which the maximum horizontal inside cross-sectional area does not exceed 100 square feet are permitted by rule [exempt].

§106.244. Ovens, Barbecue Pits, and Cookers [(Previously SE 32)].

Ovens, mixers, blenders, barbecue pits, and cookers if the products are edible and intended for human consumption are permitted by rule [exempt].

§106.245. Ethyl Alcohol Facilities [(Previously SE 98)].

Ethyl alcohol (ethanol) production facilities having a capacity of less than 200 gallons of ethanol per day when natural gas, liquid petroleum gas, or Number 2 fuel oil is used to supply heat for cooking and distillation are permitted by rule [exempt]. Drying of spent (distillers) grain and water stillage is not authorized under this section.

SUBCHAPTER K : GENERAL

§§106.261 - 106.266

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.261. Facilities (Emission Limitations) [(Previously SE 106)].

Facilities, or physical or operational changes to a facility, are permitted by rule [exempt] provided that all of the following conditions of this section are satisfied.

(1) - (7) (No change.)

(8) For emission increases of less than five tons per year, notification must be provided using either:

(A) (No change.)

(B) Form PI-7-261(a) by March 31 of the following year summarizing all uses of this permit by rule [exemption] in the previous calendar year. This annual notification shall include a description of the project, calculations, data identifying specific chemical names, limit values, and a description of pollution control equipment, if any.

[(9) This exemption is effective January 1, 1999. The registration requirements in paragraphs (7) and (8) of this section begin January 1, 1999. Registration under paragraph (8)(B) of this section is due beginning March 31, 2000, for exemptions claimed in calendar year 1999.]

§106.262. Facilities (Emission and Distance Limitations) [(Previously SE 118)].

Facilities, or physical or operational changes to a facility, are permitted by rule [exempt] provided that all of the following conditions of this section are satisfied.

(1) - (7) (No change.)

§106.263. Repairs and Maintenance [(Previously SE 70)].

Repairs or maintenance not involving structural changes where no new or permanent facilities are installed are permitted by rule [exempt].

§106.264. Replacements of Facilities [(Previously SE 111)].

A facility which replaces an existing facility is permitted by rule [exempt] provided that the following conditions of this section are satisfied:

(1) - (7) (No change.)

§106.265. Hand-held and Manually Operated Machines [(Previously SE 40)].

Hand-held or manually operated equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic art work, ceramic precision parts, leather, metals, plastics, fiber board, masonry, carbon, glass, graphite, or wood is permitted by rule [exempt].

§106.266. Vacuum Cleaning Systems [(Previously SE 59)].

Vacuum cleaning systems used exclusively for industrial, commercial, or residential housekeeping purposes are permitted by rule [exempt].

SUBCHAPTER L : FEED, FIBER, AND FERTILIZER

DIVISION 1 : FEED

§§106.281-106.283

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.281. Feed Milling [(Previously SE 64)].

Modifications to feed milling operations which satisfy the following conditions of this section are permitted by rule [exempt].

(1) - (2) (No change.)

§106.282. Feed Grinding Facilities [(Previously SE 119)].

Any feed grinding operation which is used only for noncommercial purposes is permitted by rule [exempt].

§106.283. Grain Handling, Storage, and Drying [(Previously SE 74)].

Any grain handling, storage, and drying facility which meets paragraphs (1) - (3) of this section is permitted by rule [exempt].

(1) - (3) (No change.)

DIVISION 2 : FIBER

§106.291

STATUTORY AUTHORITY

The amendment is proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendment implements §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.291. Cotton Gin Stands [(Previously SE 69)].

Replacement or addition of cotton gin stands where no other equipment change or additions are involved are permitted by rule [exempt].

DIVISION 3 : FERTILIZER

§106.301, §106.302

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.301. Aqueous Fertilizer Storage [(Previously SE 85)].

All aqueous fertilizer storage tanks are permitted by rule [exempt].

§106.302. Portable Pipe Reactor [(Previously SE 108)].

Portable pipe reactor facilities used to process liquid fertilizer that operate according to the following conditions of this section are permitted by rule [exempt].

(1) Before construction begins, the facility shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7.

(2) - (5) (No change.)

SUBCHAPTER M : METALLURGY

§§106.311-116.322

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.311. Crucible or Pot Furnace [(Previously SE 17)].

Crucible or pot furnaces with a brim full capacity of less than 450 cubic inches of any molten metal are permitted by rule [exempt].

§106.312. Wax Melting and Application [(Previously SE 18)].

Equipment used exclusively for the melting or application of wax is permitted by rule [exempt].

§106.313. Tumblers for Cleaning or Deburring Metal [(Previously SE 22)].

All closed tumblers used for the cleaning or deburring of metal products without abrasive blasting, and all open tumblers with a batch capacity of 1,000 pounds or less are permitted by rule [exempt].

§106.314. Shell Core and Mold Machines [(Previously SE 23)].

Shell core and shell mold manufacturing machines are permitted by rule [exempt].

§106.315. Sand or Investment Molds [(Previously SE 24)].

Sand or investment molds with a capacity of 100 pounds or less used for the casting of metals are permitted by rule [exempt].

§106.316. Metal Inspection [(Previously SE 35)].

Equipment used for inspection of metal products is permitted by rule [exempt].

§106.317. Miscellaneous Metal Equipment [(Previously SE 36)].

Equipment used exclusively for rolling, forging, pressing, drawing, spinning, or extruding either hot or cold metals by some mechanical means is permitted by rule [exempt].

§106.318. Die Casting Machines [(Previously SE 37)].

Die casting machines are permitted by rule [exempt].

§106.319. Foundry Sand Mold Forming Equipment [(Previously SE 44)].

Foundry sand mold forming equipment to which no heat is applied is permitted by rule [exempt].

§106.320. Miscellaneous Metallic Treatment [(Previously SE 57)].

Electrically heated or sweet natural gas or liquid petroleum gas fueled equipment used exclusively for heat treating, soaking, case hardening, or surface conditioning of metal objects, such as carbonizing, cyaniding, nitriding, carbon nitriding, siliconizing, or diffusion treating is permitted by rule [exempt].

§106.321. Metal Melting and Holding Furnaces [(Previously SE 58)].

Metal melting and holding furnaces as specified in this section are permitted by rule [exempt].

(1) - (2) (No change.)

§106.322. Furnaces to Reclaim Aluminum or Copper [(Previously SE 96)].

Dry hearth reverberatory type holding chamber aluminum or copper metal reclamation/sweat furnaces in which no fluxing, degassing, or refining is conducted, which operate according to the following conditions and limitations of this section are permitted by rule [exempt].

(1) - (6) (No change.)

(7) Fuel for the furnace shall be sweet natural gas as defined in Chapter 101 of this title (relating to General Air Quality Rules) or liquid petroleum gas, diesel, or Number 2 fuel oil.

(8) Before construction begins, the facility shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7.

SUBCHAPTER N : MIXERS, BLENDERS, AND PACKAGING

§§106.331 - 106.333

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.331. Cosmetics Packaging and Pharmaceutical Packaging and Coating [(Previously SE 47)].

Equipment used exclusively to package pharmaceuticals and cosmetics or to coat pharmaceutical tablets is permitted by rule [exempt].

§106.332. Chlorine Repackaging [Coating (Previously SE 81)].

Facilities that repackage chlorine are permitted by rule [exempt], provided all the following conditions of this section are satisfied:

(1) - (6) (No change.)

§106.333. Water-based Adhesive Mixers [(Previously SE 28)].

Equipment used exclusively for the mixing and blending of materials at ambient temperature to make water-based adhesives is permitted by rule [exempt].

SUBCHAPTER O : OIL AND GAS

§§106.351 - 106.355

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

These proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.351. Salt Water Disposal (Petroleum) [(Previously SE 65)].

Salt water disposal facilities used to handle aqueous liquid wastes from petroleum production operations and water injection facilities are permitted by rule [exempt], provided that the following conditions of this section are met.

(1) - (3) (No change.)

(4) Before construction of the facility begins under this section, registration of the permit by rule [exemption] shall be submitted to the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7, unless one of the following exceptions applies:

(A) - (B) (No change.)

§106.352. Oil and Gas Production Facilities [(Previously SE 66)].

Any oil or gas production facility, carbon dioxide separation facility, or oil or gas pipeline facility consisting of one or more tanks, separators, dehydration units, free water knockouts, gunbarrels, heater treaters, natural gas liquids recovery units, or gas sweetening and other gas conditioning facilities, including sulfur recovery units at facilities conditioning produced gas containing

less than two long tons per day of sulfur compounds as sulfur are permitted by rule [exempt], provided that the following conditions of this section are met. This section applies only to those facilities named which handle gases and liquids associated with the production, conditioning, processing, and pipeline transfer of fluids found in geologic formations beneath the earth's surface.

(1) - (4) (No change.)

(5) Before operation begins, facilities handling sour gas shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7 along with supporting documentation that all requirements of this section will be met. For facilities constructed under §106.353 of this title (relating to Temporary Oil and Gas Facilities (Previously SE 67)), the registration is required before operation under this section can begin. If the facilities cannot meet this section, a permit under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) is required prior to continuing operation of the facilities.

§106.353. Temporary Oil and Gas Facilities [(Previously SE 67)].

Temporary separators, tanks, meters, and fluid-handling equipment used for a period not to exceed 90 operating days are permitted by rule [exempt], provided that all the following conditions of this section are satisfied.

(1) - (4) (No change.)

§106.354. Iron Sponge Gas Treating Unit [(Previously SE 79)].

Iron sponge gas treating units processing streams containing less than 60 pounds per hour of hydrogen sulfide are permitted by rule [exempt] provided that the following conditions of this section are satisfied:

(1) - (3) (No change.)

§106.355. Metering, Purging, and Maintenance of Pipelines [(Previously SE 100)].

Metering, purging, and maintenance operations for gaseous and liquid petroleum pipelines (including ethylene, propylene, butylene, and butadiene pipelines) are permitted by rule [exempt] provided that operations are conducted according to the following conditions of this section:

(1) - (3) (No change.)

SUBCHAPTER P : PLANT OPERATIONS

§§106.371-106.376

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.371. Cooling Water Units [(Previously SE 8)].

Water cooling towers, water treating systems for process cooling water or boiler feedwater, and water tanks, reservoirs, or other water containers designed to cool, store, or otherwise handle water (including rainwater) that have not been used in direct contact with gaseous or liquid process streams containing carbon compounds, sulfur compounds, halogens or halogen compounds, cyanide compounds, inorganic acids, or acid gases are permitted by rule [exempt].

§106.372. Industrial Gases [(Previously SE 101)].

Any air separation, or other industrial gas production, storage, or packaging facility is permitted by rule [exempt]. Industrial gases, for purposes of this section, include only oxygen, nitrogen, helium, neon, argon, krypton, and xenon.

§106.373. Refrigeration Systems [(Previously SE 103)].

Refrigeration systems, including storage tanks used in refrigeration systems, that use one of the following categories of refrigerant are permitted by rule [exempt]:

(1) - (2) (No change.)

(3) anhydrous ammonia (ammonia) provided:

(A) the facility is registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7; and

(B) (No change.)

§106.374. Lime Slaking Facilities [(Previously SE 121)].

Any lime slaking facility used to mix quicklime with water is permitted by rule [exempt], provided the following conditions of this section are met:

(1) - (4) (No change.)

§106.375. Aqueous Solutions for Electrolytic and Electroless Processes [(Previously SE 41)].

Equipment using aqueous solutions is permitted by rule [exempt], providing the conditions of this section are met.

(1) - (3) (No change.)

§106.376. Decorative Chrome Plating.

Decorative chromium electroplating operations that have a maximum combined rated capacity for all decorative chrome plating rectifiers of not more than 5,000 amperes and which use a fume suppressant or other equivalent control as sufficient to meet §113.190 of this title (relating to Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (40 CFR 63, Subpart N)) are permitted by rule [exempt]. This permit by rule [exemption] may not be used at any site where other chrome plating or chromic acid anodizing operations are conducted.

SUBCHAPTER Q : PLASTICS AND RUBBER

§§106.391 - 106.396

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.391. Rubber and Plastic Curing Presses [(Previously SE 11)].

Presses used for the curing of rubber products and plastic products are permitted by rule [exempt].

§106.392. Thermoset Resin Facilities [(Previously SE 113)].

Facilities using thermoset resins (excluding resins that do not emit air contaminants) to manufacture or repair products are permitted by rule [exempt], provided that the following conditions of this section are satisfied for paragraph (1) and either paragraph (2) or (3) of this section.

(1) - (3) (No change.)

§106.393. Conveyance and Storage of Plastic and Rubber Material [(Previously SE 27)].

Equipment used exclusively for conveying and storing plastic and/or rubber solid materials is permitted by rule [exempt], provided that no visible emissions occur and all the conditions of this section are met:

(1) - (2) (No change.)

§106.394. Plastic Compression and Injection Molding [(Previously SE 45)].

Equipment used for compression molding and injection molding of plastics is permitted by rule [exempt].

§106.395. Equipment for Mixing Plastic and Rubber (No Solvent) [(Previously SE 46)].

Mixers, blenders, roll mills, or calenders for rubber or plastics are permitted by rule [exempt], provided the following conditions of this section are satisfied. Mixers, blenders, roll mills, or calenders handling or adding asbestos shall not be eligible to be permitted by rule [for exemption] under this section.

(1) - (3) (No change.)

§106.396. Equipment for Mixing Plastic and Rubber (With Solvent) [(Previously SE 48)].

Roll mills or calenders for rubber or plastics in which organic solvents, diluents, or thinners are used are permitted by rule [exempt], provided that before construction begins, the facility is registered with Form PI-7 and information regarding process rate and type of material emitted is submitted.

SUBCHAPTER R : SERVICE INDUSTRIES

§§106.411-116.419

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.411. Steam or Dry Cleaning Equipment [(Previously SE 9)].

Equipment used exclusively for steam or dry cleaning of fabrics, plastics, rubber, wood, or vehicle engines or drive trains is permitted by rule [exempt].

§106.412. Fuel Dispensing [(Previously SE 14)].

Equipment used exclusively to store and dispense motor fuels into heavy and light-duty motor vehicles and marine vessels or other watercraft, aircraft, and railroad locomotive engines is permitted by rule [exempt].

§106.413. Bond Lining to Brake Shoes [(Previously SE 19)].

Equipment used exclusively for bonding lining to brake shoes is permitted by rule [exempt].

§106.414. Packaging Lubes and Greases [(Previously SE 26)].

Equipment used exclusively for the packaging of lubricants or greases is permitted by rule [exempt].

§106.415. Laundry Dryers [(Previously SE 43)].

Laundry dryers, extractors, or tumblers used for fabrics cleaned with water solutions of bleach or detergents are permitted by rule [exempt].

§106.416. Uranium Recovery Facilities [(Previously SE 95)].

A uranium in-situ solution recovery facility producing yellowcake is permitted by rule [exempt], provided that the facility operates according to the following conditions of this section.

(1) - (3) (No change.)

(4) Before construction begins, the facility shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7.

§106.417. Ethylene Oxide Sterilizers [(Previously SE 89)].

Ethylene oxide (EO) sterilizing chambers/operations located on the same or contiguous property and under common ownership that use 1,000 pounds or less of EO per year are permitted by rule [exempt] provided that the following conditions of this section are satisfied.

(1) - (4) (No change.)

§106.418. Printing Presses [(Previously SE 13)].

Printing operations (including, but not limited to, screen printers, ink-jet printers, presses using electron beam or ultraviolet light curing, and labeling operations) and supporting equipment (including, but not limited to, corona treaters, curing lamps, preparation, and cleaning equipment) which directly supports the printing operation are permitted by rule [exempt], provided that all the following conditions of this section are satisfied.

(1) The uncontrolled emission of volatile organic compounds (VOC) and solvents (including, but not limited to, those used for printing, cleanup, or makeup) shall not exceed the following rates:

(A) (No change.)

(B) 25 tpy for all printing operations on the property covered by permits by rule [exemptions from permitting].

(2) Facilities which release ten tpy or more of VOC emissions from all [exempted] printing operations permitted by rule at the site must register with the commission using Form PI-7.

(3) - (7) (No change.)

§106.419. Photographic Process Equipment [(Previously SE 38)].

Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy is permitted by rule [exempt].

SUBCHAPTER S : SURFACE COATING

§§106.431-106.436

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

These proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.431. Milling and Grinding of Coatings and Molding Compounds [(Previously SE 16)].

Equipment used exclusively to mill or grind coatings and molding compounds where all materials charged are in a paste form is permitted by rule [exempt].

§106.432. Dipping Tanks and Containers [(Previously SE 50)].

Containers, reservoirs, or tanks used exclusively for dipping operations for coating objects with oils, waxes, or greases where no organic solvents, diluents, or thinners are used; or dipping operations for applying coatings of natural or synthetic resins which contain no organic solvents are permitted by rule [exempt].

§106.433. Surface Coat Facility [(Previously SE 75)].

Surface coating or stripping facilities, excluding vehicle repair and refinishing shops, shall meet the following conditions of this section to be permitted by rule [exempt].

(1) - (9) (No change.)

§106.434. Powder Coating Facility [(Previously SE 104)].

Surface coating operations utilizing powder coating materials with the powder applied by an electrostatic powder spray gun or an electrostatic fluidized bed are permitted by rule [exempt].

§106.435. Classic or Antique Automobile Restoration Facility [(Previously SE 116)].

“Classic” or “Antique” vehicle restoration facilities (the terms “classic” and “antique” vehicle as determined by the Texas Department of Public Safety Vehicle Inspection and Registration Section under Texas Transportation Code, Chapter 502, §502.274 (concerning Classic Motor Vehicles) or §502.275 (concerning Certain Antique Vehicles; Offense)) qualify for this permit by rule [exemption from permitting] if all of the following conditions of this section are met.

(1) - (6) (No change.)

§106.436. Auto Body Refinishing Facility [(Previously SE 124)].

Body repair and refinishing of motorcycle, passenger car, van, light truck and heavy truck and other vehicle body parts, bodies, and cabs is permitted by rule [exempt], provided that all the following conditions of this section are met.

(1) Before construction begins, the facility shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7-124.

(2) - (15) (No change.)

(16) The following records and reports shall be maintained at the shop site for a consecutive 24-month period and be made immediately available upon request of personnel from the commission or any other air pollution control agency with jurisdiction:

(A) - (D) (No change.)

(E) records of the United States Environmental Protection Agency and the commission's Office of Permitting, Remediation, and Registration [Waste Management] registration or identification numbers for each waste generator.

(17) (No change.)

(18) After December 31, 1994, the conditions of this permit by rule [exemption] are effective as to facilities in existence prior to the adoption of this section.

SUBCHAPTER T : SURFACE PREPARATION

§§106.451-106.454

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.451. Wet Blast Cleaning [(Previously SE 31)].

Blast cleaning equipment using a suspension of abrasives in water is permitted by rule [exempt].

§106.452. Dry Abrasive Cleaning [(Previously SE 102)].

Any abrasive cleaning operation that will satisfy paragraph (1) or (2) of this section is permitted by rule [exempt]:

(1) (No change.)

(2) outside blast cleaning:

(A) - (C) (No change.)

(D) before construction begins, the facility is registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7; and

(E) (No change.)

§106.453. Washing and Drying of Glass and Metal [(Previously SE 42)].

Equipment used for washing or drying products fabricated from metal or glass is permitted by rule [exempt], provided no volatile organic materials are used in the process and no oil or solid fuel is burned.

§106.454. Degreasing Units [(Previously SE 107)].

Any degreasing unit that satisfies the following conditions of this section is permitted by rule [exempt].

(1) The following general requirements are applicable to all degreasers unless specifically noted [exempted] by the conditions of this section.

(A) Units subject to paragraphs (3) - (5) of this section shall meet the following:

(i) register with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7 and a Degreasing Unit Checklist;

(ii) (No change.)

(B) - (F) (No change.)

(2) - (5) (No change.)

SUBCHAPTER U : TANKS, STORAGE, AND LOADING

§§106.471-106.478

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.471. Storage or Holding of Dry Natural Gas [(Previously SE 21)].

Equipment used exclusively to store or hold dry natural gas is permitted by rule [exempt].

§106.472. Organic and Inorganic Liquid Loading and Unloading [(Previously SE 51)].

Liquid loading or unloading equipment for railcars, tank trucks, or drums; storage containers, reservoirs, tanks; and change of service of material loaded, unloaded, or stored is permitted by rule [exempt], provided that no visible emissions result and the chemicals loaded, unloaded, or stored are limited to:

(1) - (9) (No change.)

§106.473. Organic Liquid Loading and Unloading [(Previously SE 53)].

Organic liquids loading or unloading equipment for railcars, tank trucks, or drums; and storage containers, tanks, or change of service of the material loaded, unloaded, or stored is permitted by rule [exempt], provided that all of the following conditions of this section are met.

(1) - (5) (No change.)

(6) Facilities used for the loading, unloading, or storage of any compound listed in 40 Code of Federal Regulations 261, Appendix VIII are not permitted by rule [exempt] under this section.

§106.474. Hydrochloric Acid Storage [(Previously SE 78)].

Hydrochloric acid storage tanks used exclusively for the storage of hydrochloric acid with an acid strength of 38% by weight or less are permitted by rule [exempt]. If an acid more concentrated than 20% by weight is stored, the tank vent must be controlled to reduce emissions by at least 99%.

§106.475. Pressurized Tanks or Tanks Vented to a Firebox [(Previously SE 82)].

Any vessel storing carbon compounds composed only of carbon, hydrogen, or oxygen is permitted by rule [exempt], provided that the vessel vent is directed to an incinerator, boiler, or other firebox having a stationary flue or a waste gas flare system that will operate with no visible emissions except as provided by Chapter 101 of this title (relating to General Air Quality Rules) for periods of maintenance or operational upset. However, vessels not exceeding 100 barrels capacity and storing only liquid petroleum gas may have the safety relief valve vent directly to the atmosphere. Also, any tank having a capacity not to exceed 1,000 gallons and storing only commercial odorants used to odorize petroleum gases may have the safety relief valve vent directly to the atmosphere.

§106.476. Pressurized Tanks or Tanks Vented to Control [(Previously SE 83)].

Any tank or other container storing carbon compounds is permitted by rule [exempt], provided that the tank or container pressure is sufficient at all times to prevent vapor or gas loss to the atmosphere or the tank or container is equipped with a relief valve which directs all vapors or gases to an incinerator, boiler, or other firebox having a stationary flue or a waste gas smokeless flare system. The vapors or gases and any necessary fuel gas shall be mixed thoroughly upstream of the heater burner(s) or the flare tip such that the mixed gases have a minimum net or lower heating value of 200 British thermal units per cubic foot. The flare also shall meet the other requirements of §106.492 of this title (relating to Flares (Previously SE 80)).

§106.477. Anhydrous Ammonia Storage [(Previously SE 84)].

Anhydrous ammonia storage tanks and distribution facilities that meet the following conditions are permitted by rule [exempt].

(1) - (5) (No change.)

(6) Before construction begins, written site approval must be received from the regional director and the owner or operator shall file with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin a completed Form PI-7 and supporting documentation demonstrating that all of the requirements of this section will be met.

(7) (No change.)

§106.478. Storage Tank and Change of Service [(Previously SE 86)].

Any fixed or floating roof storage tank, or change of service in any tank, used to store chemicals or mixtures of chemicals shown in Table 478 in paragraph (8) of this section is permitted by rule [exempt], provided that all of the following conditions of this section are met:

(1) - (6) (No change.)

(7) Before construction begins, storage tanks of 25,000 gallons or greater capacity and located in a designated nonattainment area for ozone shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7. The registration shall include a list of all tanks, calculated emissions for each carbon compound in tons per year for each tank, and a Table 7 of Form PI-2 for each different tank design.

(8) (No change.)

SUBCHAPTER V : THERMAL CONTROL DEVICES

§§106.491 - 106.496

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.491. Dual Chamber Incinerators [(Previously SE 2)].

Dual-chambered incinerators which burn only waste generated on-site and which meet the conditions of this section are permitted by rule [exempt]. Incinerators used in the processing or recovery of materials or to dispose of pathological waste as defined in §106.494 of this title (relating to Pathological Waste Incinerators (Previously SE 90)), hospital waste, and/or infectious waste are not authorized by this section.

(1) (No change.)

(2) The incinerator shall meet the following operational conditions.

(A) Before construction begins, the facility shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7.

(B) - (E) (No change.)

§106.492. Flares [(Previously SE 80)].

Smokeless gas flares which meet the following conditions of this section are permitted by rule [exempt]:

(1) (No change.)

(2) operational conditions.

(A) (No change.)

(B) A flare which burns gases containing more than 24 ppmv of sulfur, chlorine, or compounds containing either element shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7 prior to construction of a new flare or prior to the use of an existing flare for the new service.

(C) (No change.)

§106.493. Direct Flame Incinerators [(Previously SE 88)].

Direct flame incinerators installed for the purpose of reducing or eliminating non-halogenated volatile organic compound vapors and/or aerosols (but not liquids or solids) are permitted by rule [exempt], provided the following conditions of this section are satisfied.

(1) Before construction begins, the facility shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7.

(2) - (9) (No change.)

§106.494. Pathological Waste Incinerators [(Previously SE 90)].

(a) (No change.)

(b) Conditions of permit by rule [exemption]. Crematories and non-commercial incinerators used to dispose of pathological waste and carcasses which meet the following conditions of this section are permitted by rule [exempt]. Incinerators used in the recovery of materials are not covered by this section.

(1) - (2) (No change.)

§106.495. Heat Cleaning Devices [(Previously SE 87)].

Heat cleaning devices (such as ovens, furnaces, and/or direct flame incinerators) used to thermally remove residual combustible or semi-combustible materials from noncombustible electrical or mechanical parts are permitted by rule [exempt], provided the following conditions of this section are satisfied.

(1) Before construction begins, the facility shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7.

(2) - (8) (No change.)

§106.496. Trench Burners [(Previously SE 97)].

Any trench burner that operates according to the following conditions of this section is permitted by rule [exempt].

(1) - (17) (No change.)

(18) Before operation of the facility begins at any site, written site approval shall be received from the executive director and any local air pollution control program having jurisdiction in the area and the facility shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7.

SUBCHAPTER W : TURBINES AND ENGINES

§106.511, §105.512

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.511. Portable and Emergency Engines and Turbines [(Previously SE 5)].

Internal combustion engine and gas turbine driven compressors, electric generator sets, and water pumps, used only for portable, emergency, and/or standby services are permitted by rule [exempt], provided that the maximum annual operating hours shall not exceed 10% of the normal annual operating schedule of the primary equipment; and all electric motors. For purposes of this section, “standby” means to be used as a “substitute for” and not “in addition to” other equipment.

§106.512. Stationary Engines and Turbines [(Previously SE 6)].

Gas or liquid fuel-fired stationary internal combustion reciprocating engines or gas turbines that operate in compliance with the following conditions of this section are permitted by rule [exempt].

(1) The facility shall be registered by submitting the commission’s Form PI-7, Table 29 for each proposed reciprocating engine, and Table 31 for each proposed gas turbine to the commission’s Office of Permitting, Remediation, and Registration [Air Quality] in Austin within ten days after construction begins. Engines and turbines rated less than 240 horsepower (hp) need not be registered, but must meet paragraphs (5) and (6) of this section, relating to fuel and protection of air quality. Engine hp rating shall be based on the engine manufacturer’s maximum continuous load rating at the lesser of the engine or driven equipment’s maximum published continuous speed. A rich-burn engine is a gas-fired spark-ignited engine that is operated with an exhaust oxygen content less than

4.0% by volume. A lean-burn engine is a gas-fired spark-ignited engine that is operated with an exhaust oxygen content of 4.0% by volume, or greater.

(2) - (6) (No change.)

SUBCHAPTER X : WASTE PROCESSES AND REMEDIATION

§§106.531 - 106.534

STATUTORY AUTHORITY

The amendments are proposed under TCAA, §382.011, which authorizes the commission to administer the requirements of the TCAA; §382.012, which provides the commission with the authority to develop a comprehensive plan for the state's air; §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA; §382.057, which authorizes the commission to exempt from permitting, changes within any facility which will not make a significant contribution of air contaminants to the atmosphere; §382.051, which authorizes the commission to issue permits for construction of facilities which emit air contaminants; and §382.05196, which authorizes the commission to adopt permits by rule for types of facilities which will not make a significant contribution of air contaminants to the atmosphere.

The proposed amendments implement §382.011, concerning General Powers and Duties; §382.012, concerning State Air Control Plan; §382.017, concerning Rules; §382.057, concerning Exemption; §382.051, concerning Permitting Authority of the Commission; and §382.05196, concerning Permits by Rule.

§106.531. Sewage Treatment Facility [(Previously SE 60)].

Sewage treatment facilities, excluding combustion or incineration equipment, land farms, or grease trap waste handling or treatment facilities are permitted by rule [exempt].

§106.532. Water and Wastewater Treatment [(Previously SE 61)].

Water and wastewater treatment units are permitted by rule [exempt], provided the following conditions of this section are met.

(1) - (2) (No change.)

(3) The following shall not be permitted by rule under [exempted by] this section:

(A) - (D) (No change.)

§106.533. Water and Soil Remediation [(Previously SE 68)].

Equipment used to reclaim or destroy chemicals removed from contaminated ground water, contaminated water condensate in tank and pipeline systems, or contaminated soil for the purpose of remedial action is permitted by rule [exempt], provided all the following conditions of this section are satisfied.

(1) - (5) (No change.)

(6) Before construction of the facility begins, the facility shall be registered with the commission's Office of Permitting, Remediation, and Registration [Air Quality] in Austin using Form PI-7. The registration shall contain specific information concerning the basis (measured or calculated) for the expected emissions from the facility. The registration shall also explain details as to why the emission control system can be expected to perform as represented.

(7) (No change.)

§106.534. Municipal Solid Waste Landfills and Transfer Stations [(Previously SE 110)].

Municipal solid waste landfills and waste transfer stations operating in compliance with the Texas Solid Waste Disposal Act are permitted by rule [exempt].