

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes to amend §§18.25, 18.26, and 18.30.

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

This proposed rulemaking implements Senate Bill (SB) 2, Section 44, 86th Texas Legislature, 2019, which requires revising the title of Chapter 18 from "Rollback Relief for Pollution Control Requirements" to "Voter-Approval Tax Rate Relief for Pollution Control Requirements."

The proposed rulemaking would amend the provisions in Chapter 18 to mirror the changes proposed in the concurrent proposal to amend 30 TAC Chapter 17. The TCEQ proposes amendments to Chapter 17 to update requirements for the Tax Relief for Pollution Control Property Program based on formal recommendations and advice submitted to the commission by the Tax Relief for Pollution Control Property Advisory Committee (committee), and other changes identified by the TCEQ. The committee does not provide advice on the Voter-Approval Tax Rate Relief for Pollution Control Program, but the TCEQ proposes amendments to Chapter 18 to keep the rules for the two programs consistent.

The committee submitted a set of recommendations in a letter dated December 13, 2018 as part of a triennial review of the Tier I Table at 30 TAC §17.14(a) and the Expedited Review List (ERL or k-list) at 30 TAC §17.17(b). Subsequently, in a letter

dated December 9, 2019, the committee advised the commission on how to determine use percentages for heat recovery steam generator (HRSG) property applications. The commission solicited this advice in response to the May 3, 2019 opinions of the Texas Supreme Court in *Brazos Electric Power Cooperative v. Texas Commission on Environmental Quality*, 576 S.W.3d 374 (Tex. 2019) and *Texas Commission on Environmental Quality v. Brazos Valley Energy LLC*, 582.W.3d 277 (Tex. 2019) concerning HRSG use determinations under Chapter 17 and Texas Tax Code, §11.31.

HRSGs are typically used in the production of electricity, allowing a power plant to increase production efficiency by using waste heat from combustion to generate steam that drives a steam turbine to produce additional electricity. The revisions proposed to address HRSGs in this rulemaking are based on proposed amendments to Chapter 17 intended to resolve outstanding issues stemming from the Texas Supreme Court's May 3, 2019 opinions regarding lawsuits filed after the commission upheld 21 negative use determinations (NUDs) for HRSGs at power plants. Because HRSGs are included on the property listed at Texas Tax Code, §11.31(k), and in §17.17(b) as the ERL, an applicant may submit an application to the TCEQ requesting a use determination for an ad valorem tax exemption. Applications were submitted in 2008, 2009, and 2012, to the Chapter 17 Tax Relief for Pollution Control Program requesting PUDs for HRSGs and associated equipment at Texas power plants. The TCEQ executive director issued NUDs for the HRSG applications submitted, and 17 appeals were filed. At the September 24, 2014 Commissioners' Agenda, the commission affirmed the executive director's NUDs

and denied all 17 of the appeals. In response, 12 lawsuits were filed. The lawsuits were consolidated for trial and divided into two groups based on the tier of application submitted, either Tier III or Tier IV. The district court upheld the TCEQ's determinations for both groups, but the rulings were appealed. The appellate court hearing the Tier III group affirmed the TCEQ's reading of Texas Tax Code, §11.31 and its NUDs. The appellate court hearing the Tier IV group disagreed with the TCEQ's arguments concerning the k-list and found that the TCEQ abused its discretion in issuing NUDs for the HRSGs. Petitions for Review were filed with the Texas Supreme Court for both cases.

The Texas Supreme Court held that the TCEQ abused its discretion in issuing NUDs and remanded the cases to the commission for further proceedings consistent with its findings. The Texas Supreme Court found that Texas Tax Code, §11.31 entitles a person to an exemption from ad valorem taxation for property that the person owns and that is used, in whole or in part, to control pollution. The Texas Supreme Court also found that for property on the k-list, the executive director's sole responsibility is to determine what proportion of the property is purely productive and what proportion is for pollution control. However, the executive director may not determine that the pollution control proportion is zero or negative. Finally, the Texas Supreme Court also found that the TCEQ, through rulemaking, may remove an item "from the list if the commission finds compelling evidence to support the conclusion that the item does not provide pollution control benefits." The commission has not found

compelling evidence to support removal of HRSGs from the k-list; therefore, the commission must find that HRSGs qualify, at least in part, as pollution control property. The Texas Supreme Court did not identify the method to determine use percentages for HRSGs, nor did the Texas Supreme Court address the CAP formula or its application.

To examine these issues and the Texas Supreme Court’s findings as they relate to future HRSG applications, the commission solicited advice from the committee. In a letter dated July 19, 2019, the TCEQ asked the committee to analyze three questions in its review of the issues: 1) whether the current CAP is adequate to determine use percentages for HRSGs; 2) if the CAP is inadequate, what is an appropriate method for determining use percentages for HRSGs; and 3) whether HRSGs should be removed from the ERL. In a response letter dated December 9, 2019, the committee submitted its formal majority report and recommendations.

This proposed rulemaking addresses the committee’s December 9, 2019 recommendation concerning HRSGs and its December 13, 2018 recommendations regarding the Tier I Table and ERL, except when deviation from these recommendations is needed to ensure the rule appropriately and consistently describes pollution control property eligible for a PUD under the Chapter 17 Tax Relief for Pollution Control Property Program.

Additionally, the commission proposes amendments to Chapter 18 to incorporate property additions to the Tier I Table for property determined by the committee to consistently be used as 100% pollution control in each application submitted for such property between 2014 and 2018 to the Chapter 17 Tax Relief for Pollution Control Property Program. The committee evaluated the Tier II and Tier III applications that received PUDs as part of the triennial review required by Texas Tax Code, §11.31(l) for Chapter 17 and determined that 11 types of pollution control property currently submitted as Tier II property should instead be considered Tier I property in the Tier I Table and no longer require a Tier II application. Under Chapter 18, an application submitted for a PUD for property not on the Tier I Table in §18.25(a) would be submitted as a Tier II application consistent with §18.26, requiring the applicant to propose a reasonable method for calculating a partial determination.

Because Chapter 18 is not in the committee's scope of review, it did not consider the ERL in Texas Tax Code, §26.045(f), codified in §18.26, or the Tier I Table in §18.25(a). Both Chapter 18 tables are identical to the ERL in §17.17(a) and the Tier I Table in §17.14(a), respectively. The committee did not recommend any changes for the ERL in §17.17(a). However, the commission proposes changes to the ERL in §17.17(a) to establish consistency with the HRSG description proposed in the Tier I Table in §17.14(a); therefore, these same changes are proposed to the ERL in §18.26. In the associated rule project for Chapter 17, several changes are also proposed to the Tier I Table in §17.14(a) based on the committee's recommendations; therefore, the

commission proposes corresponding changes to the Tier I Table in §18.25(a). The proposed changes would afford applicants applying under the Chapter 18 rules the same opportunities to receive PUDs for property proposed to be submitted as Tier I property as applicants applying under the Chapter 17 rules.

In addition, the commission proposes amendments, as necessary, that were not specifically recommended by the committee but that remain consistent with its advice and to accommodate the addition of HRSGs to the Tier I Table. Non-substantive revisions are proposed to the sections open to address Chapter 18 Tier I Table and associated changes.

The TCEQ is required to review, and update as necessary, the items in the Tier I Table in §18.25(a) every three years per §18.25(b). Likewise, the TCEQ is required to review, and update as necessary, the items in the ERL in §18.26 every three years per Texas Tax Code, §26.045(g). This rulemaking would fulfill the requirements for the commission to review, and update as necessary, the property included on the ERL and Tier I Table in Chapter 18 at least once every three years.

### **Section by Section Discussion**

The commission proposes to amend the title of Chapter 18 from "Rollback Relief for Pollution Control Requirements" to "Voter-Approval Tax Rate Relief for Pollution Control Requirements" to implement SB 2, Section 44. Aside from the revision to

change the title of Chapter 18, as required by SB 2, Section 44, the proposed revisions to Chapter 18 are consistent with those for Chapter 17 in the associated rulemaking. Those revisions are proposed based on the recommendations from the committee, except where explicitly discussed. This proposed rulemaking adds specific pollution control property to the Tier I Table in §18.25(a). Under the current rules, §18.25(a) requires applicants to submit a Tier II application for any of the proposed property additions if the property is used for pollution control purposes at a percentage different than what is listed on the table or, at the request of the executive director, if the equipment is not being used in a standard manner. These existing criteria in §18.25(a) are not proposed for revision. Any of the property proposed for inclusion in the Tier I Table would need to continue to adhere to these existing requirements.

*§18.25, Tier I Eligible Equipment*

The proposed changes to §18.25 include amending the rule language to allow items listed on the Tier I Table located in §18.25(a) with partial use percentages to be eligible for a Tier I application and to add additional property to the Tier I Table. Each property item in the Tier I Table currently has a table number, the media, property name, property description, and use percentage. The proposed additions to the Tier I Table also include this same information.

The proposed amendment to §18.25(a) would clarify that a Tier II application is still required if a marketable product is recovered from property listed in the Tier I Table,

unless that property is designated with a partial use percentage on the Tier I Table.

This revision is necessary because subsection (a) currently directs an applicant to file a Tier II application if a marketable product is recovered from the property listed in the Tier I Table, without exception. Because HRSGs may generate a marketable product, which was considered during the calculation of the appropriate use percentage and is accounted for in the 65% partial use determination proposed in this rulemaking, the eligibility description is amended to indicate property items listed on the Tier I Table with a partial use percentage may nevertheless be eligible for Tier I applications.

The commission proposes to amend the first sentence of the introductory paragraph to the Tier I Table in §18.25(a) to require a Tier I application for the property listed in the Tier I Table whether it is used wholly or partly for pollution control purposes. The existing requirement in subsection (a) designates that a Tier I application is required for property used wholly, or 100%, as pollution control property. However, the proposed amendment to the Tier I Table includes HRSGs at a partial use percentage of 65%. Therefore, under the proposed rule, Tier I applications for HRSGs would be appropriate. The commission further proposes to add an exception for HRSGs listed as a partial use percentage from the description of the Tier I Table contents. This proposed revision accommodates the addition of HRSGs to the Tier I Table, which currently only contains property used wholly as pollution control. The table would be expanded to include HRSGs as the only piece of property eligible for a Tier I PUD at a partial use percentage. Although all the other property currently listed in the Tier I

Table must be used wholly for pollution control property to be eligible for filing as a Tier I application, the commission previously listed property with partial use percentages on the Tier I Table. The property was subsequently removed because the usage of such property could not be definitively verified as representative of standard use based on the information available about the uses of the property at the time. However, for this proposed rulemaking, the committee reviewed current data and determined 65% reasonably represents the proportion of HRSGs used as pollution control when HRSGs are used in a standard manner.

The commission proposes item numbers A-90, A-91, A-116 through A-120, A-190, S-29, M-23 and M-24 for addition to the Tier I Table in §18.25(a), all at 100% pollution control property based on the recommendations of the advisory committee concerning the Tier I Table of Chapter 17. Items A-90, A-91, A-116 through A-120, A-190, and M-23 would be added as the committee recommended. The commission agrees with the committee's recommendations to revise the Tier I Table and add Dry Low-NO<sub>x</sub> Emissions Systems; Lean-Burn Portions of Reciprocating Engines; Fixed Storage Tank Roofs; Submerged Fill Pipes; Dual Mechanical Pump Seals; Seal-less Pumps; Airless Paint Spray Guns; and Remote Controlled Block Valves to the Tier I Table because they are used wholly for control purposes. These items are described in the proposed rule language and are not further discussed in the Section by Section Discussion section of this preamble.

For each of the items proposed for addition to the Tier I Table, the committee based its recommendation that this property should be Tier I level property on historical Tier II application submittals, under the Tax Relief for Pollution Control Property Program in Chapter 17, that demonstrated the property was consistently used wholly for pollution control, as discussed in the Background and Summary of Factual Basis for the Proposed Rules section of this preamble. The proposed item numbers would designate air pollution control equipment, indicated by the letter "A," solid waste management pollution control equipment, indicated by the letter "S," and miscellaneous pollution control equipment, indicated by the letter "M," as recommended by the committee in its December 2018 formal majority report. The committee's recommendation to add the property to the Tier I Table was based on its review and analysis of Tier II applications submitted from 2014 through 2018 that consistently received a PUD of 100% each time an applicant requested a use determination for such property. Although the proposed item numbers are added to the Tier I Table at 100% pollution control property, an applicant is still required under §18.25(a) to submit a Tier II application if such property has productive benefit or is not used as described in the table.

The commission proposes to add item number A-92 to the Tier I Table for HRSGs. The proposed property item would be listed as a boiler designed to capture waste heat from combustion turbine exhaust for the generation of steam while reducing unit output-based emissions with a partial use determination of 65%. To arrive at the 65%

partial use percentage, the committee evaluated data provided in the 2019 Gas Turbine World Handbook and calculated the average of both the environmental benefit and the productive benefit of a combined-cycle plant operating a HRSG versus a similar simple-cycle plant without a HRSG. For the environmental benefit estimation, the committee considered the best available control technology emission limit for a combined-cycle facility of 2 parts per million (ppm) and for a simple-cycle facility of 5 ppm to determine the decrease in nitrogen oxides emissions between two types of facilities on a pound per megawatt-hour basis. To determine the production benefit, the committee calculated both the average increase in plant output and average improvement in heat rate attributable to combine-cycle operation (due to the HRSG) when compared to simple-cycle operation. The committee averaged the percentage results for the environmental benefit and the nonproductive use to derive an environmental use of 65%.

The commission proposes to amend the Tier I Table in §18.25(a) to add item S-29 for reclamation equipment. The proposed property description excludes commercial reclamation equipment from eligibility as Tier I property. Commercial reclamation equipment is equipment owned and rentable by companies that provide reclamation services. The committee did not identify the explicit exclusion of commercial reclamation equipment in its recommendation. However, the commission proposes this exclusion to clarify that the construction equipment used for commercial land reclamation purposes would not qualify for exemption from taxation because the

Voter-Approval Tax Rate Relief for Pollution Control Requirements Program only applies to political subdivisions required to meet the requirements of a TCEQ-issued permit, as specified in §18.5(a). The type of company performing commercial reclamation services would not be expected to meet the specified Chapter 18 applicability.

The commission proposes to amend the Tier I Table in §18.25(a) to add item M-24 for nondestructive pipeline testing to the Tier I Table. The commission proposes a change to the committee's recommended proposed property description to clarify the property that is intended to be eligible, and property that is intended to be ineligible, as Tier I Table property. The committee recommended expenditures such as radiography as the Tier I Table description. Instead, the commission proposes that expenditures used for nondestructive pipeline testing are explicitly included, but expenditures used for non-pollution control purposes are explicitly excluded. The explicit inclusion of nondestructive pipeline testing as part of the proposed property description is necessary to state the item that is intended to be covered as the Tier I property rather than only providing an example of the property, as recommended by the committee. The explicit exclusion of expenditures for non-pollution control purposes maintains consistency with requirements in §18.5(a) requiring that the pollution control property wholly or partly meet the requirements of a TCEQ-issued permit.

*§18.26, Expedited Review List*

The commission proposes amendments to the ERL in §18.26 to revise the description for HRSGs, listed as item number B-8. The committee recommended describing a HRSG in the §17.14(a) Tier I Table as a boiler designed to capture waste heat from combustion turbine exhaust for the generation of steam while reducing unit output-based emissions. Although the committee did not recommend any changes to the existing Chapter 17, §17.17(b) ERL, the commission proposes replacing the existing HRSG description in the §18.26 ERL with the committee’s recommended HRSG description. This proposed change streamlines the description of HRSG and specifies the property intended to qualify as a HRSG under the Chapter 18 rules. The proposed change to the ERL was not explicitly recommended by the committee but remains consistent with its advice. This proposed amendment to the ERL is not intended to change the type of property currently covered under the Voter-Approval Tax Rate Relief for Pollution Control Requirements Program. The proposed change to the HRSG description in the Chapter 17, §17.17(b) ERL is also proposed to the Chapter 18, §18.26 ERL to uphold consistency between the Chapters 17 and 18 programs.

*§18.30, Partial Determinations*

The commission proposes to amend §18.30 to add language that clarifies the property for which a partial determination is not required. This revision is necessary in light of the proposed inclusion of HRSGs with a partial use percentage in the §18.25(a) Tier I Table. The proposed language provides an exception for property that is on the Tier I

Table located in §18.25(a) at a specified partial use percentage from having to request a partial determination. Existing language directing applicants to apply for a partial determination for property that is in the ERL in §18.26 or that is not wholly used for pollution control remains unchanged. This proposed revision is intended to ensure property already determined to have a partial use environmental benefit listed on the Tier I Table do not have to apply for a partial use determination. This proposed revision does not affect any property other than HRSGs at this time since all other property proposed for inclusion in the Tier I Table is associated with a 100% positive use.

The proposed amendment to §18.30 differs from the proposed change to §17.17(a) because the existing rule language is not the same; however, the intent of both proposed revisions is the same.

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

Jené Bearse, Analyst in the Budget and Planning Division, determined that for the first five-year period the proposed rules are in effect, no significant fiscal implications are anticipated for the agency or for other units of state or local government as a result of administration or enforcement of the proposed rules.

The rulemaking states that certain Tier II pollution control property should instead be considered Tier I property in the Tier I Table; this removes the requirement for a Tier II

application. The rulemaking also adds HRSGs to the Tier I Table. Tier I application fees are less than the Tier II application fees. The application fee for Tier I is \$150; the Tier II application fee is \$500. However, the commission does not expect a significant fiscal impact because it does not often receive applications under Chapter 18. For example, the commission has only approved four applications since 2008.

### **Public Benefits and Costs**

Ms. Bearse determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated will be compliance with the state law and regulations that require a review of the Tier I Table and ERL every three years. In this review, the commission is proposing changes to the Tier I Table, and to the ERL only for consistency with the Tier I Tables changes. In addition, the public will benefit because portions of this rulemaking will bring the regulations into compliance with the May 3, 2019 rulings by the Texas Supreme Court.

The proposed rulemaking is not anticipated to result in significant fiscal implications for businesses or individuals.

### **Local Employment Impact Statement**

The commission reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the

proposed rules are in effect.

### **Rural Communities Impact Assessment**

The commission reviewed this proposed rulemaking and determined that the proposed rulemaking does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect. The amendments would apply statewide and have the same effect in rural communities as in urban communities.

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

No adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rules for the first five-year period the proposed rules are in effect.

### **Small Business Regulatory Flexibility Analysis**

The commission reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rules do not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

### **Government Growth Impact Statement**

The commission prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a

government program and will not require an increase or decrease in future legislative appropriations to the agency. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require a significant increase or decrease in fees paid to the agency. The proposed rulemaking does not create, expand, repeal or limit an existing regulation, nor does the proposed rulemaking increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rules should not impact the state's economy positively or negatively.

#### **Draft Regulatory Impact Analysis Determination**

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225 and determined the rules do not meet the definition of a "Major environmental rule." Under Texas Government Code, §2001.0225, a "Major environmental rule" means a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Furthermore, it does not meet any of the four applicability requirements listed in Texas Government Code, §2001.0225(a). Texas Government Code, §2001.0225 applies only to a major environmental rule which 1) exceeds a standard set by federal law, unless the rule is specifically required by state law; 2) exceeds an express requirement of state law, unless the rule is specifically

required by federal law; 3) exceeds a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopts a rule solely under the general powers of the agency instead of under a specific state law. The proposed rulemaking implements a Voter-Approval Tax Rate Relief for Pollution Control Requirements Program as described in Texas Tax Code, §26.045 and the Background and Summary of the Factual Basis for the Proposed Rules and Section by Section Discussion sections of this preamble. Because the proposed rules are not specifically intended to protect the environment or reduce risks to human health from environmental exposure but to implement a tax rate adjustment program, this rulemaking is not a major environmental rule and does not meet any of the four applicability requirements. This proposed rulemaking would not result in any new environmental requirements and should not adversely affect in a material way the economy, a sector of the economy, productivity, competition, or jobs.

Written comments on the Draft Regulatory Impact Analysis Determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

### **Takings Impact Assessment**

The commission evaluated these proposed rules and performed an assessment of whether Texas Government Code, Chapter 2007 is applicable. The commission's

assessment indicates Texas Government Code, Chapter 2007 does not apply to these proposed rules because this action creates a program which is available only to political subdivisions as described in Texas Tax Code, §26.045 and the Section by Section Discussion sections of this preamble. Promulgation and enforcement of these proposed rules will be neither a statutory nor constitutional taking of private real property. Specifically, the proposed rules do not affect a landowner's rights in private real property because this rulemaking action does not burden, restrict, nor limit the owner's rights to property or reduce its value by 25% or more beyond which would otherwise exist in the absence of the proposed regulations.

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

The commission reviewed the proposed rules and found that they are neither identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act implementation rules, 31 TAC §505.11(a)(6). Therefore, the proposed rules are not subject to the Texas Coastal Management Program.

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

### **Submittal of Comments**

Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to *fax4808@tceq.texas.gov*. Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2020-031-018-AI. The comment period closes on August 31, 2020. Copies of the proposed rulemaking can be obtained from the commission's website at [https://www.tceq.texas.gov/rules/propose\\_adopt.html](https://www.tceq.texas.gov/rules/propose_adopt.html). For further information, please contact Elizabeth Sartain, Air Quality Planning Section, at (512) 239-3933.

**§§18.25, 18.26, and 18.30**

**Statutory Authority**

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

The amended sections are proposed to implement Texas Tax Code, §26.045.

**§18.25. Tier I Eligible Equipment.**

(a) For the property listed on the Tier I Table located in this subsection that is used wholly for pollution control purposes, a Tier I application is required. A Tier I

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

**Figure: 30 TAC §18.25(a)**  
**[Figure: 30 TAC §18.25(a)]**

**Tier I Table**

The property listed in this table is property that the executive director has determined is used wholly or partly for pollution control purposes when used as shown in the Description section of the table and when no marketable product arises from using the property, except heat recovery steam generators listed as a partial use percentage. The items listed are described in generic terms without the use of brand names or trademarks. The use percentages on all property on the table are established based on standard uses of the pieces of equipment involved. If the executive director determines that the equipment is not being used in a standard manner (*e.g.*, use in production or recovery of a marketable product), the executive director may require that a Tier II application, using the Cost Analysis Procedure, be filed by the applicant to calculate the appropriate use determination percentage. For items where the description limits the use determination to the incremental cost difference, the cost of the property or device with the pollution control feature is compared to a similar device or property without the pollution control feature. The table is a list adopted under Texas Tax Code, §11.31(g).

***Air Pollution Control Equipment***

**Particulate Control Devices**

No.	Media	Property	Description	%
A-1	Air	Dust Collection Systems	Structures containing filters, blowers, ductwork - used to remove particulate matter from exhaust gas streams in order to prevent release of particulate matter to ambient air.	100

A-2	Air	Demisters or Mist Eliminators Added	Mesh pads or cartridges - used to remove entrained liquid droplets from exhaust gas streams.	100
A-3	Air	Electrostatic Precipitators	Wet or dry particulate collection created by an electric field between positive or negative electrodes and collection surface.	100
A-4	Air	Dry Cyclone Separators	Single or multiple inertial separators with blowers and ductwork used to remove particulate matter from exhaust gas streams.	100
A-5	Air	Scrubbers	Wet collection device using spray chambers, wet cyclones, packed beds, orifices, venturi, or high- pressure sprays to remove particulates and chemicals from exhaust gas streams. System may include pumps, ductwork, and blowers needed for the equipment to function.	100
A-6	Air	Water/ Chemical Sprays and Enclosures for Particulate Suppression	Spray nozzles, conveyor and chute covers, windshields, piping, and pumps used to reduce fugitive particulate emissions.	100
A-7	Air	Smokeless Igniters	Installed on electric generating units to control particulate emissions and opacity on start-up.	100

### Combustion Based Control Devices

No.	Media	Property	Description	%
A-20	Air	Thermal Oxidizers	Thermal destruction of air pollutants by direct flame combustion.	100
A-21	Air	Catalytic Oxidizer	Thermal destruction of air pollutants that uses a catalyst to promote oxidation.	100
A-22	Air	Flare/Vapor Combustor	Stack, burner, flare tip, and blowers used to destroy air contaminants in a vent gas stream.	100

### Non-Volatile Organic Compounds Gaseous Control Devices

No.	Media	Property	Description	%
A-40	Air	Molecular Sieve	Microporous filter used to remove hydrogen sulfide ( <u>H<sub>2</sub>S</u> ) [(H <sub>2</sub> S)] or nitrogen oxides ( <u>NO<sub>x</sub></u> ) [(NO <sub>x</sub> )] from a waste gas stream.	100
A-41	Air	Strippers Used in Conjunction with Final Control Device	Stripper, with associated pumps, piping - used to remove contaminants from a waste gas stream or waste liquid stream.	100
A-42	Air	Chlorofluorocarbo	Projects to replace one CFC with an	100

		n (CFC) Replacement Projects	environmentally cleaner CFC, or other refrigerant, where there is no increase in the cooling capacity or the efficiency of the unit. Includes all necessary equipment needed to replace the CFC and achieve the same level of cooling capacity.	
A-43	Air	Halon Replacement Projects	All necessary equipment needed to replace the Halon in a fire suppression system with an environmentally cleaner substance.	100

**Monitoring and Sampling Equipment**

No.	Media	Property	Description	%
A-60	Air	Fugitive Emission Monitors	Organic vapor analyzers - used to discover leaking piping components.	100
A-61	Air	Continuous & Noncontinuous Emission Monitors	Monitors, analyzers, buildings, air conditioning equipment, and optical gas imaging instruments used to demonstrate compliance with emission limitations of regulated air contaminants, (including flow and diluent gas monitors and dedicated buildings).	100
A-62	Air	Monitoring Equipment on Final Control Devices	Temperature monitor or controller, flow-meter, pH meter, and other meters for a pollution control device. Monitoring of production equipment or processes is not included.	100
A-63	Air	On or Off-Site Ambient Air Monitoring Facilities	Towers, structures, analytical equipment, sample collectors, monitors, and power supplies used to monitor for levels of contaminants in ambient air.	100
A-64	Air	Noncontinuous Emission Monitors, Portable	Portable monitors, analyzers, structures, trailers, air conditioning equipment, and optical gas imaging instruments used to demonstrate compliance with emission limitations.	100
A-65	Air	Predictive Emission Monitors	Monitoring of process and operational parameters that are used solely to calculate or determine compliance with emission limitations.	100
A-66	Air	Sampling Ports	Construction of stack or tower sampling ports used for emission sampling or for the monitoring of process or operational parameters that are used to calculate or determine compliance with emission limitations.	100
A-67	Air	Automotive Dynamometers	Automotive dynamometers used for emissions testing of fleet vehicles.	100

**Nitrogen Oxides Controls**

No.	Media	Property	Description	%
A-80	Air	Selective Catalytic and Non-catalytic Reduction Systems	Catalyst bed, reducing agent injection and storage, monitors - used to reduce nitrogen oxides ( <u>NO<sub>x</sub></u> ) [(NO <sub>x</sub> )] emissions from combustion sources. Non-catalytic systems use a reducing agent without a catalyst.	100
A-81	Air	Catalytic Converters for Stationary Sources	Used to reduce <u>NO<sub>x</sub></u> [NO <sub>x</sub> ] emissions from internal combustion engines.	100
A-82	Air	Air/Fuel Ratio Controllers for Piston- Driven Internal Combustion Engines	Used to control the air/fuel mixtures and reduce <u>NO<sub>x</sub></u> [NO <sub>x</sub> ] formation for fuel injected, naturally aspirated, or turbocharged engines.	100
A-83	Air	Flue Gas Recirculation	Ductwork and blowers used to redirect part of the flue gas back to the combustion chamber for reduction of <u>NO<sub>x</sub></u> [NO <sub>x</sub> ] formation. May include fly ash collection in coal fired units.	100
A-84	Air	Water/Steam Injection	Piping, nozzles, and pumps to inject water or steam into the burner flame of utility or industrial burners or the atomizer ports for gas turbines, used to reduce <u>NO<sub>x</sub></u> formation.	100
A-85	Air	Over-fire Air & Combination of asymmetric over-fire air with the injection of anhydrous ammonia or other pollutant- reducing agents	The asymmetric over- fire air layout injects preheated air and anhydrous ammonia or other pollutant-reducing agent through nozzles through a series of ducts, dampers, expansion joints, and valves.	100
A-86	Air	<u>Low-NO<sub>x</sub></u> [Low-NO <sub>x</sub> ] Burners	Installation of <u>low-NO<sub>x</sub></u> [low-NO <sub>x</sub> ] burners. The eligible portion is the incremental cost difference. For a replacement burner, the incremental cost difference is calculated by comparing the cost of the new burner with the cost of the existing burner. For new installations, the incremental cost difference is calculated by comparing the cost of the new burner to the cost of a similarly sized burner without <u>NO<sub>x</sub></u> [NO <sub>x</sub> ] controls from the most recent generation of burners.	100
A-87	Air	Water Lances	Installed in the fire box of boilers and	100

No.	Media	Property	Description	%
			industrial furnaces to eliminate hot spots, thereby reducing <u>NO<sub>x</sub></u> [ <u>NO<sub>x</sub></u> ] formation.	
A-88	Air	Electric Power Generation Burner Retrofit	Retrofit of existing burners on electric power generating units with components for reducing <u>NO<sub>x</sub></u> [ <u>NO<sub>x</sub></u> ] including directly related equipment.	100
A-89	Air	Wet or Dry Sorbent Injection Systems	Use of a sorbent for flue gas desulfurization or <u>NO<sub>x</sub></u> [ <u>NO<sub>x</sub></u> ] control.	100
<u>A-90</u>	<u>Air</u>	<u>Dry Low-NO<sub>x</sub> Emissions Systems</u>	<u>Equipment installed on natural gas-fired compression turbines to reduce NO<sub>x</sub> emissions including combustor liners, injectors, fuel conditioning system, fuel ring, fuel control valve, pilot valve, sensors, controls, fuel gas treater, fuel nozzle assemblies, transition piece assemblies, cap assemblies, inner crossfire tubes and outer crossfire tubes.</u>	<u>100</u>
<u>A-91</u>	<u>Air</u>	<u>Lean-Burn Portions of Reciprocating Engines</u>	<u>Turbocharger, fuel injection system consisting of fuel nozzles positioned within a pre-combustion chamber, and pre-combustion chamber for engines.</u>	<u>100</u>
<u>A-92</u>	<u>Air</u>	<u>Heat Recovery Steam Generators</u>	<u>A boiler designed to capture waste heat from combustion turbine exhaust for the generation of steam while reducing unit output-based emissions.</u>	<u>65</u>

### Volatile Organic Compounds Control

No.	Media	Property	Description	%
A-110	Air	Carbon Adsorption Systems	Carbon beds or liquid-jacketed systems, blowers, piping, condensers - used to remove volatile organic compounds (VOC) emissions and odors from exhaust gas streams.	100
A-111	Air	Storage Tank Secondary Seals and Internal Floating Roofs	Used to reduce VOC emissions caused by evaporation losses from aboveground storage tanks.	100
A-112	Air	Replacement of Existing Pumps, Valves, or Seals in Piping Service	The incremental cost difference between the cost of the original equipment and the replacement equipment is eligible only when the replacement of these parts is done for the sole purpose of eliminating fugitive VOC emissions. New systems do not qualify for this item.	100

No.	Media	Property	Description	%
A-113	Air	Welding of Pipe Joints in VOC Service (Existing Pipelines)	Welding of existing threaded or flanged pipe joints to eliminate fugitive emission leaks.	100
A-114	Air	Welding of Pipe Joints in VOC Service (New Construction)	The incremental cost difference between the cost of using threaded or flanged joints and welding of pipe joints in VOC service.	100
A-115	Air	External Floating Roofs	Used to reduce VOC emissions caused by evaporation losses from aboveground storage tanks. Must be installed to meet or exceed §115.112 of this title (relating to Control Requirements).	100
<u>A-116</u>	<u>Air</u>	<u>Fixed Storage Tank Roofs</u>	<u>Fixed roofs installed on external floating roof tanks used to store any product containing VOC as an additional VOC control measure.</u>	<u>100</u>
<u>A-117</u>	<u>Air</u>	<u>Geodesic Domes</u>	<u>Geodesic domes installed on external floating roof storage tanks as a means of controlling VOC emissions.</u>	<u>100</u>
<u>A-118</u>	<u>Air</u>	<u>Submerged Fill Pipes</u>	<u>Submerged fill pipes installed in storage tanks used to store any product containing VOC.</u>	<u>100</u>
<u>A-119</u>	<u>Air</u>	<u>Dual Mechanical Pump Seals</u>	<u>The incremental cost difference between the cost of dual mechanical seal pumps and comparable single sealed pumps.</u>	<u>100</u>
<u>A-120</u>	<u>Air</u>	<u>Seal-Less Pumps</u>	<u>The incremental cost difference between the cost of seal-less pumps and the cost of similarly sized pumps with seals.</u>	<u>100</u>

**Mercury Control**

No.	Media	Property	Description	%
A-130	Air	Sorbent Injection Systems	Sorbents sprayed into the flue gas that chemically react to absorb mercury. The sorbents are then removed by a particulate removal device. Equipment may include: pumps, tanks, blowers, nozzles, ductwork, hoppers, and particulate collection devices needed for the equipment to function.	100
A-131	Air	Fixed Sorbent Systems	Equipment, such as stainless steel plate with a gold coating that is installed in the flue gas to absorb mercury.	100
A-132	Air	Mercury Absorbing Filters	Filters that absorb mercury such as those using the affinity between mercury and metallic selenium.	100
A-133	Air	Oxidation Systems	Equipment used to change elemental mercury to oxidized mercury. This can be catalysts	100

No.	Media	Property	Description	%
			(similar to Selective Catalytic Reduction (SCR) catalyst) or chemical additives that can be added to the flue gas or directly to the fuel.	
A-134	Air	Photochemical Oxidation	Use of an ultraviolet light from a mercury lamp to provide an excited state mercury species in flue gas, leading to oxidation of elemental mercury. These units are only eligible if mercury is removed from flue gas.	100
A-135	Air	Chemical Injection Systems	Equipment used to inject chemicals into the combustion zone or flue gas that chemically bonds mercury to the additive, which is then removed in a particulate removal device.	100

**Sulfur Oxides Controls**

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

**Miscellaneous Control Equipment**

No.	Media	Property	Description	%
A-180	Air	Hoods, Duct and Collection Systems connected to Final Control Devices	Piping, headers, blowers, hoods, and ducts used to collect air contaminants and route them to a control device.	100
A-181	Air	Stack Modifications	Construction of stack extensions to meet a permit requirement.	100
A-182	Air	New Stack Construction	The incremental cost difference between the stack height required for production purposes and the stack height required for pollution control purposes.	100
A-183	Air	Stack Repairs	Repairs made to an existing stack for that stack to provide the same level of pollution control as was previously provided.	100
A-184	Air	Vapor/Liquid Recovery Equipment (for venting to a control device)	Piping, blowers, vacuum pumps, and compressors used to capture a waste gas or liquid stream and vent to a control device, including those used to eliminate emissions associated with loading tank trucks, rail cars, and barges.	100
A-185	Air	Paint Booth Control Devices	Pollution control equipment associated with the paint booth - including the items such as the control device, water curtain, filters, or other devices to capture paint fumes.	100
A-186	Air	Blast Cleaning System - Connected to a Control Device	Particulate control device and blast material recycling system.	100
A-187	Air	Amine or Chilled Ammonia Scrubber	Installed to provide post combustion capture of pollutants (including carbon dioxide ( <u>CO<sub>2</sub></u> )) upon the effective date of a final rule adopted by the United States Environmental Protection Agency (EPA) regulating <u>CO<sub>2</sub></u> [carbon dioxide] as a pollutant).	100
A-188	Air	Catalyst-based Systems	Installed to allow the use of catalysts to reduce pollutants in emission streams.	100
A-189	Air	Enhanced Scrubbing Technology	Installed to enhance scrubber performance, including equipment that promotes the oxidation of elemental mercury in the flue gas prior to entering the scrubber.	100
<u>A-190</u>	<u>Air</u>	<u>Airless Paint Spray Gun</u>	<u>The incremental cost difference between an airless paint spray gun and a comparable standard air powered paint spray gun.</u>	<u>100</u>

***Water and Wastewater Pollution Control Equipment***

**Solid Separation and De-watering**

No.	Media	Property	Description	%
W-1	Water	API Separator	Separates oil, water, and solids by settling and skimming.	100
W-2	Wastewater [Waste water]	CPI Separator	Mechanical oil, water, and solids separator.	100
W-3	Wastewater [Waste water]	Dissolved Air Flotation	Mechanical oil, water, and solids separator.	100
W-4	Wastewater [Waste water]	Skimmer	Used to remove hydrocarbon from process wastewater.	100
W-5	Wastewater [Waste water]	Decanter	Used to decant hydrocarbon from process wastewater.	100
W-6	Wastewater [Waste water]	Belt Press, Filter Press, or Plate and Frame	Mechanical de-watering devices	100
W-7	Water	Centrifuge	Separation of liquid and solid waste by centrifugal force, typically a rotating drum	100
W-8	Water	Settling Basin	Simple tank or basin for gravity separation of suspended solids	100
W-9	Water	Equalization	Tank, sump, or headbox used to settle solids and equilibrate process wastewater streams.	100
W-10	Water	Clarifier	Circular settling basins usually containing surface skimmers and sludge removal rakes.	100

**Disinfection**

No.	Media	Property	Description	%
W-20	Water	Chlorination	Wastewater disinfection treatment using chlorine	100
W-21	Water	De-chlorination	Equipment for removal of chlorine from water or wastewater	100
W-22	Water	Electrolytic Disinfection	Disinfect water by the use of electrolytic cells.	100
W-23	Water	Ozonization	Equipment that generates ozone for the disinfection of wastewater.	100
W-24	Water	Ultraviolet	Disinfection of wastewater by the use of ultraviolet light.	100

No.	Media	Property	Description	%
W-25	Water	Mixed Oxidant Solution	Solution of chlorine, chlorine dioxide, and ozone to replace chlorine for disinfection.	100

### Biological Systems

No.	Media	Property	Description	%
W-30	Water	Activated Sludge	Wastewater treatment using microorganisms to metabolize biodegradable organic matter in aqueous waste streams. Can include tanks, aeration equipment, clarifiers, and equipment used to handle sludge.	100
W-31	Water	Adsorption	Use of activated carbon to remove organic contaminants from wastewater.	100
W-32	Water	Aeration	Passing air through wastewater to increase oxygen available for bacterial activities that remove contaminants.	100
W-33	Water	Rotary Biological Contactor	Use of large rotating discs that contain a bio- film of microorganisms that promote biological purification of the wastewater.	100
W-35	Water	Trickling Filter	Fixed bed of highly permeable media in which wastewater passes through and forms a slime layer to remove contaminants.	100
W-36	Water	Wetlands and Lagoons (artificial)	Artificial marsh, swamp, or pond that uses vegetation and natural microorganisms as bio- filters to remove sediment and other pollutants from wastewater or stormwater.	100
W-37	Water	Digester	Enclosed, heated tanks for treatment of sludge that is broken down by bacterial action.	100

### Other Equipment

No.	Media	Property	Description	%
W-50	Water	Irrigation	Equipment that is used to disburse treated wastewater through irrigation on the site.	100
W-51	Water	Outfall Diffuser	Device used to diffuse effluent discharge from an outfall.	100
W-52	Water	Activated Carbon Treatment	Use of carbon media such as coke or coal to remove organics and particulate from wastewater. May be used in either fixed or fluidized beds.	100

No.	Media	Property	Description	%
W-53	Water	Oxidation Ditches and Ponds	Process of pumping air bubbles into a pond to assist in oxidizing organic and mineral pollution.	100
W-54	Water	Filters: Sand, Gravel, or Microbial	Passing wastewater through a sand or gravel bed to remove solids and reduce bacteria.	100
W-55	Water	Chemical Precipitation	Process used to remove heavy metals from wastewater.	100
W-56	Water	Ultra-filtration	Use of semi-permeable membrane and hydrostatic pressure to filter solids and high molecular weight solutes from wastewater.	100
W-57	Water	Conveyances, Pumps, Sumps, Tanks, Basins	Used to segregate storm water from process water, control storm water runoff, or convey contaminated process water.	100
W-58	Water	Water Recycling Systems	Installed systems, excluding cooling towers, that clean, recycle, or reuse wastewater, use gray water, or storm water, to reduce the amount of a facility's discharge or the amount of new water used as process or make-up water including Zero Discharge Systems.	100
W-59	Water	Wastewater Treatment Facility/Plant	New wastewater treatment facilities (including on-site septic systems) constructed to process wastewater generated on site.	100
W-60	Water	High-Pressure Reverse Osmosis	The passing of a contaminated water stream over a permeable membrane at high pressure to collect contaminants.	100
W-61	Water	Hydro-cyclone Vapor Extraction	An air-sparged hydro-cyclone for the removal of VOCs from a wastewater stream.	100
W-62	Water	Recycled Water Cleaning System	Equipment used to collect and recycle the water used in a high-pressure water system for cleaning contaminants from equipment and pavement.	100
W-63	Water	Chemical Oxidation	Use of hydrogen peroxide or other oxidants for wastewater treatment.	100
W-64	Water	Storm Water Containment Systems	Structures or liners used for containment of runoff from rainfall. The land that is actually occupied by the containment structure is eligible for a positive use determination.	100
W-65	Water	Wastewater Impoundments	Ponds used for the collection of water after use and before circulation.	100

No.	Media	Property	Description	%
W-66	Water	Oil/Water Separator	Mechanical device used to separate oils from storm water.	100

**Control/Monitoring Equipment**

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

***Solid Waste Management Pollution Control Equipment***

**Solid Waste Management**

No.	Media	Property	Description	%
S-1	Land/ Water	Stationary Mixing and Sizing Equipment	Immobile equipment used for solidification, stabilization, or grinding of self-generated waste material for the purpose of disposal.	100
S-2	Land/ Water	Decontamination Equipment	Equipment used to remove waste contamination or residues from vehicles that leave the facility.	100
S-3	Land/	Solid Waste	Solid waste incinerators, feed systems, ash	100

No.	Media	Property	Description	%
	Water	Incinerator (not used for energy recovery and export or material recovery)	handling systems, and controls.	
S-4	Land/ Water/Air	Monitoring and Control Equipment	Alarms, indicators, and controllers, for high liquid level, pH, temperature, or flow in waste treatment system. Does not include fire alarms.	100
S-5	Land/ Water	Solid Waste Treatment Vessels	Any vessel used for waste treatment.	100
S-6	Land/ Water	Secondary Containment	External structure or liner used to contain and collect liquids released from a primary containment device and/or ancillary equipment. Main purpose is to prevent groundwater or soil contamination.	100
S-7	Land/ Water	Liners (Noncommercial Landfills and Impoundments)	A continuous layer or layers of natural and/or man-made materials that restrict downward or lateral escape of wastes or leachate in an impoundment or landfill.	100
S-8	Land/ Water	Leachate Collection and Removal Systems	A system capable of collecting leachate or liquids, including suspended solids, generated from percolation through or drainage from a waste. Systems for removal of leachate may include sumps, pumps, and piping.	100
S-9	Land/ Water	Leak Detection Systems	A system capable of detecting the failure of a primary or secondary containment structure or the presence of a liquid or waste in a containment structure.	100
S-10	Land/ Water	Final Cover Systems for Landfills (Noncommercial)	A system of liners and materials to provide drainage, erosion prevention, infiltration minimization, gas venting, and a biotic barrier.	100
S-11	Land/ Water	Lysimeters	An unsaturated zone monitoring device used to monitor soil-pore liquid quality at a waste management unit (e.g., below the treatment zone of a land treatment unit).	100
S-12	Water	Groundwater Monitoring Well and Systems	A groundwater well or system of wells designed to monitor the quality of groundwater at a waste management unit (e.g., detection monitoring systems or compliance monitoring systems).	100
S-13	Air	Fugitive Emission Monitors	A monitoring device used to monitor or detect fugitive emissions from a waste	100

No.	Media	Property	Description	%
			management unit or ancillary equipment.	
S-14	Land/ Water	Slurry Walls/Barrier Walls	A pollution control method using a barrier to minimize lateral migration of pollutants in soils and groundwater.	100
S-15	Water	Groundwater Recovery or Remediation System	A groundwater remediation system used to remove or treat pollutants in contaminated groundwater or to contain pollutants (e.g., pump-and-treat systems).	100
S-16	Water	Noncommercial Injection Wells (Including Saltwater Disposal Wells) and Ancillary Equipment	Injection well, pumps, collection tanks and piping, pretreatment equipment, and monitoring equipment.	100
S-17	Land/ Water	Noncommercial Landfills (used for disposal of self-generated waste materials) and Ancillary Equipment	Excavation, clay and synthetic liners, leak detection systems, leachate collection and treatment equipment, monitor wells, waste hauling equipment, decontamination facilities, security systems, and equipment used to manage the disposal of waste in the landfill.	100
S-18	Land/ Water	Resource Conservation Recovery Act Containment Buildings (used for storage or treatment of hazardous waste)	Pads, structures, solid waste treatment equipment used to meet the requirements of 30 TAC Chapter 335, Subchapter O - Land Disposal Restrictions, §335.431.	100
S-19	Land/ Water	Surface Impoundments and Ancillary Equipment (Including Brine Disposal Ponds)	Excavation, ponds, clay and synthetic liners, leak detection systems, leachate collection and treatment equipment, monitor wells, and pumps.	100
S-20	Land/ Water	Waste Storage Used to Collect and/or Store Waste Prior to Treatment or Disposal	Tanks, containers and ancillary equipment such as pumps, piping, secondary containment, and vent controls (e.g., Resource Conservation Recovery Act Storage Tanks, 90-Day Storage Facilities, Feed Tanks to Treatment Facilities).	100
S-21	Air	Fugitive Emission Containment Structures	Structures or equipment used to contain or reduce fugitive emissions or releases from waste management activities (e.g., coverings for conveyors, chutes, enclosed areas for	100

No.	Media	Property	Description	%
			loading and unloading activities).	
S-22	Water	Double-Hulled Barge	If double-hulled to reduce chance of leakage into public waters, calculate the incremental cost difference between a single-hulled barge and a double-hulled barge.	100
S-23	Land	Composting Equipment	Used to compost material where the compost will be used on site. (Does not include commercial composting facilities.)	100
S-24	Land	Compost Application Equipment	Equipment used to apply compost that has been generated on-site.	100
S-25	Land	Vegetated Compost Sock	Put in place as part of a facility's permanent Best Management Plan (BMP).	100
S-26	Air	Foundry Sand Reclamation Systems for Foundries	Components of a sand reclamation system that provide specific pollution control. Includes hooding over shaker screens vented to a dust collector, conveyor covers, and emission control devices at other points.	100
S-27	Air/Water/Land	Concrete Reclaiming Equipment	Processes mixed, un-poured concrete batches to reclaim the sand and gravel for reuse, and recycles the water in a closed loop system.	100
S-28	Land	Fencing installed for the control of windblown trash or access control[.]	Fencing installed at landfills, solid waste transfer stations, or storage/treatment areas located at hazardous waste management facilities to meet environmental regulations.	100
S-29	Land/Water	Reclamation Equipment	Construction type equipment such as dozers, front end loaders and dump trucks used exclusively for land reclamation. Does not include commercial reclamation equipment.	100

**Miscellaneous Pollution Control Equipment**

No.	Media	Property	Description	%
M-1	Air/ Land/ Water	Spill Response/Cleanup Equipment Pre-positioned and Stored for Addressing Future Emergencies	Boats, barges, booms, skimmers, trawls, pumps, power units, packaging materials and containers, vacuum trailers, storage sheds, diversion basins, tanks, and dispersants.	100

No.	Media	Property	Description	%
M-2	Air/ Land	Hazardous Air Pollutant Abatement Equipment - required removal material contaminated with asbestos, lead, or some other hazardous air pollutant	High-Efficiency Particulate Arresting (HEPA) Vacuum Equipment, Negative Air Pressure Enclosures, Glove Bags, and Disposal Containers.	100
M-3	Air/ Land/ Water	Vacuum Trucks, Street Sweepers and Watering Trucks	Mobile Surface Cleaning Equipment - used exclusively to control particulate matter on plant roads. (Does not include sweepers or scrubbers used to control particulate matter within buildings.)	100
M-4	Land	Compactors, Barrel Crushers, Balers, Shredders	Compactors and similar equipment used to change the physical format of waste material for recycling/reuse purposes or on-site disposal of facility-generated waste.	100
M-5	Air/ Land/ Water	Solvent Recovery Systems	Used to remove hazardous content from waste solvents by heat, vaporization, and condensation, by filtration, or by other means. The recycled solvents must be reused at the facility generating the waste.	100
M-6	Land/ Water	Boxes, Bins, Carts, Barrels, Storage Bunkers	Collection/storage containers for source- separation of materials to be recycled or reused. Does not include product storage containers or facilities.	100
M-7	Air	Environmental Paving Located at Industrial Facilities	Paving of outdoor vehicular traffic areas in order to meet or exceed an adopted air quality rule, regulation, or law. Does not include paving of parking areas or driveways for convenience purposes or storm water control. Does not include dirt or gravel. Value of the paving must be stated on a square foot basis with a plot plan provided that shows the paving in question.	100
M-8	Air/ Land/ Water	Sampling Equipment	Equipment used to collect samples of exhaust gas, wastewater, soil, or other solid waste to be analyzed for specific contaminants or pollutants.	100
M-9	Water	Dry Stack Building for Poultry Litter	A pole-barn type structure used to temporarily store poultry litter in an environmentally safe manner.	100

No.	Media	Property	Description	%
M-10	Land/ Water	Poultry Incinerator	Incinerators used to dispose of poultry carcasses.	100
M-11	Land/ Water	Structures, Enclosures, Containment Areas, Pads for Composting Operations	Required to meet 'no exposure' storm water regulations.	100
M-12	Air	Methane Capture Equipment	Equipment used to capture methane generated by the decomposition of waste material on site. Methane must be sent to a control device rather than used.	100
M-13	Land	Drilling Mud Recycling System	Consisting of only the Shaker Tank System, Shale Shakers, Desilter, Desander, and Degasser.	100
M-14	Land	Drilling Rig Spill Response Equipment	Includes only the Ram Type Blowout Preventers, Closing Units, and Choke Manifold Systems.	100
M-15	Air	Odor Neutralization and Chemical Treatment Systems	Carbon adsorption, zeolite adsorption, and other odor neutralizing and chemical treatment systems to meet local ordinance or to prevent/correct nuisance odors at off-site receptors.	100
M-16	Air	Odor Dispersing and Removal Systems	Electrostatic precipitators, vertical dispersing fans, stack extensions, and other physical control equipment used to dilute, disperse, or capture nuisance odor vent streams.	100
M-17	Air	Low NOx Combustion System for Drilling Rigs	Equipment on power generating units designed solely to reduce NOx generation	100
M-18	Air	Odor Detectors	Olfactometers, gas chromatographs, and other analytical instrumentation used specifically for detecting and measuring ambient odor, either empirically or chemical specific.	100
M-19	Land	Cathodic Protection	Cathodic protection installed to prevent corrosion of metal tanks and piping.	100

No.	Media	Property	Description	%
M-20	Water	Fish and Other Aquatic Organism Protection Equipment	Equipment installed to protect fish and other aquatic organisms from entrainment or impingement in an intake cooling water structure. Equipment includes: Aquatic Filter Barrier Systems, Fine-Mesh Traveling Intake Screens, Fish Return Buckets, Sprays, Flow-Altering Louvers, Fish Trough, Fish Behavioral Deterrents, and Wetland Creation.	100
M-21	Water/ Land	Double-walled Piping	The difference between cost of single walled piping and the cost of double-walled piping, when the double-walled piping is installed to prevent unauthorized discharges.	100
M-22	Water/ Land	Double-walled Tanks	The difference between cost of single walled tanks and the cost of double-walled tanks, when the double-walled tanks are installed to prevent unauthorized discharges.	100
M-23	<u>Land/Water/Air</u>	<u>Remote Controlled Block Valves</u>	<u>Valves installed on pipelines used to transport hydrocarbons and natural gas as a spill control measure.</u>	<u>100</u>
M-24	<u>Land/Water</u>	<u>Nondestructive Pipeline Testing</u>	<u>Expenditures for nondestructive pipeline testing such as radiography. Expenditures for non-pollution control purposes are not included.</u>	<u>100</u>

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

**Spill and Overfill Prevention Equipment**

No.	Media	Property	Description	%
T-1	Water	Tight Fill Fittings	Liquid tight connections between the delivery hose and fill pipe.	100
T-2	Water	Spill Containers	Spill containment manholes equipped with either a bottom drain valve to return liquids to the tank or a hand pump for liquid removal.	100
T-3	Water	Automatic Shut-off Valves	Flapper valves installed in the fill pipe to automatically stop the flow of product.	100
T-4	Water	Overfill Alarms	External signaling device attached to an automatic tank gauging system.	100
T-5	Water	Vent Restriction Devices	Float vent valves or ball float valves to prevent backflow through vents.	100

**Secondary Containment**

No.	Media	Property	Description	%
T-10	Water	Double-walled Tanks	The difference between cost of single-walled tanks and the cost of double-walled tanks, when the double-walled tanks are installed to prevent unauthorized discharges or leaks.	100
T-11	Water	Double-walled Piping	The difference between cost of single-walled piping and the cost of double-walled piping, when the double-walled piping is installed to prevent unauthorized discharges or leaks.	100
T-12	Water	Tank Top Sumps	Liquid tight containers to contain leaks or spills that involve tank top fittings and equipment.	100
T-13	Water	Under Dispenser Sumps	Contains leaks and spills from dispensers and pumps.	100
T-14	Water	Sensing Devices	Installed to monitor for product accumulation in secondary containment sumps.	100

No.	Media	Property	Description	%
T-15	Land/ Water	Concrete Paving Above Underground Tanks and Pipes	Required concrete paving located above underground pipes and tanks. The use determination value is limited to the difference between the cost per square foot of the concrete paving and the cost per square foot of the other paving installed at the service station. This item only applies to service stations.	100

**Release Detection for Tanks and Piping**

No.	Media	Property	Description	%
T-20	Water	Automatic Tank Gauging	Includes tank gauging probe and control console	100
T-21	Water	Groundwater or Soil Vapor Monitoring	Observation wells located inside the tank excavation or monitoring wells located outside the tank excavation	100
T-22	Water	Monitoring of Secondary Containment	Liquid sensors or hydrostatic monitoring systems installed in the interstitial space for tanks or piping	100
T-23	Water	Automatic Line Leak Detectors	Devices installed at the pump that are designed to detect leaks in underground piping. Mechanical and electronic devices are acceptable.	100
T-24	Water	Under Pump Check Valve	Valve installed to prevent back flow in the fuel dispensing line. This device is only used on suction pump piping systems.	100
T-25	Water	Tightness Testing Equipment	Equipment purchased to comply with tank and/or piping tightness testing requirements.	100

**Cathodic Protection**

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

No.	Media	Property	Description	%
T-32	Water	Dielectric Coatings	Factory installed coal-tar epoxies, enamels, fiberglass reinforced plastic, or urethanes on tanks and/or piping. Field installed coatings limited to exposed threads, fittings, and damaged surface areas.	100

**Emissions Control Equipment**

No.	Media	Property	Description	%
T-40	Air	Stage I or Stage II Vapor Recovery	Includes pressure/vacuum vent relief valves, vapor return piping, stage 2 nozzles, coaxial hoses, vapor processing units, and vacuum- assist units. Used for motor vehicle fuel dispensing facilities. Does not include fuel delivery components of fuel dispensing unit.	100

(b) The commission shall review and update the Tier I Table in subsection (a) of this section at least once every three years.

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

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

**§18.26. Expedited Review List.**

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

**Figure: 30 TAC §18.26**

[Figure: 30 TAC §18.26]

**Expedited Review List**

No.	Property	Description
B-1	Coal Cleaning or Refining Facilities	Used to remove impurities from coal in order to boost the heat content and to reduce potential air pollutants.
B-2	Atmospheric or Pressurized and Bubbling or Circulating Fluidized Bed Combustion Systems and Gasification Fluidized Bed Combustion Combined Cycle Systems	Combustion systems that reduce pollution through the use of a fluidized bed that can be atmospheric and bubbling or circulating; gasification combined cycle systems; or pressurized and bubbling or circulating systems.
B-3	Ultra-Supercritical Pulverized Coal Boilers	Boiler system designed to provide 4500 pounds per square inch gauge (psig)/1100°/1100°/1100° double reheat configuration.
B-4	Flue Gas Recirculation Components	Ductwork, blowers, and ancillary equipment

No.	Property	Description
		used to redirect part of the flue gas back to the combustion chamber for reduction of nitrogen oxides (NOx) formation. May include fly ash collection in coal fired units.
B-5	Syngas Purification Systems and Gas-Cleanup Units	A system, including all necessary appurtenances, that: (1) produces synthesis gas from coal, biomass, petroleum coke, or solid waste and is then converted to electricity via combined cycle power generation equipment; and, (2) equipment that removes sulfur, carbon, and other polluting compounds from synthesis gas streams.
B-6	Enhanced Heat Recovery Systems	A heating system used to reduce the temperature and humidity of the exhaust gas stream and recover the heat so that it can be returned to the steam generator so as to increase the quantity of steam generated per quantity of fuel consumed.
B-7	Exhaust Heat Recovery Boilers	Used to recover the heat from boiler to generate additional steam.
B-8	Heat Recovery Steam Generators	<u>A boiler designed to capture waste heat from combustion turbine exhaust for the generation of steam while reducing unit output-based emissions.</u> [A counter-flow heat exchanger consisting of a series of super-heater, boiler (or evaporator) and economizer tube sections, arranged from the gas inlet to the gas outlet to maximize heat recovery from the gas turbine exhaust gas.]
B-9	Heat Transfer Sections for Heat Recovery Steam Generators	Super-heaters, Evaporators, Re-heaters and Economizers.
B-10	Enhanced Steam Turbine Systems	Enhanced efficiency steam turbines.
B-11	Methanation	Coal Gasification process that removes carbon and produces methane, including the necessary support systems and appurtenances.
B-12	Coal Combustion or Gasification By-product and Co-product Handling, Storage, and Treatment Facilities	Used for handling, storage, or treatment of by-products or co-products produced (resulting) from the combustion or gasification of coal such as boiler and Gasifier slag, bottom ash, flue gas desulfurization (FGD) material, fly ash, and

No.	Property	Description
		sulfur.
B-13	Biomass Cofiring Storage, Distribution, and Firing Systems	Installed to reduce pollution by using biomass as a supplementary fuel.
B-14	Coal Cleaning or Drying Processes, such as coal drying/moisture reduction, air jigging, precombustion decarbonization, and coal flow balancing technology	Used to produce a cleaner burning coal (such as coal drying, moisture reduction, air jigging, precombustion decarbonization, or coal flow balancing technology).
B-15a	Oxy-Fuel Combustion Technology	Installed to allow the feeding of oxygen, rather than air, and a proportion of recycled flue gases to the boiler.
B-15b	Amine or Chilled Ammonia Scrubbing	Installed to provide post combustion capture of pollutants (including carbon dioxide upon the effective date of a final rule adopted by the United States Environmental Protection Agency (EPA) regulating carbon dioxide as a pollutant).
B-15c	Catalyst based Systems	Installed to allow the use of catalysts to reduce emissions.
B-15d	Enhanced Scrubbing Technology	Installed to enhance scrubber performance, including equipment that promotes the oxidation of elemental mercury in the flue gas prior to entering the scrubber.
B-15e	Modified Combustion Technologies	Systems such as chemical looping and biomass co-firing that are designed to enhance pollutant removal.
B-15f	Cryogenic Technology	Cryogenic cooling systems used to reduce pollution (including carbon dioxide upon the effective date of a final rule adopted by the EPA regulating carbon dioxide as a pollutant).
B-16	Carbon Dioxide Capture and Geological Sequestration Equipment	Used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source in this state that is then geologically sequestered in this state. (This item is only in effect upon the effective date of an EPA final rule regulating carbon dioxide as a pollutant.)
B-17	Fuel Cells	Used to generate electricity using hydrogen derived from coal, biomass, petroleum coke, or solid waste.
B-18	Regulated Air Pollutant Control Equipment	Any other facility, device, or method designed to prevent, capture, abate, or monitor nitrogen oxides, volatile organic compounds, particulate matter, mercury,

No.	Property	Description
		carbon monoxide, or any criteria pollutant.

**§18.30. Partial Determinations.**

A partial determination must be requested for all property that is in the figure in §18.26 of this title (relating to Expedited Review List) or that is not wholly used for pollution control, except for property that is on the Tier I Table located in §18.25(a) of this title (relating to Tier I Eligible Equipment) at a specified partial use percentage. It is the responsibility of the applicant to propose a reasonable method for calculating a partial determination. The calculation must be documented and included with the application. It is the responsibility of the executive director to review the appropriateness of the proposed method and make the final determination.