

**SUBCHAPTER C: PLANT-WIDE APPLICABILITY LIMITS**  
**DIVISION 1: PLANT-WIDE APPLICABILITY LIMITS**  
**§§116.180, 116.182, 116.184, 116.186, 116.188, 116.190, 116.192, 116.194,**  
**116.196, 116.198**  
**Effective August 16, 2012**

**§116.180. Applicability.**

(a) The following requirements apply to a plant-wide applicability limit (PAL) permit.

(1) Only one PAL may be issued for each pollutant at an existing major stationary source.

(2) A PAL permit may include more than one PAL.

(3) A PAL permit may not cover facilities or emissions units at more than one existing major stationary source.

(4) A PAL permit may be consolidated with a new source review permit at the existing major stationary source.

(5) A PAL permit can be issued only for an existing major stationary source; it may not be issued for a new major stationary source as defined in 40 Code of Federal Regulations §51.165(a)(1)(iv)(A) and §51.166(b)(1)(i).

(b) The new owner of a major stationary source shall comply with §116.110(e) of this title (relating to Applicability), provided that all facilities, or emissions units at a major stationary source, covered by a PAL permit change ownership at the same time and to the same person, or both the new owner and existing permit holder must obtain a PAL permit alteration allocating the emission prior to the transfer of the permit by the commission. After the sale of a facility, or emissions unit at a major stationary source, but prior to the transfer of a permit requiring a permit alteration, the original PAL permit holder remains responsible for ensuring compliance with the existing PAL permit and all rules of the commission.

(c) The owner of the facility, emissions unit at a major stationary source, group of facilities, or account or the operator of the facility, emissions unit at a major stationary source, group of facilities, or account that is authorized to act for the owner is responsible for complying with this section, except as provided by subsection (b) of this section.

Adopted July 25, 2012

Effective August 16, 2012

**§116.182. Plant-wide Applicability Limit Permit Application.**

Any application for a new plant-wide applicability limit (PAL) permit or PAL permit amendment must be completed and signed by an authorized representative. In order to be granted a PAL permit or PAL permit amendment, the owner or operator of the proposed facility shall submit information to the commission that demonstrates that all of the following information is submitted:

(1) a list of all facilities, or emissions units at a major stationary source , that emit the PAL pollutant, including their registration or permit number , their potential to emit, and the expected maximum capacity. In addition, the owner or operator of the source shall indicate which, if any, federal or state applicable requirements, emission limitations, or work practices apply to each unit;

(2) calculations of the baseline actual emissions with supporting documentation;

(3) the calculation procedures that the permit holder proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month; and

(4) the monitoring and recordkeeping proposed satisfy the requirements of §116.186 of this title (relating to General and Special Conditions) for each PAL.

Adopted February 9, 2011

Effective March 3, 2011

**§116.184. Application Review Schedule.**

The plant-wide applicability limit permit application will be reviewed by the commission in accordance with §116.114 of this title (relating to Application Review Schedule).

Adopted January 11, 2006

Effective February 1, 2006

**§116.186. General and Special Conditions.**

(a) The plant-wide applicability limit (PAL) will impose an annual emission limitation in tons per year, that is enforceable for all facilities, or emissions units at a major stationary source, that emit the PAL pollutant. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary

source owner or operator shall demonstrate that the sum of the monthly emissions from each facility under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall demonstrate that the sum of the preceding monthly emissions from the PAL effective date for each facility under the PAL is less than the PAL. Each PAL must include emissions of only one pollutant. The PAL must include all emissions, including fugitive emissions, to the extent quantifiable, from all facilities or emissions units at a major stationary source included in the PAL that emit or have the potential to emit the PAL pollutant.

(b) The following general conditions are applicable to every PAL permit.

(1) **Applicability.** This section does not authorize any facility to emit air pollutants but establishes an annual emissions level below which new and modified facilities, or emissions units at a major stationary source, will not be subject to major new source review for that pollutant.

(2) **Sampling requirements.** If sampling of stacks or process vents is required, the PAL permit holder shall contact the commission's Office of Compliance and Enforcement prior to sampling to obtain the proper data forms and procedures. All sampling and testing procedures must be approved by the executive director and coordinated with the appropriate regional office of the commission. The PAL permit holder is also responsible for providing sampling facilities and conducting the sampling operations or contracting with an independent sampling consultant.

(3) **Equivalency of methods.** The permit holder shall demonstrate the equivalency of emission control methods, sampling or other emission testing methods, and monitoring methods proposed as alternatives to methods indicated in the conditions of the PAL permit. Alternative methods must be applied for in writing and must be reviewed and approved by the executive director prior to their use in fulfilling any requirements of the permit.

(4) **Recordkeeping and reporting.**

(A) A copy of the PAL permit along with information and data sufficient to demonstrate continuous compliance with the emission caps contained in the PAL permit must be maintained in a file at the plant site and made available at the request of personnel from the commission or any air pollution control program having jurisdiction. For facilities that normally operate unattended, this information must be maintained at the nearest staffed location within Texas specified by the permit holder in the permit application. This information must include, but is not limited to, emission cap and individual emission limitation calculations based on a 12-month rolling basis

and production records and operating hours. Additional recordkeeping requirements may be specified in special conditions attached to the PAL permit.

(B) The owner or operator shall retain a copy of the PAL permit application and any applications for revisions to the PAL, each annual certification of compliance under §122.146 of this title (relating to Compliance Certification Terms and Conditions), and the data relied on in certifying the compliance for the duration of the PAL plus five years.

(C) A semiannual report shall be submitted to the executive director within 30 days of the end of each reporting period that contains:

(i) the identification of owner and operator and the permit number;

(ii) total annual emissions (in tons per year) based on a 12-month rolling total for each month in the reporting period;

(iii) all data relied upon, including, but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions;

(iv) a list of any facility modified or added to the major stationary source during the preceding six-month period;

(v) the number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken. This may be satisfied by referencing the PAL permit number in the semiannual report for the site submitted under §122.145 of this title (relating to Reporting Terms and Conditions);

(vi) a notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit; and

(vii) a signed statement by the responsible official, as defined in §122.10 of this title (relating to General Definitions), certifying the truth, accuracy, and completeness of the information provided in the report.

(D) The owner or operator shall submit the results of any revalidation test or method to the executive director within three months after completion of such test or method.

(5) Maintenance of emission control. The facilities covered by the PAL permit will not be operated unless all air pollution emission capture and abatement equipment is maintained in good working order and operating properly during normal facility operations.

(6) Compliance with rules. Acceptance of a PAL permit by a permit applicant constitutes an acknowledgment and agreement that the holder will comply with all rules and orders of the commission issued in conformity with the Texas Clean Air Act and the conditions precedent to the granting of the permit. If more than one state or federal rule or PAL permit condition is applicable, the most stringent limit or condition will govern and be the standard by which compliance must be demonstrated. Acceptance includes consent to the entrance of commission employees and agents into the permitted premises at reasonable times to investigate conditions relating to the emission or concentration of air contaminants, including compliance with the PAL permit.

(7) Effective period. A PAL is effective for ten years.

(8) Absence of monitoring data. A source owner or operator shall record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for a facility during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit special conditions.

(9) Monitoring system requirements. Failure to use a monitoring system that meets the requirements of this section renders the PAL permit invalid.

(10) Revalidation. All data used to establish the PAL pollutant must be revalidated through performance testing or other scientifically valid means approved by the executive director. Such testing must occur at least once every five years after issuance of the PAL.

(11) Renewal. If a PAL renewal application is submitted to the executive director in accordance with §116.196 of this title (relating to Renewal of a Plant-wide Applicability Limit Permit), the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a renewed PAL permit is issued by the executive director or the application is voided.

(c) Each PAL permit must include special conditions that satisfy the following requirements.

(1) For the purposes of this subchapter, the definitions of the following terms are the same as those provided in 40 Code of Federal Regulations §51.165.

(A) Continuous emission monitoring system (CEMS).

(B) Continuous emissions rate monitoring system (CERMS).

(C) Continuous parameter monitoring system (CPMS).

(D) Predictive emissions monitoring system (PEMS).

(2) The PAL monitoring system must accurately determine all emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation.

(3) The PAL monitoring system must employ one or more of the general monitoring approaches meeting the minimum requirements as described in subparagraphs (A) - (D) of this paragraph.

(A) An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

(i) provide a demonstrated means of validating the published content of the PAL pollutant that is contained in, or created by, all materials used in or at the facility;

(ii) assume that the facility emits all of the PAL pollutant that is contained in, or created by, any raw material or fuel used in or at the facility, if it cannot otherwise be accounted for in the process; and

(iii) where the vendor of a material or fuel that is used in or at the facility publishes a range of pollutant content from such material, the owner or operator shall use the highest value of the range to calculate the PAL pollutant emissions unless the executive director determines that there is site-specific data or a site-specific monitoring program to support another content within the range.

(B) An owner or operator using a CEMS to monitor PAL pollutant emissions shall meet the following requirements.

(i) The CEMS must comply with applicable performance specifications found in 40 Code of Federal Regulations Part 60, Appendix B.

(ii) The CEMS must sample, analyze, and record data at least every 15 minutes while the emissions unit is operating.

(C) An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements.

(i) The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the facility.

(ii) Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes or at another less frequent interval approved by the executive director, while the facility is operating.

(D) An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements.

(i) All emission factors must be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development.

(ii) The facility must operate within the designated range of use for the emission factor, if applicable.

(iii) If technically practicable, the owner or operator of a significant facility that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six months of PAL permit issuance, unless the executive director determines that testing is not required.

(E) An alternative monitoring approach must meet the requirements in paragraph (1) of this subsection and be approved by the executive director.

(4) Where an owner or operator of a facility cannot demonstrate a correlation between a monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the facility, the executive director shall:

(A) establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or

(B) determine that operation of the facility during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.

Adopted July 25, 2012

Effective August 16, 2012

**§116.188. Plant-wide Applicability Limit.**

The plant-wide applicability limit (PAL) is the sum of the baseline actual emissions of the PAL pollutant for each existing facility at the source to be covered. The allowable emission rate may be used for facilities that did not exist in the baseline period. Baseline actual emissions from facilities that were permanently shut down after the baseline period must be subtracted from the baseline emissions rate.

(1) An amount equal to the applicable significant level for the PAL pollutant may be added to the baseline actual emissions when establishing the PAL.

(2) When establishing the PAL level for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing facilities. However, a different consecutive 24-month period may be used for each different PAL pollutant.

(3) The executive director shall specify a reduced PAL level(s) in the PAL permit, to become effective on the future compliance date(s) of any applicable federal or state regulatory requirement.

Adopted February 9, 2011

Effective March 3, 2011

**§116.190. Federal Nonattainment and Prevention of Significant Deterioration Review.**

(a) An increase in emissions from operational or physical changes at a facility, or emissions unit at a major stationary source, covered by a plant-wide applicability limit (PAL) permit is insignificant, for the purposes of major new source review under this subchapter, if the increase does not exceed the PAL.

(b) At no time are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets, unless the level of

the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

(c) A physical or operational change not causing an exceedance of a PAL is not subject to federal restrictions on relaxing enforceable emission limitations to avoid new source review.

Adopted February 9, 2011

Effective March 3, 2011

### **§116.192. Amendments and Alterations.**

(a) Any increase in a plant-wide applicability limit (PAL) must be made through amendment. Amendment applications must also include the information identified in §116.182 of this title (relating to Plant-wide Applicability Limit Permit Application) for new and modified facilities contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL and are subject to the public notice requirements under §116.194 of this title (relating to Public Notice and Comment).

(1) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small facilities, plus the sum of the baseline actual emissions of the significant and major facilities assuming application of federal best available control technology (BACT) (as identified in §116.160(c)(1)(A) of this title (relating to Prevention of Significant Deterioration Requirements)) equivalent controls, plus the sum of the allowable emissions of the new or modified facilities exceeds the PAL. The level of control that would result from federal BACT equivalent controls on each significant or major facility shall be determined by conducting a new federal BACT analysis at the time the application is submitted, unless the facility is currently required to comply with a federal BACT or lowest achievable emission rate (LAER) requirement that was established within the preceding ten years. In such a case, the assumed control level for that emissions unit shall be equal to the level of federal BACT or LAER with which that emissions unit must currently comply.

(2) The owner or operator shall obtain a major new source review permit under applicable provision of Subchapter B, Division 5 and Division 6 of this chapter (relating to Nonattainment Review Permits; and Prevention of Significant Deterioration Review, respectively) for all facilities contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL, regardless of the magnitude of the emissions increase. These facilities shall comply with any emissions requirements resulting from the major new source review process.

(3) The PAL permit shall require that the increased PAL level be effective on the day any emission unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(4) The new PAL shall be the sum of the allowable emissions for each modified or new facility, plus the sum of the baseline actual emissions of the significant and major emissions units after the application of federal BACT equivalent controls as identified in paragraph (1) of this subsection, plus the sum of the baseline actual emissions of the small emissions units.

(b) Changes to PAL permits that do not require the PAL to be increased must be completed through permit alteration. Unless allowed in the PAL permit special conditions, the permit holder shall submit an alteration request prior to start of construction for physical modifications to facilities or installation of new facilities under the PAL. Approval must be received from the executive director prior to start of operation of the facilities if the emissions from the new or modified facilities may exceed 100 tons per year.

(c) Acceptance of a PAL permit is agreement by the permit holder for the executive director to reopen the PAL permit consistent with the requirements of §116.194 of this title for any actions in paragraphs (1) or (2) of this subsection.

(1) During the PAL effective period, the executive director shall reopen the PAL permit to:

(A) correct typographical or calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL;

(B) decrease the PAL limit the owner or operator of the major stationary source creates creditable emissions reductions that meet the requirements of 40 Code of Federal Regulations (CFR) §51.165(a)(3)(ii) for use as offsets; and

(C) revise the PAL to reflect an increase in the PAL provided the owner or operator complies with the requirements of 40 CFR §52.21(aa)(11) and §51.165(f)(11).

(2) During the PAL effective period, the executive director may reopen the PAL permit for the following:

(A) revise the PAL to reflect newly applicable federal requirements (for example, New Source Performance Standards) with compliance dates after the PAL effective date;

(B) revise the PAL to be consistent with any other requirement, that is enforceable as a practical matter, and that the State may impose on the major stationary source under the state Implementation Plan; or

(C) reduce the PAL if the reviewing authority determines that a reduction is necessary to avoid causing or contributing to a National Ambient Air Quality Standard or Prevention of Significant Deterioration increment violation, or to an adverse impact on an air quality related value that has been identified for a Federal Class I area by a federal land manager and for which information is available to the general public.

Adopted February 9, 2011

Effective March 3, 2011

**§116.194. Public Notice and Comment.**

(a) Applications for establishment or renewal of, or an increase in, a plant-wide applicability limit permit under this division are subject to the notice and comment requirements in Chapter 39 of this title (relating to Public Notice).

(b) Nothing in this section exempts an applicant for a new source review permit from the requirements of Subchapter B of this chapter (relating to New Source Review Permits).

Adopted June 2, 2010

Effective June 24, 2010

**§116.196. Renewal of a Plant-wide Applicability Limit Permit.**

(a) A stationary source owner or operator shall submit a timely application to the executive director to request renewal of a plant-wide applicability limit (PAL) permit. A timely application is one that is submitted at least six months prior to, but not earlier than 18 months from, the date of permit expiration. If the owner or operator of a stationary source submits a complete application to renew the PAL permit within this time period, then the permit will continue to be effective until the revised permit with the renewed PAL is issued or the PAL permit is voided.

(b) All PAL permits issued prior to the effective date of this section are subject to the renewal requirements under this section. These permits must be renewed by December 31, 2006, or within the time frame specified in subsection (a) of this section, whichever is later.

(c) The following information must be submitted with a PAL renewal application:

(1) a proposed PAL level;

(2) information as identified in §116.182(1) of this title (relating to Plant-wide Applicability Limit Permit Application); and

(3) any other information the owner or operator wants the executive director to consider in determining the appropriate level for renewing the PAL.

(d) The proposed PAL level and a written rationale for the proposed PAL level are subject to the public notice requirements in §116.194 of this title (relating to Public Notice and Comment). During such public review, any person may propose a PAL level for the source for consideration by the executive director.

(e) The renewed PAL shall not exceed the potential to emit for the source and shall not be set at a level higher than the current PAL, unless the PAL is being amended in accordance with §116.192(a) of this title (relating to Amendments and Alterations) concurrently with the renewal. The executive director may adjust the renewed PAL in accordance with the following. .

(1) If the emissions level calculated in accordance with §116.188 of this title (relating to Plant-wide Applicability Limit) is equal to or greater than 80% of the PAL level, the PAL may be renewed at the same level.

(2) If the emissions level calculated in accordance with §116.188 of this title is less than 80% of the PAL level, the executive director may set the PAL at a level that is determined to be more representative of the source's baseline actual emissions, or that is determined to be more appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the executive director in written rationale.

(f) If the compliance date for a state or federal requirement that applies to the PAL source occurs during the PAL effective period, and if the executive director has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or federal operating permit renewal, whichever occurs first.

Adopted January 11, 2006

Effective February 1, 2006

**§116.198. Expiration or Voidance.**

(a) A plant-wide applicability limit (PAL) permit shall expire ten years after the date of issuance if the renewal application is not submitted in accordance with §116.196(a) of this title (relating to Renewal of a Plant-wide Applicability Limit Permit).

(b) Owners or operators of major stationary sources who decide not to renew their PAL will, within the time frame specified for PAL renewal applications in §116.196(a) of this title, submit a proposed allowable emission limitation for each facility (or each group of facilities, if such a distribution is more appropriate as decided by the executive director) by distributing the PAL allowable emissions for the major stationary source among each of the facilities that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, the distribution shall be made as if the PAL had been adjusted.

(c) The executive director shall decide whether and how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each facility, or each group of facilities, as the executive director determines is appropriate. Each facility shall comply with the allowable emission limitation on a 12-month rolling basis. The executive director may approve the use of monitoring systems (source testing, emission factors, etc.) other than a continuous emission monitoring system, continuous emission rate monitoring system, predictive emission monitoring system, or continuous parameter monitoring system to demonstrate compliance with the allowable emission limitation.

(1) Until the executive director issues the revised permit incorporating allowable limits for each facility, or each group of facilities, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

(2) Any physical change or change in the method of operation at the major stationary source will be subject to federal new source review requirements if the change meets the definition of major modification in §116.12 of this title (relating to Nonattainment and Prevention of Significant Deterioration Definitions).

(3) The major stationary source owner or operator shall continue to comply with any state or federal applicable requirements that applied during the PAL effective period.

Adopted January 11, 2006

Effective February 1, 2006