

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AGENDA ITEM REQUEST

for Proposed Rulemaking

AGENDA REQUESTED: August 20, 2025

DATE OF REQUEST: August 1, 2025

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Gwen Ricco, Rule/Agenda Coordinator, (512) 239-2678

CAPTION: Docket No. 2023-1057-RUL. Consideration for publication of, and hearing on, proposed amended Sections 17.2, 17.10, 17.12, 17.14, 17.17, 17.20, 17.25 and new Section 17.18 of 30 Texas Administrative Code (TAC) Chapter 17, Tax Relief for Property Used for Environmental Protection; and proposed amended Chapter title, and amended Sections 18.2, 18.10, 18.15, 18.25, 18.26, 18.30, and 18.35 of 30 TAC Chapter 18, Voter-Approval Tax Relief for Pollution Control Requirements.

The proposed rulemaking would amend the Tier I Table in Section 17.14(a) consistent with the Tax Relief for Pollution Control Property Advisory Committee's formal recommendation and advice to add certain components of amine treating systems as an item to the Tier I Table in Section 17.14(a). Corresponding changes are also proposed to the Tier I Table in Section 18.25(a). The proposed rulemaking would implement section 44 of Senate Bill 2 of the 86th Texas Legislature, Regular Session, 2019, which requires rulemaking to correct the title of Chapter 18 to Voter-Approval Tax Rate Relief for Pollution Control Requirements. Other changes would modernize various aspects of the program to allow electronic forms of correspondence and communication on applications; move the Expedited Review List to a new Section 17.18 in Chapter 17; remove existing requirements that the commission review and update the Tier I Table every three years; and other changes to provide for an overall clarification and improvement of the rule language. Finally, the proposed rulemaking would fulfill the commission's statutory and regulatory requirements to review and update the property included on the Expedited Review Lists and Tier I Tables in Chapters 17 and 18. (Elizabeth Sartain, Don Redmond; Rule Project No. 2023-123-017-AI)

Richard C. Chism

Director

Donna F. Huff

Division Deputy Director

Gwen Ricco

Agenda Coordinator

Copy to CCC Secretary? NO ☒ YES ☐

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** August 1, 2025

Thru: Laurie Gharis, Chief Clerk
Kelly Keel, Executive Director

From: Richard C. Chism, Director *RCC*
Office of Air

Docket No.: 2023-1057-RUL

Subject: Commission Approval for Proposed Rulemaking
Chapter 17, Tax Relief for Property Used for Environmental Protection
Chapter 18, Voter-Approval Tax Relief for Pollution Control Requirements
Tax Relief (Prop 2) and Voter-Approval Tax Rate Relief Requirements Updates
Rule Project No. 2023-123-017-AI

Background and reason(s) for the rulemaking:

The Texas Commission on Environmental Quality (commission or TCEQ) is required at least once every three years to review and update, as necessary, the items on the Expedited Review List (ERL) per Texas Tax Code (TTC), §11.31(l) and §26.045(g) and the items on the Tier I Tables in 30 Texas Administrative Code (TAC) §17.14(a), per §17.14(b), and §18.25(a), per §18.25(b). This proposed rulemaking would fulfill the requirements for the commission to review and update the property included on the ERL and Tier I Table in Chapter 17. The rulemaking would also add certain property consistent with advice from the Tax Relief for Pollution Control Property Advisory Committee (committee) dated December 1, 2022, regarding updates to the Tier I Table in 30 TAC Chapter 17 based on the committee's review. The proposed rulemaking also would move the ERL to a proposed new section, §17.18, in 30 TAC Chapter 17.

The proposed rulemaking would also implement Section 44 of Senate Bill (SB) 2 of the 86th Texas Legislature, Regular Session, 2019, which requires rulemaking to correct the title of Chapter 18 to Voter-Approval Tax Rate Relief for Pollution Control Requirements.

Scope of the rulemaking:

The proposed rulemaking would amend the Tier I Tables in 30 TAC Chapters 17 and 18 to address the committee's December 1, 2022, advice and recommendations after reviewing the Tier I Table and the ERL.

The proposed rulemaking would implement Section 44 of SB 2 of the 86th Texas Legislature, Regular Session, 2019, which requires rulemaking to correct the title of 30 TAC Chapter 18 to Voter-Approval Tax Rate Relief for Pollution Control Requirements.

Other changes would modernize various aspects of the program; clarify that the executive director specifies the form of application submittal; move the ERL in 30 TAC Chapter 17 to a new section; and remove existing requirements that the commission review and update the Tier I Table every three years.

A.) Summary of what the rulemaking would do:

The proposed rulemaking would amend the Tier I Tables consistent with the committee advice to add certain components of amine treating systems as an item to the Tier I Tables in 30 TAC Chapters 17 and 18. The proposed rulemaking would implement Section 44 of SB 2 of the 86th Texas Legislature, Regular Session, 2019, which requires rulemaking to correct the title of 30 TAC Chapter 18 to Voter-Approval Tax Rate Relief for Pollution Control Requirements. Other changes would modernize various aspects of the program; move the ERL to a new section, §17.18, in 30

Re: Docket No. 2023-1057-RUL

TAC Chapter 17; remove existing requirements that the commission review and update the Tier I Table every three years; and other changes to provide for an overall clarification, clean-up, and consistency in the rule language in both chapters. Finally, the proposed rulemaking would fulfill the commission's statutory and regulatory requirements to review and update the property included on 30 TAC Chapters 17 and 18 ERL and Tier I Tables.

B.) Scope required by federal regulations or state statutes:

The rulemaking is not required by a federal regulation or federal program. TTC, §11.31(l) and §26.045(g) require the commission to review and update items listed in TTC, §11.31(k) and §26.045(f), which are codified as the ERL in existing 30 TAC §17.17(b) and §18.26.

This proposed rulemaking would correct an error in a previous rulemaking to change the title of 30 TAC Chapter 18 to "Voter-Approval Tax Rate Relief for Pollution Control Requirements."

C.) Additional staff recommendations that are not required by federal rule or state statute:

Staff recommends amending the rules to allow the executive director to specify the form of submittal of applications and appeals and make conforming changes to accommodate electronic submittal and receipt of applications and appeal-related documents. Staff further recommends updating the rules related to payment of application fees to reflect the acceptance of fees using an electronic payment system.

Staff recommends moving the ERL from 30 TAC §17.17 (Partial Determinations) to a proposed new section 30 TAC §17.18 (Expedited Review List) to help improve clarity for applicants and staff. In addition, staff recommends the addition of a statement to help clarify that applications that contain an ERL item must be submitted as the appropriate Tier level described in 30 TAC §17.2 (Definitions).

Staff also recommends amending the rules to remove existing requirements that the commission review and update the Tier I Tables every three years. This review is not required by statute and would not preclude the commission from reviewing the tables or the committee from providing advice regarding the Tier I Tables at any time. The requirements to review the ERLs would not change.

Staff recommends other clarifying changes to existing items on the Tier I Tables. In addition, staff recommends other non-substantive revisions to provide for an overall clean-up of the rule language, including correcting incorrect references, removing obsolete language, using consistent terminology, and updating the rule language to current *Texas Register* and TCEQ style and format requirements.

Statutory authority:

The amended sections are proposed under Texas Water Code (TWC), §5.102 and §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the laws of the state. The amended sections are also proposed under TTC, §11.31, which authorizes the commission to adopt rules to implement the Pollution Control Property Tax Exemption, and TTC, §26.045, which authorizes the commission to adopt rules to implement the Voter-Approval Tax Rate Relief for Pollution Control Requirements.

Effect on the:

A.) Regulated community:

The proposed rulemaking would affect industries or political subdivisions that own property and choose to apply for use determinations for property added to the Tier I Table using a Tier I

Re: Docket No. 2023-1057-RUL

application. The proposed rulemaking is expected to improve clarity for those who submit applications under 30 TAC Chapters 17 and 18.

Should the executive director require electronic submittal of applications, some applicants may be initially hesitant to submit applications, and they may have questions on how to do so as they complete the initial sign-up process for, and learn to use, the electronic submittal system. This is expected to affect a minority of applicants. In 2024, 96% of applications were submitted electronically.

B.) Public:

The rulemaking could affect appraisal districts that grant and determine the value of tax exemptions.

C.) Agency programs:

The rulemaking is expected to provide clearer direction to program staff and require revision of program documents. No effect on other agency programs is expected.

Stakeholder meetings:

The commission did not hold any stakeholder meetings related to this rulemaking; however, if the proposed rulemaking is approved by the commission for public comment and public hearing, then a formal public comment period would be opened, and a public hearing would be offered. The committee discussed their advice related to the triennial review of the Tier I Table and ERL at five meetings in 2021 and 2022.

Public Involvement Plan

Yes

Alternative Language Requirements

Yes. Spanish.

Potential controversial concerns and legislative interest:

None

Would this rulemaking affect any current policies or require development of new policies?

This rulemaking would allow for the executive director to require applications to be submitted electronically.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

Choosing not to update the Tier I Tables and implement the committee's advice would not affect the eligibility of property for positive use determinations. Such use determinations could be made using existing rules for the property the committee has advised to be added to the Tier I Table. However, not making these changes could be viewed as a violation of the current requirements in 30 TAC §17.14(b) and §18.25(b) requiring updates to the respective Tier I Tables if there is compelling evidence to support the conclusion that the item provides pollution control benefits.

Not making other recommended updates could cause confusion among applicants about how to submit applications and content of applications and would leave outdated and inconsistent language in 30 TAC Chapters 17 and 18.

Key points in the proposal rulemaking schedule:

Anticipated proposal date: August 20, 2025

Commissioners
Page 4
August 1, 2025

Re: Docket No. 2023-1057-RUL

Anticipated *Texas Register* publication date: September 5, 2025
Anticipated public hearing date: September 29, 2025
Anticipated public comment period: September 5, 2025 – October 6, 2025
Anticipated adoption date: February 4, 2026

Agency contacts:

Elizabeth Sartain, Rule Project Manager, Air Quality Division, (512) 239-3933
Don Redmond, Staff Attorney, Environmental Law Division, (512) 239-0612
Gwen Ricco, Texas Register Rule/Agenda Coordinator, General Law Division, (512) 239-2678

Attachments:

SB 2, Section 44
Advice for Expedited Review List and Tier I Table, letter dated December 1, 2022

cc: Chief Clerk, 2 copies
Executive Director's Office
Patrick Lopez
Jessie Powell
Krista Kyle
Office of General Counsel
Elizabeth Sartain
Don Redmond
Gwen Ricco

AN ACT

relating to ad valorem taxation; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act may be cited as the Texas Property Tax Reform and Transparency Act of 2019.

SECTION 2. Chapter 1, Tax Code, is amended by adding Section 1.045 to read as follows:

Sec. 1.045. REFERENCE TO CERTAIN TERMS IN LAW. Unless the context indicates otherwise:

(1) a reference in law to a taxing unit's effective maintenance and operations rate is a reference to the taxing unit's no-new-revenue maintenance and operations rate, as defined by Chapter 26;

(2) a reference in law to a taxing unit's effective tax rate is a reference to the taxing unit's no-new-revenue tax rate, as defined by Chapter 26; and

(3) a reference in law to a taxing unit's rollback tax rate is a reference to the taxing unit's voter-approval tax rate, as defined by Chapter 26.

SECTION 3. Section 1.07(a), Tax Code, is amended to read as follows:

(a) An official or agency required by this title to deliver a notice to a property owner may deliver the notice by regular first-class mail, with postage prepaid, unless this section or

1 Property Value)

2 (c) The county or municipality shall include a notice of the
3 increase in the no-new-revenue maintenance and operations rate
4 provided by this section, including a description and amount of
5 eligible county hospital expenditures, in the information
6 published under Section 26.04(e) and, as applicable, in the notice
7 prescribed by Section 26.06 or 26.061.

8 SECTION 44. The heading to Section 26.045, Tax Code, is
9 amended to read as follows:

10 Sec. 26.045. VOTER-APPROVAL TAX RATE ~~[ROLLBACK]~~ RELIEF FOR
11 POLLUTION CONTROL REQUIREMENTS.

12 SECTION 45. Sections 26.045(a), (c), and (i), Tax Code, are
13 amended to read as follows:

14 (a) The voter-approval ~~[rollback]~~ tax rate for a political
15 subdivision of this state is increased by the rate that, if applied
16 to the ~~[total]~~ current total value, would impose an amount of taxes
17 equal to the amount the political subdivision will spend out of its
18 maintenance and operation funds under Section 26.012(16) to pay for
19 a facility, device, or method for the control of air, water, or land
20 pollution that is necessary to meet the requirements of a permit
21 issued by the Texas Commission on Environmental Quality.

22 (c) To receive an adjustment to the voter-approval
23 ~~[rollback]~~ tax rate under this section, a political subdivision
24 shall present information to the executive director of the Texas
25 Commission on Environmental Quality in a permit application or in a
26 request for any exemption from a permit that would otherwise be
27 required detailing:

1 (1) the anticipated environmental benefits from the
2 installation of the facility, device, or method for the control of
3 air, water, or land pollution;

4 (2) the estimated cost of the pollution control
5 facility, device, or method; and

6 (3) the purpose of the installation of the facility,
7 device, or method, and the proportion of the installation that is
8 pollution control property.

9 (i) A political subdivision of the state seeking an
10 adjustment in its voter-approval ~~[rollback]~~ tax rate under this
11 section shall provide to its tax assessor a copy of the letter
12 issued by the executive director of the Texas Commission on
13 Environmental Quality under Subsection (d). The tax assessor shall
14 accept the copy of the letter from the executive director as
15 conclusive evidence that the facility, device, or method is used
16 wholly or partly as pollution control property and shall adjust the
17 voter-approval ~~[rollback]~~ tax rate for the political subdivision as
18 provided for by Subsection (a).

19 SECTION 46. Section 26.05, Tax Code, is amended by amending
20 Subsections (a), (b), (c), (d), (e), and (g) and adding Subsections
21 (d-1), (d-2), and (e-1) to read as follows:

22 (a) The governing body of each taxing unit~~[, before the~~
23 ~~later of September 30 or the 60th day after the date the certified~~
24 ~~appraisal roll is received by the taxing unit,~~] shall adopt a tax
25 rate for the current tax year and shall notify the assessor for the
26 taxing unit of the rate adopted. The governing body must adopt a
27 tax rate before the later of September 30 or the 60th day after the

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 2 passed the Senate on April 15, 2019, by the following vote: Yeas 18, Nays 12, one present not voting; May 7, 2019, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 10, 2019, House granted request of the Senate; May 25, 2019, Senate adopted Conference Committee Report by the following vote: Yeas 21, Nays 9.

Secretary of the Senate

I hereby certify that S.B. No. 2 passed the House, with amendments, on May 1, 2019, by the following vote: Yeas 109, Nays 36, two present not voting; May 10, 2019, House granted request of the Senate for appointment of Conference Committee; May 25, 2019, House adopted Conference Committee Report by the following vote: Yeas 88, Nays 50.

Chief Clerk of the House

Approved:

Date

Governor

Bob Adair
Chair, Tax Relief for Pollution Control Property
Advisory Committee
Texas Commission on Environmental Quality
(346) 477-5901 bob_adair@outlook.com

December 1, 2022

Mr. Jon Niermann, Chairman
Ms. Emily Lindley, Commissioner
Mr. Bobby Janecka, Commissioner
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Dear Commissioners:

Subject: Advice for Expedited Review List and Tier I Table
Tax Relief for Pollution Control Property

Attached is the above referenced advice related to the current triennial review. The Committee sincerely appreciates you and other TCEQ staff's ongoing support to the Committee.

Please feel free to contact me or any member of the Advisory Committee to discuss this advice.

Respectfully,



B. G. Adair

Enclosures

c: TCEQ Tax Relief for Pollution Control Property Advisory Committee members
Cheryl Covone, TCEQ

Advice to TCEQ Regarding Tax Relief for Pollution Control Property Law and Regulations
By TCEQ Tax Relief for Pollution Control Property Advisory Committee

Background

TCEQ is required by law¹ and regulation² to conduct a review at least every three years of:

- Nonexclusive List in Tax Code §11.31(k) and Figure: 30 TAC §17.17(b); and
- Tier I Table in Figure: 30 TAC §17.14(a).

During a September 10, 2021 public meeting of the TCEQ Tax Relief for Pollution Control Property Advisory Committee, TCEQ staff explained the Commission last met its obligation to complete the triennial review in December 2020, and the next review is anticipated to be completed by December 2023. Staff requested any such advice be submitted from the Committee by December 31, 2022. The Committee requested from staff a list of common items in Tier II applications over the past three years that received positive use determinations as pollution control property. Staff complied with this request on December 22 and provided a triennial review summary. The Committee began its triennial review on November 12 and further included it on 2022 public meeting agendas for March 25, May 13, August 19, and November 10. The public was encouraged to submit relevant input to the Committee. On November 10, 2022, the Committee voted with no opposition for the advice provided below.

Advice

In compliance with the Committee's legal obligation³ "to advise the commission regarding the implementation of this section" (Tax Code §11.31), the Committee submits the following advice before the requested deadline.

1. No change to the Nonexclusive List in Tax Code §11.31(k) and Figure: 30 TAC §17.17(b); and
2. Add the following item to the Tier I Table in Figure: 30 TAC §17.14(a).

No.	Media	Property	Description	%
A- (number to be assigned by TCEQ)	Air	Amine treating system (components necessary to transfer impurities removed from natural gas to a final control device)	System components include the foul amine collection system used to collect amine that has absorbed impurities in the amine absorption system for transfer to the amine solvent regeneration system and the vent gas system that transfers to a final control device the impurities stripped from foul amine in the regeneration system. (Excludes the amine absorption system components that remove impurities from natural gas (methane) and the amine solvent regeneration system components used to recover amine for reuse in the amine absorption system).	100

¹ Texas Tax Code §11.31(l)

² 30 TAC §17.14(b)

³ Texas Tax Code §11.31(n)

Respectfully submitted December 1, 2022 on behalf of the Committee,

A handwritten signature in blue ink, appearing to read "B. Adair". The signature is fluid and cursive, with the first letter of the last name being a large, stylized 'A'.

Bob Adair

Chair, TCEQ Tax Relief for Pollution Control Property Advisory Committee

Members of the TCEQ Tax Relief for Pollution Control Property Advisory Committee
As of November 10, 2022

Representing Industry:

Bob Adair, representing Texas Oil and Gas Association
Michelle Carder, representing Texas Chemical Council
Justin Hyland, representing Association of Electric Companies of Texas
Martha Landwehr, representing Texas Association of Manufacturers
Greg Maxim, with Cummings Westlake LLC
Mike Nasi, representing Clean Carbon Technology Foundation of Texas

Representing Appraisal Districts:

Roland Bieber, retired Chief Appraiser for Jefferson County Appraisal District
Hugh Landrum, Jr., with Hugh L. Landrum & Associates, Inc.

Representing a School District or Junior College District:

Lloyd Graham, Retired Superintendent of the La Porte Independent School District

Representing Taxing Units:

Adam Haynes, with the Texas Conference of Urban Counties
Bill Longley, with the Texas Municipal League

Representing the Environmental Group:

Cyrus Reed, PhD, with the Sierra Club

Independent Technical Expert:

Charles Allred, an independent contractor

The Committee was appointed in compliance with Texas Tax Code §11.31(n), which states:

The Texas Commission on Environmental Quality shall establish a permanent advisory committee consisting of representatives of industry, appraisal districts, taxing units, and environmental groups, as well as members who are not representatives of any of those entities but have substantial technical expertise in pollution control technology and environmental engineering, to advise the commission regarding the implementation of this section. At least one member of the advisory committee must be a representative of a school district or junior college district in which property is located that is or previously was subject to an exemption under this section. Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee.

Approximately half of the Committee is appointed/reappointed every two years to four-year terms. Current terms expire December 31 of 2023 and 2025.

Plain Language Summary for the Tax Relief (Prop 2) and Voter-Approval Tax Rate Relief Requirements Updates

Introduction

Texas voters approved a 1993 ballot initiative Proposition 2 (Prop 2) to amend the Texas Constitution, authorizing creation of a program that allowed for equipment required for pollution control, prevention, and monitoring to be exempt from property taxes. The Prop 2 Program is responsible for determining whether a facility uses certain property or equipment, in whole or in part, for pollution control. To be eligible, the property must have been installed to meet or exceed an adopted federal, state, or local environmental law or rule; be used for the prevention, monitoring, control, or reduction of air, water, or land pollution; and installed after January 1, 1994. The commission adopted rules in Title 30 Texas Administrative Code (TAC) Chapters 17 and 18 to implement the program.

Summary

The Texas Commission on Environmental Quality (TCEQ) is required at least once every three years to review and update the items on the Expedited Review Lists (ERL) and the items on the Tier I Tables in Chapters 17 and 18. This proposed rulemaking would fulfill the requirements for the commission to review and update the property included on the ERL and Tier I Table in Chapter 17. The rulemaking would also add certain property consistent with advice from the Tax Relief for Pollution Control Property Advisory Committee (committee) dated December 1, 2022, regarding updates to the Tier I Table.

The proposed rulemaking would also implement Section 44 of Senate Bill 2 of the 86th Texas Legislature, Regular Session, 2019, which requires rulemaking to correct the title of Chapter 18 to Voter-Approval Tax Rate Relief for Pollution Control Requirements.

Other changes would modernize various aspects of the program (such as use of communication by email and application forms in digital format), clarify that the executive director specifies the form of application submittal, move the ERL in Chapter 17 to a new section, and remove existing requirements that the commission review and update the Tier I Table every three years.

Public Comment and Hearing Information

TCEQ will offer a virtual public hearing on September 29, 2025, at 10:00 a.m. Central Daylight Time. This hearing is offered to receive public comments on the proposed rulemaking project Tax Relief (Prop 2) and Voter-Approval Tax Rate Relief Requirements Updates (Project No. 2023-123-017-AI).

The hearing will be conducted in English, and instructions for participating in the hearing will also be provided in Spanish. For accommodation needs, contact Sandy Wong, General Law Division at (512) 239-1802 or 1-800-RELAY-TX (TDD) as far in advance as possible.

The comment period for this project opens on September 5, 2025, and closes on October 6, 2025. Submit written comments through the *TCEQ Public Comments* system at <https://tceq.commentinput.com/>. Comments for the proposed rulemaking must reference **Rule Project Number 2023-123-017-AI**.

The proposed rulemaking documents can be found on the TCEQ's website at <https://www.tceq.texas.gov/rules/prop.html>.

For more information about the proposal or to get help with submitting written comments, contact Elizabeth Sartain, Rule Project Manager, at (512) 239-2933 or elizabeth.sartain@tceq.texas.gov.

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes to amend §§17.2, 17.10, 17.12, 17.14, 17.17, 17.20, and 17.25 and add new §17.18.

Background and Summary of the Factual Basis for the Proposed Rules

The commission's rules in 30 Texas Administrative Code (TAC) Chapter 17 implement the exemption from taxation established in Texas Tax Code (TTC), §11.31 for certain property that is used wholly or partially as a facility, device, or method for the control of air, water, or land pollution. Under the requirements of 30 TAC Chapter 17, an owner of property may submit an application to the executive director to determine if the facility, device, or method is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution. The proposed rulemaking would amend the provisions in 30 TAC Chapter 17 to update the requirements of the Tax Relief for Pollution Control Property Program based on the recommendations and advice of the Tax Relief for Pollution Control Property Advisory Committee (committee), established under TTC, §11.31(n), make clarifying changes to existing items on the Tier I Table, and provide other updates as discussed in the Section by Section Discussion. This rulemaking would also fulfill the requirement of TTC, §11.31(l) that the commission, by rule, update the list adopted under TTC, §11.31(k), the Expedited Review List (ERL), at least once every three years and fulfills the requirement of 30 TAC §17.14(b) that the commission review and update the Tier I Table every three years.

On December 1, 2022, the committee submitted its recommendations to TCEQ as part

of the triennial review of the Tier I Table located in §17.14(a) and the ERL included as part of §17.17(b). The committee evaluated Tier II and Tier III applications submitted from April 1, 2018, through April 30, 2021, that received positive use determinations (PUD) to determine whether the pollution control property, if any, had been demonstrated consistently to be wholly used as pollution control property in the same manner on each application for any given property. The committee determined that one type of pollution control property currently submitted as Tier II property should be considered Tier I property in the Tier I Table, which would no longer require a Tier II application. Additional proposed changes include clarifying changes to existing items on the Tier I Table.

Applications for use determinations may be submitted under Tiers I, II, and III. A Tier I application may be submitted for property used as listed on the Tier I Table that is used for pollution control in accordance with the description listed in the Tier I Table for that property type. A Tier II application may be submitted for property that is not listed on the Tier I Table, but is used wholly for the control of air, water, and/or land pollution. A Tier III application may be submitted for property that is used partially for pollution control. For Tier III applications, a cost analysis procedure (CAP) is used to determine the proportion of the property used for pollution control purposes.

The proposed rulemaking would remove existing requirements that the commission review and update the Tier I Table every three years. This review is not required by statute and would not preclude the commission from reviewing the table or the

committee from providing advice regarding the Tier I Table at any time. The requirement to review the ERL would not change because it is required in TTC, §11.31(l).

This proposed rulemaking would allow for appeal-related documents and executive director notifications to be sent and received electronically to make the process more efficient.

The commission also proposes to amend the corresponding provisions in Chapter 18, Voter-Approval Tax Relief for Pollution Control Requirements, to mirror the proposed changes in Chapter 17.

Section by Section Discussion

In addition to the proposed amendments to address recommendations from the advisory committee and to update and clarify program requirements, the commission proposes non-substantive changes to update the rules in accordance with current *Texas Register* style and format requirements, improve readability, establish consistency in the rules, and conform to the standards in the Texas Legislative Council Drafting Manual, September 2020. The specific substantive changes are discussed in greater detail in this Section by Section Discussion in the corresponding portions related to the affected rule sections. Non-substantive changes are not intended to alter the existing rule requirements in any way and may not be specifically discussed in this preamble.

§17.2 Definitions

The commission proposes to update references included in certain definitions in §17.2 to reflect revisions to other sections of the chapter. The proposed relocation of the ERL from §17.17(b) to a new section, §17.18, would make the reference to §17.17(b)(1) obsolete; therefore, the reference to 17.17(b)(1) of this title relating to Partial Determinations will be replaced with a reference to §17.18 of this title (relating to Expedited Review List) in the definition of “capital cost old.” Similarly, the proposed removal of subsection (b) in §17.14 would make references to §17.14(b) obsolete, and those references are proposed for revision from §17.14(b) to §17.14 in the definitions for “Tier I,” “Tier II,” and “Tier III.”

§17.10. Application for Use Determination

The commission proposes amendments to §17.10(a)(1) to provide that the executive director specifies the form of applications submitted to the program instead of requiring applicants to submit two printed copies of the application. This would allow for the executive director to require electronic submittal of applications, which is more efficient for the program to administer than processing paper applications. Proposed amendments to §17.10(c) would remove references to the postmarking of applications and replace them with references to submittal of applications.

The commission proposes to add language in §17.10(d)(1) to specify that applications pertaining only to property listed on the ERL need not provide the environmental

benefits of the property. This change is consistent with TTC, §11.31(m), and existing requirements in Chapter 17.

The commission proposes to amend §17.10(d)(5) to change the reference to §17.17(c) to §17.17(b). This change would correspond with the proposed relocation of the ERL.

§17.12. Application Review Schedule

The commission proposes revisions to §17.12 to allow administrative completeness “notifications” to be sent in a form other than a letter, such as via electronic mail. Electronic correspondence for communications with applicants is more efficient. The commission also proposes an amendment to §17.12(3) to revise the reference to the ERL to reflect the proposed renumbering of the ERL to proposed new §17.18.

§17.14. Tier I Pollution Control Property

The commission proposes to amend §17.14 to remove subsection (b) and update the Tier I table. Proposed amendments to the table include adding an item based on a recommendation from the committee and revising existing items for clarity and to expand applicability.

The property listed in the table of §17.14 is designated as Tier I because the property has been predetermined to be pollution control property when used as described in the table. The commission proposes to add item number M-25 to the Tier I Table at 100% use for pollution control purposes as the committee recommended, but with

some deviations from the committee's recommendation. The commission agrees with the committee's recommendation to add Amine Treating Systems (components necessary to transfer impurities removed from natural gas to a final control device), when used as described in the committee's recommendation, to the Tier I Table because they are used wholly for pollution control purposes.

The committee recommended adding amine treating systems as an item number beginning with letter "A," to designate it as air pollution control equipment. However, the commission proposes to designate this as miscellaneous pollution equipment, using the letter "M" because this property could be used to control pollution from the air, water, or land. Similarly, the commission proposes to list Amine Treating Systems with the media Air/Land/Water. The commission proposes to add the item using the property name, description, and use determination percentage recommended by the committee. This property type is described in the proposed rule language and is not further discussed in the Section by Section Discussion of this preamble.

The committee recommended that amine treating systems be added to the Tier I Table based on a review and analysis of Tier II applications submitted from April 1, 2018, through April 30, 2021. The property type consistently received a PUD of 100% each time an applicant requested a use determination for such property, demonstrating the property was consistently used wholly for pollution control. Although the proposed item number is added to the Tier I Table as 100% for pollution control purposes, an applicant would still be required, under §17.14 and §17.17, to submit a Tier III

application if such property produces a marketable product or a Tier II or Tier III application if it is not used as described in the Tier I table.

The commission proposes to remove the requirement from item A-115 that external floating roofs be used to comply with a requirement in 30 TAC §115.112. This rule applies only to certain geographical areas in Texas, but external floating roofs may be used throughout the state to comply with a pollution control requirement other than those in §115.112. Additionally, other rules may be appropriate for applicants to cite when identifying the sections of the law(s), rule(s), or regulation(s) being met or exceeded by the use, installation, construction, or acquisition of the external floating roofs. Removing this requirement for item A-115 would allow applicants outside of the areas specified in §115.112 to be able to apply for a use determination using a Tier I application.

The commission proposes an amendment to revise the description for item T-32 for Dielectric Coatings to clarify that the item includes factory installed coal-tar epoxies, enamels, fiberglass reinforced plastic, or urethanes on tanks and/or piping. This change would clarify that newer and alternative technologies such as fusion-bonded epoxies that protect against corrosion of tanks or pipes could also qualify for Tier I applications.

The commission proposes to remove subsection (b) that requires the commission to update and review the Tier I Table at least once every three years. The scheduled

review required in this section is not required by statute and places an unnecessary burden on the commission to engage in a review and rulemaking on a rigid schedule. Further, the standard of review requiring “compelling evidence” in paragraphs (1) and (2) to add or remove items on the Tier I Table is not required by statute and does not need to be imposed on the commission. Any future rulemaking to revise the Tier I Table would be subject to the rulemaking authority conferred to the commission in the Texas Water Code, the Texas Government Code, and the TTC. Removal of the requirements and limitations would not preclude the commission from reviewing the table or the committee from providing advice on its contents at any time. The proposed removal of subsection (b) would result in a §17.14 that no longer requires subsection formatting. Corresponding changes to reflect reference to the renumbering of §17.14 would also be made.

§17.17 Partial Determinations

The proposed rulemaking would move §17.17(b) concerning and including the ERL to proposed new §17.18. The rule provisions for applications for partial use determinations and applications for property on the ERL are different and should be addressed in separate sections. No changes are proposed to the ERL in the figure in existing 30 TAC §17.17(b). Subsections (c) and (d) and figures in 30 TAC §17.17(c)(1) and §17.17(c)(2) would be renumbered accordingly. References to §17.14(a) would also be removed from the rule language.

§17.18 Expedited Review List

The proposed rulemaking would add new §17.18 and move existing §17.17(b), including the ERL, into the new section. The proposed move would help clarify that the applicability of the ERL is independent of the application requirements for partial use determinations, which are provided in existing §17.17. No changes are proposed for the ERL in the existing figure in 30 TAC §17.17(b), proposed new figure 30 TAC §17.18. However, the rule language in proposed new §17.18 would be revised from existing §17.17(b) to indicate that an application that relies on an item from the ERL must still adhere to the requirements in Chapter 17 associated with application tier and fee.

§17.20 Application Fees

The proposed amendments would update rules related to the payment of application fees. The proposed rule revisions in §17.20(b) would clarify that if it is determined, during review of an application, that the fee originally remitted with an application was not appropriate for the application, the correct fee must be submitted before application review continues. Additionally, proposed revisions to §17.20(c) would specify how payment may be remitted and that the payment must be made payable to the Texas Commission on Environmental Quality. This change would reflect rule language used by other program areas for processing payments to the agency. Finally, the commission proposes an amendment to §17.20(d) to specify that either the application fee or a receipt for payment of the application fee must accompany the application.

§17.25 Appeals Process

The commission proposes amendments to §17.25 to provide for electronic submission of appeals and related correspondence by e-mail. Allowing such communications by e-mail provides more efficient administration of the program. This proposed rule would allow for appeal-related documents to be sent and received electronically. Currently, the rules specify appeals must be submitted via United States mail, facsimile or hand delivery, but do not specifically include e-mail. Conforming changes, including requiring the appeal to include the e-mail address of the person who files the appeal, to accommodate these changes, are also proposed in §17.25(b), (c), (f), and (g).

Fiscal Note: Costs to State and Local Government

Kyle Girtten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rules are in effect, the proposed rulemaking will not result in increased costs to TCEQ. Additionally, it is anticipated that there would be no or minimal revenue impacts to the agency. Addition of Amine Treating Systems and other minor revisions to the Tier I table (§17.14), would decrease the application fee for impacted systems from \$1,000 (Tier II fee amount) to \$150. However, only four Tier II applications received since 2020 would have been affected by these revisions.

The rulemaking is not anticipated to result in any fiscal implications for other state or local government entities.

Public Benefits and Costs

Mr. Girtten determined that the public benefit of this rulemaking is that the agency will

be compliant with state law, specifically the requirement in TTC, §11.31(l), that TCEQ update the list of pollution control properties in §17.14 at least once every three years. Additionally, the public will benefit from the addition of Amine Treating Systems and other minor revisions to the Tier I Table (§17.14), and this would reduce the application fee for applicants affected by these changes from \$1,000 (Tier II fee amount) to \$150. Lastly, the public will benefit from provisions allowing for electronic submittals of applications and uses of other electronic tools and communications (§17.10, §17.12, §17.20, and §17.25) and from non-substantive revisions which improve the clarity of the rule. This rulemaking would not result in any compulsory costs or requirements for any 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 rule is 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 rule 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 rule does 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 an increase or decrease in fees paid to the agency. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rule should not impact positively or negatively the state's economy.

Draft Regulatory Impact Analysis Determination

The commission reviewed the proposed amendments in light of the regulatory analysis requirements of Texas Government Code (TGC), §2001.0225, and determined the rules do not meet the definition of "a major environmental rule." Under TGC, §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, the proposed rulemaking does not meet any of the four applicability requirements listed in TGC, §2001.0225(a). TGC, §2001.0225 applies only to a major environmental rule that: 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 amends the Tax Relief for Pollution Control Property rules. The commission rules in Chapter 17 implement a voluntary property tax exemption for owners of certain property used to control pollution as set out in TTC, §11.31. 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 relief program, this rulemaking is not a major environmental rule and does not meet any of the four applicability

requirements. These rules do 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. The commission invites public comment regarding this draft regulatory impact analysis determination.

Written comments on the Draft Regulatory Impact Analysis 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 amended rules and performed a preliminary assessment of whether TGC, Chapter 2007 is applicable. The commission's preliminary assessment indicates TGC, Chapter 2007 does not apply to these proposed amendments. Enforcement of these proposed rules would 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, or 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.

Effect on Sites Subject to the Federal Operating Permits Program

Participation in the Tax Relief for Pollution Control Property Program is voluntary, but sites subject to the Federal Operating Permits Program could choose to file an application for a use determination. If the proposed rules are adopted, owners or operators of affected sites subject to the federal operating permit program may choose to apply consistent with Chapter 17.

Announcement of Hearing

The commission will hold a virtual public hearing on this proposal on September 29, 2025, at 10:00 a.m. Central Daylight Time (CDT). The hearing is structured for the receipt of oral comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing at 9:30 a.m. CDT.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by Thursday, September 25, 2025. To register for the hearing, please e-mail Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on Friday, September 26, 2025, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

<https://events.teams.microsoft.com/event/2a564f09-897c-468b-a887-20536f00caa5@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

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://tceq.commentinput.com/comment/search>. File size restrictions may apply to

comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2023-123-017-AI. The comment period closes on October 6, 2025. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the commission's website at https://www.tceq.texas.gov/rules/propose_adopt.html. For further information, please contact Elizabeth Sartain, Air Quality Planning Section, at (512) 239-3933 or elizabeth.sartain@tceq.texas.gov, Tax Relief for Pollution Control Property Program 12100 Park 35 Circle, Bldg. F, Austin, TX 78753, Mail: MC-110, P.O. Box 13087, Austin TX 78711-3087.

§§17.2, 17.10, 17.12, 17.14, 17.17, 17.18, 17.20, 17.25

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, which authorizes the commission to perform any acts authorized by the TWC or other laws that are necessary and convenient to the exercise of its jurisdiction and powers; and TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC. The rules are also proposed under Texas Tax Code (TTC), §11.31, which authorizes the commission to adopt rules to implement the tax exemption for pollution control property.

The proposed amendments implement TTC, §11.31.

§17.2. Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA), the Texas Solid Waste Disposal Act (TSWDA), the Texas Water Code (TWC), the Texas Tax Code (TTC), or the Texas Health and Safety Code (THSC), or in the rules of the commission, the terms used by the commission have the meanings commonly ascribed to them in the fields of pollution control or property taxation. In addition to the terms that are defined by Chapter 3 of this title (relating to Definitions), the TCAA, the TSWDA, TWC, TTC, and THSC, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Capital cost new--The estimated total capital cost of the equipment or process.

(2) Capital cost old--The cost of the equipment that is being or has been replaced by the equipment covered in an application. The value of this variable in the cost analysis procedure is calculated using one of the four hierarchal methods for this variable in the figure in §17.18 [§17.17(b)(1)] of this title (relating to Expedited Review List[Partial Determinations]).

(3) Cost analysis procedure--A procedure that uses cost accounting principles to calculate the percentage of a project or process that qualifies for a positive use determination as pollution control property.

(4) Environmental benefit--The prevention, monitoring, control, or reduction of air, water, and/or land pollution that results from the actions of the applicant. For purposes of this chapter, environmental benefit does not include the prevention, monitoring, control, or reduction of air, water, and/or land pollution that results from the use or characteristics of the applicant's goods or service produced or provided. For the purpose of this chapter, the terms "environmental benefit" and "pollution control" are synonymous.

(5) Marketable product--Anything produced or recovered using pollution control property that is sold as a product, is accumulated for later use, or is used as a

raw material in a manufacturing process. Marketable product includes, but is not limited to, anything recovered or produced using the pollution control property and sold, traded, accumulated for later use, or used in a manufacturing process (including at a different facility). Marketable product does not include any emission credits or emission allowances that result from installation of the pollution control property.

(6) Partial Determination--A determination that an item of property or a process is not used wholly as pollution control.

(7) Pollution control property--A facility, device, or method for control of air, water, and/or land pollution as defined by TTC, §11.31(b).

(8) Tier I--An application containing property that is on the Tier I Table in §17.14 [§17.14(a)] of this title (relating to Tier I Pollution Control Property) or that is necessary for the installation or operation of property located on the Tier I Table.

(9) Tier II--An application for property that is used wholly for the control of air, water, and/or land pollution, but is not located on the Tier I Table in §17.14 [§17.14(a)] of this title.

(10) Tier III--An application for property used partially for the control of air, water, and/or land pollution and that does not correspond exactly to an item on the Tier I Table in §17.14 [§17.14(a)] of this title.

(11) Use determination--A finding, either positive or negative, by the executive director that the property is used wholly or partially for pollution control purposes and listing the percentage of the property that is determined to be used for pollution control.

§17.10. Application for Use Determination.

(a) To be granted a use determination a person shall submit to the executive director:

(1) a completed and signed[commission] application form specified by the executive director [and one copy of the completed, signed form]; and

(2) the appropriate fee, under §17.20 of this title (relating to Application Fees).

(b) An application must be submitted for each unit of pollution control property or for each group of integrated units that has been, or will be, installed for a common purpose.

(c) If the applicant desires to apply for a use determination for a specific tax year, the application must be submitted [postmarked] no later than January 31 of the same tax year. Applications submitted [postmarked] after this date will be processed

as a lower priority than applications submitted [postmarked] by the due date and without regard for any appraisal district deadlines.

(d) All use determination applications must contain at least the following:

(1) the anticipated environmental benefits from the installation of the pollution control property for the control of air, water, and/or land pollution, except for applications containing only equipment on the Expedited Review List located in §17.18 of this title (relating to Expedited Review List);

(2) the estimated cost of the pollution control property;

(3) the purpose of the installation of such facility, device, or method, and the proportion of the installation that is for pollution control, such as, if deemed by the executive director to be relevant and essential to the use determination, a detailed description of the pollution source and a detailed and labeled process flow diagram that clearly depicts the pollution control property and the processes and equipment that generate the pollutant(s) being controlled;

(4) the specific sections of the law(s), rule(s), or regulation(s) being met or exceeded by the use, installation, construction, or acquisition of the pollution control property;

(5) if the installation includes property that is not used wholly for the control of air, water, and/or land pollution and is not on the Tier I Table, a worksheet showing the calculation of the Cost Analysis Procedure, §17.17(b) [§17.17(c)] of this title (relating to Partial Determinations), and explaining each of the variables;

(6) any information that the executive director deems reasonably necessary to determine the eligibility of the application;

(7) if the property for which a use determination is sought has been purchased from another owner who previously used the property as pollution control property, a copy of the bill of sale or other information submitted by the person or political subdivision that demonstrates, to the satisfaction of the executive director, that the transaction involves a bona fide change in ownership of the property and is not a sham transaction for the purpose of avoiding tax liability; and

(8) the name of the appraisal district for the county in which the property is located.

§17.12. Application Review Schedule.

Following submission of the information required by §17.10 of this title (relating to Application for Use Determination), the executive director shall determine whether the pollution control property is used wholly or partly for the control of air, water, and/or land pollution. If the determination is that the property is used partly

for pollution control, the executive director shall determine the proportion of the property used for pollution control.

(1) As soon as practicable, the executive director shall send notice by regular mail or electronic mail to the chief appraiser of the appraisal district for the county in which the property is located that the person has applied for a use determination under this chapter.

(2) As soon as practicable after receipt of an application for use determination, the executive director shall send written notification informing the applicant that the application is administratively complete or that it is deficient.

(A) If the application is not administratively complete, the notification will specify the deficiencies, and allow the applicant 30 days to provide a revised application with the requested information. If the applicant does not submit the requested information within 30 days, the executive director shall take no further action on the application and the application fee will be forfeited under §17.20(b) of this title (relating to Application Fees). If the first revised application is deficient, the executive director shall send written notification informing the applicant that the application is deficient and providing the applicant 30 days to provide a second revised application. If the second revised application is not administratively complete or the applicant does not provide a second revised application within the 30 days, the

executive director shall take no further action on the application and the application fee will be forfeited under §17.20(b) of this title.

(B) The executive director may request additional technical information within 60 days of issuance of an administrative completeness notification [letter]. If additional information is requested, the applicant shall provide a revised application with the requested information. If the revised application is determined to be incomplete or the applicant does not provide the requested technical information within 30 days, the executive director may request additional technical information or the executive director may decide to take no further action on the application and the application fee will be forfeited under §17.20(b) of this title. The executive director may not issue more than two notices of deficiency after the issuance of an administrative completeness notification [letter] on an application.

(C) The technical review process is limited to a total of 230 days from the date of declaration that the application is administratively complete. If at the end of the review period the application is considered to be incomplete, the executive director shall issue a negative use determination for failure to document the eligibility of the property/equipment to receive a positive use determination.

(D) An application where the executive director will take no further action under subparagraph (A) or (B) of this paragraph may be refiled by the applicant.

In such cases, the applicant shall pay the appropriate fee as required by §17.20 of this title.

(3) For applications covering property listed in the table in §17.18[§17.17(b)] of this title (relating to Expedited Review List[Partial Determinations]), the executive director will complete the technical review of the application within 30 days of receipt of the required application information without regard to whether the information required by §17.10(d)(1) of this title has been submitted.

(4) The executive director shall determine whether the property is or is not used wholly or partly to control pollution. The executive director is authorized to grant positive use determinations for the portion of the property included in the application that is deemed pollution control property.

(A) If a positive use determination is made, the executive director shall issue a use determination letter to the applicant that describes the proportion of the property that is pollution control property.

(B) If a negative use determination is made, the executive director shall issue a denial letter explaining the reason for the denial.

(C) A letter enclosing a copy of the determination shall be sent by regular or electronic mail to the chief appraiser of the appraisal district for the county in which the property is located.

§17.14. Tier I Pollution Control Property.

[(a)] For the property listed in 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. Unless otherwise designated with a partial use percentage on the Tier I Table, if a marketable product is recovered (not including materials that are disposed) from property listed in this subsection, a Tier III application is required.

Figure: 30 TAC §17.14

[Figure: 30 TAC §17.14(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 III application, using the Cost Analysis Procedure, be filed by the applicant to calculate the appropriate use determination percentage. For items where the description limits the use determination to the incremental cost difference, the cost of the property or

device with the pollution control feature is compared to a similar device or property without the pollution control feature. The table is a list adopted under Texas Tax Code, §11.31(g).

Air Pollution Control Equipment

Particulate Control [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

No.	Media	Property	Description	%
A-7	Air	Smokeless Ignitors	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 (H ₂ S) or nitrogen oxides (NO _x) 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	Chlorofluorocarbon (CFC) Replacement Projects	Projects to replace one CFC with an 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.	100
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, flowmeter, 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

No.	Media	Property	Description	%
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 (NO _x) 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 NO _x 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 NO _x 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 NO _x 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 NO _x 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

No.	Media	Property	Description	%
A-86	Air	Low- NO _x Burners	Installation of low-NO _x burners. The eligible portion is the incremental cost difference. For a replacement burner, the incremental cost difference is calculated by comparing the cost of the new burner with the cost of the existing burner. For new installations, the incremental cost difference is calculated by comparing the cost of the new burner to the cost of a similarly sized burner without NO _x controls from the most recent generation of burners.	100
A-87	Air	Water Lances	Installed in the fire box of boilers and industrial furnaces to eliminate hot spots, thereby reducing NO _x formation.	100
A-88	Air	Electric Power Generation Burner Retrofit	Retrofit of existing burners on electric power generating units with components for reducing NO _x including directly related equipment.	100
A-89	Air	Wet or Dry Sorbent Injection Systems	Use of a sorbent for flue gas desulfurization or NO _x control.	100
A-90	Air	Dry Low- NO _x Emission Systems	Equipment installed on natural gas-fired compression turbines to reduce NO _x 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.	100
A-91	Air	Lean-Burn Portions of Reciprocating Engines	Turbocharger, fuel injection system consisting of fuel nozzles positioned within a pre-combustion chamber, and pre-combustion chamber for engines.	100
A-92	Air	Heat Recovery Steam Generators	A boiler designed to capture waste heat from combustion turbine exhaust for the generation of steam while reducing unit output-based emissions.	65

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
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
A-116	Air	Fixed Storage Tank Roofs	Fixed roofs installed on external floating roof tanks used to store any product containing VOC as an additional VOC control measure.	100

No.	Media	Property	Description	%
A-117	Air	Geodesic Domes	Geodesic domes installed on external floating roof storage tanks as a means of controlling VOC emissions.	100
A-118	Air	Submerged Fill Pipes	Submerged fill pipes installed in storage tanks used to store any product containing VOC.	100
A-119	Air	Dual Mechanical Pump Seals	The incremental cost difference between the cost of dual mechanical seal pumps and comparable single sealed pumps.	100
A-120	Air	Seal-Less Pumps	The incremental cost difference between the cost of seal-less pumps and the cost of similarly sized pumps with seals.	100

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

No.	Media	Property	Description	%
A-133	Air	Oxidation Systems	Equipment used to change elemental mercury to oxidized mercury. This can be catalysts (similar to Selective Catalytic Reduction (SCR) catalyst) or chemical additives that can be added to the flue gas or directly to the fuel.	100
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 (CO ₂) upon the effective date of a final rule adopted by the <u>U.S.</u> [United States]	100

No.	Media	Property	Description	%
			Environmental Protection Agency (EPA) regulating CO ₂ as a pollutant).	
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
A-190	Air	Airless Paint Spray Gun	The incremental cost difference between an airless paint spray gun and a comparable standard air powered paint spray gun.	100

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	CPI Separator	Mechanical oil, water, and solids separator.	100
W-3	Wastewater	Dissolved Air Flotation	Mechanical oil, water, and solids separator.	100
W-4	Wastewater	Skimmer	Used to remove hydrocarbon from process wastewater.	100
W-5	Wastewater	Decanter	Used to decant hydrocarbon from process wastewater.	100
W-6	Wastewater	Belt Press, Filter Press, or Plate and Frame	Mechanical de-watering devices.	100

No.	Media	Property	Description	%
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
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

No.	Media	Property	Description	%
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
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 <u>stormwater</u> [storm water] from process water, control <u>stormwater</u> [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 or use gray water or <u>stormwater</u> [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

No.	Media	Property	Description	%
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	<u>Stormwater</u> [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
W-66	Water	Oil/Water Separator	Mechanical device used to separate oils from <u>stormwater</u> [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

No.	Media	Property	Description	%
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 ₂ release in wastewater treatment systems.	100
W-74	Water	Diversion	Structures used for the capture and control of <u>stormwater</u> [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 / Water	Solid Waste Incinerator (not used for energy recovery)	Solid waste incinerators, feed systems, ash handling systems, and controls.	100

No.	Media	Property	Description	%
		and export or material recovery)		
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

No.	Media	Property	Description	%
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 management unit or ancillary equipment.	100
S-14	Land / Water	Slurry Walls/Barrier Walls	A pollution control method using a barrier to minimize lateral migration of pollutants in soils and groundwater.	100
S-15	Water	Groundwater Recovery or Remediation System	A groundwater remediation system used to remove or treat pollutants in contaminated groundwater or to contain pollutants (e.g., pump-and-treat systems).	100
S-16	Water	Noncommercial Injection Wells (Including Saltwater Disposal Wells) and Ancillary Equipment	Injection well, pumps, collection tanks and piping, pretreatment equipment, and monitoring equipment.	100
S-17	Land / Water	Noncommercial Landfills (used for disposal of self generated waste materials) and Ancillary Equipment	Excavation, clay and synthetic liners, leak detection systems, leachate collection and treatment equipment, monitor wells, waste hauling equipment, decontamination facilities, security systems, and equipment used to manage the disposal of waste in the landfill.	100

No.	Media	Property	Description	%
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 loading and unloading activities).	100
S-22	Water	Double-Hulled Barge	If double-hulled to reduce chance of leakage into public waters, calculate the incremental cost difference between a single-hulled barge and a double-hulled barge.	100
S-23	Land	Composting Equipment	Used to compost material where the compost will be used on site. (Does not include commercial composting facilities.)	100
S-24	Land	Compost Application Equipment	Equipment used to apply compost that has been generated on-site.	100
S-25	Land	Vegetated Compost Sock	Put in place as part of a facility’s permanent Best Management Plan	100

No.	Media	Property	Description	%
			(BMP).	
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
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

No.	Media	Property	Description	%
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 <u>stormwater</u> [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
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’ <u>stormwater</u> [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	100

No.	Media	Property	Description	%
			Systems.	
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 NO _x Combustion System for Drilling Rigs	Equipment on power generating units designed solely to reduce NO _x 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
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

No.	Media	Property	Description	%
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	Land / Water / Air	Remote Controlled Block Valves	Valves installed on pipelines used to transport hydrocarbons and natural gas as a spill control measure.	100
M-24	Land / Water	Nondestructive Pipeline Testing	Expenditures for nondestructive pipeline testing such as radiography. Expenditures for non-pollution control purposes are not included.	100
M-25	Air/Land/Water	Amine Treating System (components necessary to transfer impurities removed from natural gas to a final control device)	<u>System components include the foul amine collection system used to collect amine that has absorbed impurities in the amine absorption system for transfer to the amine solvent regeneration system and the vent gas system that transfers to a final control device the impurities stripped from foul amine in the regeneration system. (Excludes the amine absorption system components that remove impurities from natural gas (methane) and the amine solvent regeneration system components used to recover amine for reuse in the amine absorption system).</u>	100

Equipment Located at Tank Installations including Service Stations

Spill and Overfill Prevention Equipment

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

Secondary Containment

No.	Media	Property	Description	%
T-10	Water	Double-walled Tanks	The difference between cost of single-walled tanks and the cost of double-walled tanks, when the double-walled tanks are installed to prevent unauthorized discharges or leaks.	100
T-11	Water	Double-walled Piping	The difference between cost of single-walled piping and the cost of double-walled piping, when the double-walled piping is installed to prevent unauthorized discharges or leaks.	100

No.	Media	Property	Description	%
T-12	Water	Tank Top Sumps	Liquid tight containers to contain leaks or spills that involve tank top fittings and equipment.	100
T-13	Water	Under Dispenser Sumps	Contains leaks and spills from dispensers and pumps.	100
T-14	Water	Sensing Devices	Installed to monitor for product accumulation in secondary containment sumps.	100
T-15	Land / Water	Concrete Paving Above Underground Tanks and Pipes	Required concrete paving located above underground pipes and tanks. The use determination value is limited to the difference between the cost per square foot of the concrete paving and the cost per square foot of the other paving installed at the service station. This item only applies to service stations.	100

Release Detection for Tanks and Piping

No.	Media	Property	Description	%
T-20	Water	Automatic Tank Gauging	Includes tank gauging probe and control console	100
T-21	Water	Groundwater or Soil Vapor Monitoring	Observation wells located inside the tank excavation or monitoring wells located outside the tank excavation	100
T-22	Water	Monitoring of Secondary Containment	Liquid sensors or hydrostatic monitoring systems installed in the interstitial space for tanks or piping	100
T-23	Water	Automatic Line Leak Detectors	Devices installed at the pump that are designed to detect leaks in underground piping. Mechanical and electronic devices are acceptable.	100

No.	Media	Property	Description	%
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
T-32	Water	Dielectric Coatings	Includes factory[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	100

No.	Media	Property	Description	%
			include fuel delivery components of fuel dispensing unit.	

[(b) The commission shall review and update the Tier I Table at least once every three years.]

[(1) The commission may add an item to the table 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) The commission may remove an item from the table only if there is compelling evidence to support the conclusion that the item does not render pollution control benefits.]

§17.17. Partial Determinations.

(a) A Tier III application requesting a partial determination must be submitted for all property that is either not used as described on the Tier I Table located in §17.14 [§17.14(a)] of this title (relating to Tier I Pollution Control Property), or does not fully satisfy the requirements for a 100% positive use determination under this

chapter. For all property for which a partial use determination is sought, the cost analysis procedure (CAP) described in subsection (b) [(c)] of this section must be used.

[(b) The Expedited Review List in this subsection is adopted as 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, §11.31(k) with changes as authorized by Texas Tax Code, §11.31(l). The commission shall review and update the items listed in this table only if there is compelling evidence to support the conclusion that the item provides 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 §17.17(b)]

(b) [(c)] Consistent with subsection (a) of this section, the following calculation (cost analysis procedure) must be used to determine the creditable partial percentage for a property that is filed on a Tier III application:

(1) If no marketable product results from the use of the property, use the following equation and enter "0" for the net present value of the marketable product (NPVMP):

Figure: 30 TAC §17.17(b)(1)

[Figure: 30 TAC §17.17(c)(1)]

$$\frac{(\text{Production Capacity Factor} \times \text{Capital Cost New}) - \text{Capital Cost Old} - \text{NPVMP} \times 100}{\text{Capital Cost New}}$$

Where:

¹ **The Production Capacity Factor (PCF)** is calculated by dividing the capacity of the existing equipment or process by the capacity of the new equipment or process. When there is an increase in production capacity, PCF is used to adjust the capacity of the new equipment or process to the capacity of the existing equipment or process. When there is a decrease in production capacity, PCF is used to adjust the capacity of the existing equipment or process to the production capacity of the new equipment or process. In this case, this calculation is modified so that PCF is applied to Capital Cost Old (CCO) rather than Capital Cost New.

² **Capital Cost New** is the estimated total capital cost of the new equipment or process.

³ **Capital Cost Old** is the cost of comparable equipment or process without the pollution control. The standards used for calculating CCO are as follows:

^{3.1} If comparable equipment without the pollution control feature is on the market in the United States, then an average market price of the most recent generation of technology must be used.

^{3.2} If the conditions in variable 3.1 do not apply and the company is replacing an existing unit that already has received a positive use determination, the company shall use the CCO from the application for the previous use determination.

^{3.3} If the conditions in variable 3.1 and 3.2 do not apply and the company is replacing an existing unit, then the company shall convert the original cost of the unit to today's dollars by using a published industry specific standard. If the production capacity of the new equipment or process is lower than the production capacity of the old equipment or process CCO is divided by the PCF to adjust CCO to reflect the same capacity as CCN.

^{3.4} If the conditions in variables 3.1, 3.2 and 3.3 do not apply, and the company can obtain an estimate of the cost to manufacture the alternative

equipment without the pollution control feature, then an average estimated cost to manufacture the unit must be used. The comparable unit must be the most recent generation of technology. A copy of the estimate must be provided with the worksheet including the specific source of the information.

⁴ **NPVMP**--The net present value of the marketable product recovered for the expected lifetime of the property, calculated using the equation in paragraph (2) of this subsection. Typically, the most recent three-year average price of the material as sold on the open market should be used in the calculation. If the price varies from state-to-state, the applicant shall calculate an average, and explain how the figures were determined.

(2) For property that generates a marketable product (MP), the net present value (NPV) of the MP is used to reduce the partial determination when used in the equation in the figure in paragraph (1) of this subsection. The value of the MP is calculated by subtracting the production costs of the MP from the market value of the MP. This value is then used to calculate the NPV of the MP (NPVMP) over the lifetime of the equipment. The equation for calculating NPVMP is as follows:

Figure: 30 TAC §17.17(b)(2)

[Figure: 30 TAC §17.17(c)(2)]

$$\text{NPVMP} = \sum_{t=1}^n \frac{(\text{Marketable Product Value} - \text{Production Cost})_t}{(1 + \text{Interest Rate})^t}$$

Marketable Product Value--The marketable product value may be calculated one of two ways.

1. The retail value of the product produced by the equipment for one year periods. Typically, the most recent three-year average price of the material as sold

on the open market should be used in the calculation. If the price varies from state-to-state, the applicant shall calculate an average, and explain how the figures were determined.

2. If the material is used as an intermediate material in a production process, then the value assigned by to the material for internal accounting purposes may be used. It is the responsibility of the applicant to show that the internally assigned value is comparable to the value assigned by other similar producers of the product.

ii **Production Cost**--The costs directly attributed to the production of the product, including raw materials, storage, transportation, and personnel, but excluding non-cash costs, such as overhead and depreciation.

iii **n**--This is the estimated useful life in years of the equipment that is being evaluated for a use determination

iv **Interest Rate**--10%

(c) [(d)] If the cost analysis procedure of this section produces a negative number or a zero, the property is not eligible for a positive use determination.

§17.18 Expedited Review List.

The Expedited Review List in this section is adopted as 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 (TTC), §11.31(k) with changes as authorized by TTC, §11.31(l). The commission shall review and update the items listed in this table only if there is compelling evidence to support the conclusion that the item provides 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. An application that identifies an

appropriate item from this list must be submitted as the appropriate tier level described in §17.2 (Relating to Definitions) and remit the corresponding fee as listed in §17.20(a) (relating to Application Fees).

Figure: 30 TAC §17.18

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 used to redirect part of the flue gas back to the combustion chamber for reduction of nitrogen oxides (NO _x) 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.

No.	Property	Description
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	A boiler designed to capture waste heat from combustion turbine exhaust for the generation of steam while reducing unit output-based emissions.
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 byproducts or co-products produced (resulting) from the combustion or gasification of coal such as boiler and Gasifier slag, bottom ash, flue gas desulfurization (FGD) material, fly ash, and sulfur.
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

No.	Property	Description
		dioxide upon the effective date of a final rule adopted by 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 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, carbon monoxide, or any criteria pollutant.

§17.20. Application Fees.

(a) Fees shall be remitted with each application for a use determination as required in paragraphs (1) - (3) of this subsection.

(1) Tier I Application--A \$150 fee shall be charged for applications for property that is located in the Tier I Table located in §17.14 [§17.14(a)] of this title (relating to Tier I Pollution Control Property), as long as the application seeks no variance from that use determination.

(2) Tier II Application--A \$1,000 fee shall be charged for applications for property that is used wholly for the control of air, water, and/or land pollution, but not in the Tier I Table located in §17.14 [§17.14(a)] of this title.

(3) Tier III Application--A \$2,500 fee shall be charged for applications for property used partially for the control of air, water, and/or land pollution.

(b) Fees will be forfeited for applications for use determination on which the executive director will take no further action under §17.12(2) of this title (relating to Application Review Schedule). An applicant who submits an insufficient fee will receive a deficiency notice in accordance with the procedures in §17.12(2) of this title. The fee must be remitted with the response to the deficiency notice before the application will be deemed administratively complete. If it is determined [during a technical review] that an application was submitted at the wrong tier level, the executive director will notify the applicant of the amount in which the fees are deficient or in excess, and if there are deficient fees, the applicant shall remit the appropriate fee according to the requirements in subsection (a) of this section [deficient amount of fees] before review of the application continues. If the deficient fees are not paid in full within 30 days of

the applicant being notified of the deficiency, the executive director will take no further action on the application. If the executive director takes no further action on the application, the portion of the fees already paid shall be forfeited by the applicant.

(c) All fees shall be paid by check, money order, electronic funds transfer, or through the commission's payment portal, and shall be made payable to the Texas Commission on Environmental Quality [either be remitted in the form of a check or money order made payable to the Texas Commission on Environmental Quality (TCEQ), by electronic funds transfer, or by using the commission's ePay system].

(d) The application fee or receipt for payment of the application fee [check, money order, or electronic funds transfer receipt] must be delivered with the application to the commission [, at the address listed on the application form].

§17.25. Appeals Process.

(a) Applicability.

(1) This subchapter applies to all appeals of use determinations issued by the executive director. A proceeding based upon an appeal filed under this subchapter is not a contested case for purposes of Texas Government Code, Chapter 2001.

(2) The following persons may appeal a use determination issued by the executive director:

(A) the applicant seeking a use determination; and

(B) the chief appraiser of the appraisal district for the county in which the property for which a use determination is sought is located.

(b) Form and timing of appeal. An appeal must be in writing and must be filed by United States mail, facsimile, e-mail, or hand delivery with the chief clerk of the commission within 20 days after the receipt of the executive director's determination letter. A person is presumed to have been notified on the third regular business day after the date the notice of the executive director's action is e-mailed or mailed by first class mail. If an appeal meeting the requirements of this subsection is not filed within the time period specified, the executive director's use determination is final. An appeal filed under this subchapter must:

(1) provide the name, address, e-mail address, and daytime telephone number of the person who files the appeal;

(2) give the name and address of the entity to which the use determination was issued;

(3) provide the use determination application number for the application for which the use determination was issued;

(4) request commission consideration of the use determination; and

(5) explain the basis for the appeal.

(c) Appeal processing. The chief clerk shall:

(1) deliver, e-mail, or mail to the executive director a copy of the appeal;

(2) deliver, e-mail, or mail a copy of the appeal to the applicant if the appeal was filed by the chief appraiser or to the chief appraiser if the appeal was filed by the applicant; and

(3) schedule the appeal for consideration at the next regularly scheduled commission meeting for which adequate notice can be given.

(d) Action by the general counsel. The general counsel may remand a matter from the commission's agenda to the executive director if the executive director or the public interest counsel requests a remand.

(e) Action by the commission.

(1) The person seeking the determination and the chief appraiser may testify at the commission meeting at which the appeal is considered.

(2) The commission may remand the matter to the executive director for a new determination or deny the appeal and affirm the executive director's use determination.

(3) If the commission denies the appeal and affirms the executive director's use determination, the commission's decision shall be final and appealable in district court.

(f) Action by the executive director.

(1) If the commission remands a use determination to the executive director, the executive director shall:

(A) conduct a new technical review of the application that includes an evaluation of any information presented during the commission meeting; and

(B) upon completion of the technical review, issue a new determination. A copy of the new determination shall be e-mailed [mailed] to both the applicant and the chief appraiser of the county in which the property is located.

(2) A new determination by the executive director may be appealed to the commission in the manner provided by this subchapter.

(g) Withdrawn appeals. An appeal may be withdrawn by the entity who requested the appeal. The withdrawal must be in writing, and give the name, e-mail address, address, and daytime telephone number of the person who files the withdrawal, and the withdrawal shall indicate the identification number of the use determination. The withdrawal must be filed by United States mail, facsimile, e-mail, or hand delivery with the chief clerk of the commission.

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes to amend the title of Chapter 18 and §§18.2, 18.10, 18.15, 18.25, 18.26, 18.30, and 18.35.

Background and Summary of the Factual Basis for the Proposed Rules

The commission's rules in 30 Texas Administrative Code (TAC) Chapter 18 implement a tax rate adjustment program established in Texas Tax Code (TTC), §26.045 to increase a political subdivision's tax rate equal to an amount that would allow the political subdivision to spend maintenance and operation funds to pay for certain property that is used wholly or partially as a facility, device, or method for the control of air, water or land pollution necessary to meet a permit issued by the commission. Under the requirements of 30 TAC Chapter 18, a political subdivision may submit an application to the executive director to determine if property is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution. If the determination is approved by the executive director, the political subdivision then presents the executive director's determination to the tax assessor for adjustment of the tax rate for the political subdivision.

The proposed rulemaking would amend the provisions in 30 TAC Chapter 18 to correct the title of the chapter from Voter-Approval Tax Relief for Pollution Control Requirements to Voter-Approval Tax Rate Relief for Pollution Control Requirements. Senate Bill (SB) 2, Section 44, 86th Texas Legislature, 2019, required the revision of the title's chapter. This change was adopted as part of a previous rulemaking, Rule Project

Number 2020-031-018-AI, but the full title change was not made correctly.

The proposed rulemaking would also amend the provisions in Chapter 18 to mirror the changes proposed in Chapter 17 as part of this rulemaking project (Rule Project No. 2023-123-017-AI). The commission's proposed amendments are based on the recommendations and advice of the Tax Relief for Pollution Control Property Advisory Committee (committee) and also include clarifying changes to existing items on the Tier I Table, and provide other updates as discussed in the Section by Section Discussion. This rulemaking would also fulfill the requirement of TTC, §26.045(g) that the commission, by rule, update the list adopted under TTC, §26.045(f), the Expedited Review List (ERL), at least once every three years and fulfills the existing requirement of 30 TAC §18.25(b) that the commission review and update the Tier I Table every three years.

On December 1, 2022, the committee submitted its recommendations to TCEQ as part of the triennial review of the Tier I Table located in §17.14(a) and ERL located in existing §17.17(b). This proposed rulemaking mirrors the committee's recommendation made for Chapter 17 regarding the Tier I Table and ERL in Chapter 18, except when deviation from these recommendations is needed to ensure the rule appropriately and consistently describes pollution control property eligible for a positive use determination (PUD) under Chapter 18.

Because Chapter 18 is not in the committee's purview, it did not consider the ERL in

TTC, §26.045(f), codified in §18.26, or the Tier I Table in §18.25(a). The ERL and Tier I table in Chapter 18 are identical to the ERL in existing §17.17(b) and the Tier I Table in existing §17.14(a), respectively. The committee did not recommend any changes for the ERL in existing §17.17(b). However, the committee recommended the addition of one type of pollution control property be added to the Tier I Table. In the associated rule project for Chapter 17, several changes are proposed to the Tier I Table; 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 a PUD for property submitted on a Tier I application as applicants applying under the Chapter 17 rules.

The proposed rulemaking would remove existing requirements in §18.25(b) that the commission review and update the Tier I Table every three years. This review is not required by statute and would not preclude the commission from reviewing the table at any time. The requirement to review the ERL would not change because it is required in TTC, §26.045(g).

Section by Section Discussion

The commission proposes to amend the title of Chapter 18 from "Voter-Approval Tax Relief for Pollution Control Requirements" to "Voter-Approval Tax Rate Relief for Pollution Control Requirements" to implement SB 2, Section 44 and revise the chapter's title.

In addition to the proposed amendments to incorporate corresponding proposed changes to Chapter 17, the commission proposes non-substantive changes to update the rules in accordance with current *Texas Register* style and format requirements, improve readability, establish consistency in the rules, and conform to the standards in the Texas Legislative Council Drafting Manual, September 2020. The specific substantive changes are discussed in greater detail in this Section by Section Discussion in the corresponding portions related to the affected rule sections. Non-substantive changes are not intended to alter the existing rule requirements in any way and may not be specifically discussed in this preamble.

§18.2 Definitions

The commission proposes revisions to the definition of Tier II in §18.2(5) to remove language that associates a Tier II application with property listed on the ERL. This change would clarify that the applicability of the ERL is independent of the Tier II application requirements for partial use determinations. The definition for Tier II would also be revised to add language that clarifies Tier II applications are associated not only with property not included on the Tier I Table but also with property that does not correspond exactly to an item on the Tier I Table.

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.

§18.10 Application for Use Determination

The commission proposes amendments to §18.10 to provide that the executive director specifies the form of applications submitted to the program. This would allow for the executive director to require electronic submittal of applications, which is more efficient for the program to administer than processing paper applications.

The commission proposes revision to §18.10(c)(5) to specify that the applicability of the ERL is independent of the Tier II application requirements for partial use determinations as specified in §18.30, relating to Partial Determinations.

§18.15 Application Review Schedule

The commission proposes amendments to §18.15 to allow the executive director to send notifications in a form other than a letter, such as via electronic mail, and to remove references to applications being mailed or sent back with notices of deficiency. Electronic correspondence for communications with applicants is more efficient. The commission also proposes amendments to §18.15 to specify that the executive director will take no action on an application, rather than sending an application back, if an applicant does not submit an adequate response within the 30 days.

§18.25 Tier I Eligible Equipment

The commission proposes amendments to §18.25 to remove subsection (b) and update the Tier I table. In addition to proposed updates to the Tier I table in §18.25 to mirror the updates proposed for the Chapter 17 Tier I table in §17.14, the commission proposes revisions to the Tier I table in §18.25 to remove the reference to the Cost Analysis Procedure, which is not found in Chapter 18, and to add a reference to documentation of the calculation of the partial determination for Tier II applications. The proposed revisions would also correct the citation in the introductory paragraph to the Tier I table to refer to the appropriate section in the TTC.

The commission proposes to add item number M-25 to the Tier I Table in §18.25(a), at 100% pollution control property as the advisory committee recommended for the Tier I Table of Chapter 17, but with some deviations from the committee’s recommendation. The commission agrees with the committee’s recommendation to add Amine Treating Systems (components necessary to transfer impurities removed from natural gas to a final control device), when used as described in the committee’s recommendation, to the Tier I Table because they are used wholly for pollution control purposes. The commission proposes to add item M-25 to be consistent with the proposed revisions for Chapter 17.

The committee recommended adding amine treating systems as an item number beginning with letter “A,” to designate it as air pollution control equipment. However, the commission proposes to designate this as miscellaneous pollution equipment,

using the letter “M” because this property could be used to control pollution from the air, water, or land. Similarly, the commission proposes to list Amine Treating Systems with the media Air/Land/Water. The commission proposes to add the item using the property name, description, and use determination percentage recommended by the committee. This property type is described in the proposed rule language and is not further discussed in the Section by Section Discussion of this preamble.

The committee recommended that amine treating systems be added to the Tier I Table based on a review and analysis of Tier II applications submitted under Chapter 17 from April 1, 2018, through April 30, 2021. The property type consistently received a PUD of 100% each time an applicant requested a use determination for such property, demonstrating the property was consistently used wholly for pollution control. Although the proposed item number is added to the Tier I Table as 100% for pollution control purposes, an applicant would still be required, under §18.25, to submit a Tier II application if such property produces a marketable product or is not used as described in the Tier I table.

The commission proposes to remove the requirement from item A-115 that external floating roofs be used to comply with a requirement in 30 TAC §115.112. This rule applies only to certain geographical areas in Texas, but external floating roofs may be used throughout the state to comply with a pollution control requirement other than those in §115.112. Additionally, other rules may be appropriate for applicants to cite when identifying the sections of the law(s), rule(s), or regulation(s) being met or

exceeded by the use, installation, construction, or acquisition of the external floating roofs. Removing this requirement for item A-115 would allow applicants outside of the areas specified in §115.112 to be able to apply for a use determination using a Tier I application.

The commission proposes amendments to revise the description for item T-32 for Dielectric Coatings to clarify that the item includes factory installed coal-tar epoxies, enamels, fiberglass reinforced plastic, or urethanes on tanks and/or piping. This change would clarify that newer and alternative technologies such as fusion-bonded epoxies that protect against corrosion of tanks or pipes could also qualify for Tier I applications.

The commission proposes to remove subsection (b) that requires the commission to update and review the Tier I Table at least once every three years. The scheduled review required in this section is not required by statute and places an unnecessary burden on the commission to engage in a review and rulemaking on a rigid schedule. Further, the standard of review requiring “compelling evidence” in paragraphs (1) and (2) to add or remove items on the Tier I Table is not required by statute and does not need to be imposed on the commission. Any future rulemaking to revise the Tier I Table would be subject to the rulemaking authority conferred to the commission in the Texas Water Code, the Texas Government Code (TGC), and the TTC. Removal of the requirements and limitations would not preclude the commission from reviewing the table or the committee from providing advice on it at any time. The proposed removal

of subsection (b) would result in §18.25 that no longer requires subsection formatting. References to the subsection for §18.25(a) would also be removed from the rule language.

§18.26 Expedited Review List

The commission proposes amendments to §18.26 to add language to §18.26 to indicate that an application that relies on an item from the ERL must still adhere to the requirements in Chapter 18 associated with application tier and fee.

§18.30 Partial Determinations

The commission proposes amendments to §18.30 to remove the requirement that applicants must request a partial use determination for items on the ERL. Existing rule language does not account for a scenario in which ERL property could be used as described on the Tier I Table, making it eligible for a Tier I application. This change would clarify that property included on the Tier I Table and ERL may be included on a Tier I application when used as described on the Tier I Table. A Tier II application would still be required if the property is not used wholly for pollution control purposes or as described on the Tier I Table.

§18.35 Application Fees

Revisions are proposed to remove the provision in existing §18.35(a)(2) that a Tier II application is required for items listed on the ERL. Removal of this provision would help clarify that property on the ERL does not have to be submitted on a Tier II

application.

The proposed amendments would also update rules related to application fees.

Proposed revisions to §18.35(b) would explain that fees would be forfeited for a use application upon which the executive director takes no further action, rather than for an application that is sent back to an applicant. The proposed rule revisions in §18.35(b) would clarify that if, during review of an application, it is determined that the fee originally remitted with an application was not appropriate for the application, the correct fee must be submitted before application review continues. Additional proposed revisions to §18.35(c) would clarify how payment may be remitted and that the payment must be made payable to the Texas Commission on Environmental Quality. This change would reflect rule language used by other program areas for processing payments to the agency. Finally, the commission proposes amendment to §18.35(d) to specify that either the application fee or a receipt for payment of the application fee must accompany the application.

Fiscal Note: Costs to State and Local Government

Kyle Girtten, Analyst in the Budget and Planning Division, has determined that for the first five-year period the proposed rules are in effect, the proposed rulemaking would not result in increased costs to TCEQ.

The rulemaking is not anticipated to result in any costs for other state government entities or local government entities. This rulemaking would not result in any

compulsory costs or requirements for any local entities.

Public Benefits and Costs

Mr. Girtten determined that the public benefit of this rulemaking is that the agency would be compliant with state law, specifically the requirement in TTC, §26.045(g) that TCEQ update the list of pollution control properties in §18.25 at least once every three years. Additionally, the public would benefit from provisions allowing for electronic submittals of applications and uses of other electronic tools and communications (§18.10, §18.15, and §18.35) and from non-substantive revisions which improve the clarity of the rule.

The proposed rulemaking would not result in any costs or requirements 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 rule is 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 rule 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 rule does 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 an increase or decrease in fees paid to the agency. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease the number of individuals subject

to its applicability. During the first five years, the proposed rule should not impact positively or negatively the state's economy.

Draft Regulatory Impact Analysis Determination

The commission reviewed the proposed amendments in light of the regulatory analysis requirements of TGC, §2001.0225, and determined the rules do not meet the definition of "a major environmental rule." Under TGC, §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, the proposed rulemaking does not meet any of the four applicability requirements listed in TGC, §2001.0225(a). TGC, §2001.0225 applies only to a major environmental rule that: 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 amends the voter-approval tax rate relief for pollution control property rules. The commission rules in Chapter 18 implement a procedure available to political subdivisions to adjust tax rates to recover maintenance and operation funds used to pay for certain property used to control pollution as set out in

TTC, §26.045. The proposed rule amendments revise requirements for use determination applications submitted to the executive director. 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. These rules do 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. The commission invites public comment regarding this draft regulatory impact analysis determination.

Written comments on the Draft Regulatory Impact Analysis 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 amended rules and performed a preliminary assessment of whether TGC, Chapter 2007 is applicable. The commission's preliminary assessment indicates TGC, Chapter 2007 does not apply to these proposed amendments. Enforcement of these proposed rules would 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, or 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 §29.11(b)(2) or (4), nor will they affect any action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11(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.

Effect on Sites Subject to the Federal Operating Permits Program

Participation in the Tax Relief for Pollution Control Property Program is voluntary, but sites subject to the Federal Operating Permits Program could choose to file an application for a use determination. If the proposed rules are adopted, political subdivisions that own or operate affected sites subject to the federal operating permit program may choose to apply consistent with Chapter 18.

Announcement of Hearing

The commission will hold a virtual public hearing on this proposal on September 29, 2025, at 10:00 a.m. Central Daylight Time (CDT). The hearing is structured for the

receipt of oral comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing at 9:30 a.m. CDT.

Individuals who plan to attend the hearing virtually and want to provide oral comments and/or want their attendance on record must register by Thursday, September 25, 2025. To register for the hearing, please e-mail Rules@tceq.texas.gov and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing. Instructions for participating in the hearing will be sent on Friday, September 26, 2025, to those who register for the hearing.

For the public who do not wish to provide oral comments but would like to view the hearing may do so at no cost at:

<https://events.teams.microsoft.com/event/2a564f09-897c-468b-a887-20536f00caa5@871a83a4-a1ce-4b7a-8156-3bcd93a08fba>

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802 or 1-800-RELAY-TX (TDD). Requests should be made as far in advance as possible.

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://tceq.commentinput.com/comment/search>. File size restrictions may apply to comments being submitted via the TCEQ Public Comments system. All comments should reference Rule Project Number 2023-123-017-AI. The comment period closes on October 6, 2025. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the commission's website at https://www.tceq.texas.gov/rules/propose_adopt.html. For further information, please contact Elizabeth Sartain, Air Quality Planning Section, at (512) 239-3933 or elizabeth.sartain@tceq.texas.gov, Tax Relief for Pollution Control Property Program 12100 Park 35 Circle, Bldg. F, Austin, TX 78753, Mail: MC-110, P.O. Box 13087, Austin TX 78711-3087.

§§18.2, 18.10, 18.15, 18.25, 18.26, 18.30, 18.35

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, which authorizes the commission to perform any acts authorized by the TWC or other laws that are necessary and convenient to the exercise of its jurisdiction and powers; and TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC. The rules are also proposed under Texas Tax Code, §26.045, which authorizes the commission to adopt rules to implement the program for the voter-approval tax rate relief for pollution control requirements.

The proposed amendments implement Texas Tax Code, §26.045.

§18.2. Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA), the Texas Solid Waste Disposal Act (TSWDA), the Texas Water Code (TWC), the Texas Tax Code (TTC), the Texas Health and Safety Code (THSC), or in the rules of the commission, the terms used by the commission have the meanings commonly ascribed to them in the fields of pollution control or property taxation. In addition to the terms that are defined by §3.2 of this title (relating to Definitions), the TCAA, the TSWDA, TWC, TTC, and THSC, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

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

(2) Permit requirement--A clause within a permit issued by the Texas Commission on Environmental Quality (TCEQ) which requires the receiver of a permit to expend funds for a facility, device, or method for control of air, water, or land pollution as defined by TTC, §26.045(b).

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

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

(5) Tier II--An application containing property that [is listed or contained on the Expedited Review List in §18.26 of this title (relating to Expedited Review List) or that] is not listed on the Tier I Table or that does not correspond exactly to an item on the Tier I Table in §18.25(a) of this title.

(6) Use determination--A finding, either positive or negative, by the executive director that the property is used wholly or partially for pollution control

purposes and listing the percentage of the property that is determined to be used for pollution control.

§18.10. Application for Use Determination.

(a) In order to be granted a positive use determination, a political subdivision shall submit to the executive director:

(1) a completed and signed application form specified by the executive director [a Texas Commission on Environmental Quality application form or a similar reproduction]; and

(2) the appropriate fee, under §18.30 of this title (relating to Application Fees).

(b) An application must be submitted for each permit requirement for which pollution control property has been or will be installed.

(c) The application shall contain at least the following:

(1) the anticipated environmental benefits from the installation of the pollution control property for the control of air, water, or land pollution, except for applications containing only equipment on the Expedited Review List located in §18.26 of this title (relating to Expedited Review List);

(2) the estimated cost of the pollution control property, where the cost includes not only the cost of the specific property, but also any costs related to the installation or construction of the property;

(3) the permit requirement being met by the installation of such facility, device, or method, and the proportion of the installation that is pollution control property;

(4) a copy of the permit that is being met or exceeded by the use, installation, construction, or acquisition of the pollution control property;

(5) if the installation includes property that is not used wholly for the control of air, water, or land pollution, and is not on the Tier I Table[or is property that is listed on the Expedited Review List], a worksheet showing the calculation of the partial determination as required in §18.30 of this title (relating to Partial Determinations), and explaining each of the variables; and

(6) any information that the executive director deems reasonably necessary to determine the eligibility of the application.

§18.15. Application Review Schedule.

Following submission of the information required by §18.10 of this title (relating to Application for Use Determination), the executive director shall determine whether the pollution control property is used wholly or partly to meet the requirements of a permit issued by the commission. If the determination is that the property is used partly for pollution control, the executive director shall determine the proportion of the property used for pollution control.

(1) As soon as practicable, the executive director shall send [mail] written notification informing the applicant that the application has been received and if the application is considered to be administratively complete or deficient.

(A) If the application is not administratively complete, the notification shall specify the deficiencies and allow the applicant 30 days to provide the requested information. If the applicant does not submit an adequate response, the executive director shall take no [the application will be sent back to the applicant without] further action on the application [by the executive director] and the application fee will be forfeited under §18.35(b) of this title (relating to Application Fees).

(B) If no further action is taken on an application [is sent back to the applicant] under subparagraph (A) of this paragraph, the applicant may re-file the

application and pay the appropriate fee as required by §18.35(a) of this title [(relating to Application Fees)].

(2) For applications which contain only property that is listed on the Expedited Review List in §18.26 of this title (relating to Expedited Review List), the executive director shall complete the technical review of the application and issue the use determination within 30 days of receipt of the required application documents.

(3) For all other applications, within 30 days of receiving the application, the executive director shall either issue a notification requesting additional information or issue the final determination.

(A) If additional information is requested, the notification shall specify the deficiencies and allow the applicant 30 days to provide the requested information. If the applicant does not submit an adequate response, the executive director shall take no [the application will be sent back to the applicant without] further action [by the executive director] and the application fee will be forfeited under §18.35(b) of this title.

(B) If no further action is taken on an application [is sent back to the applicant] under subparagraph (A) of this paragraph, the applicant may re-file the application and pay the appropriate fee as required by §18.35(a) of this title.

(4) The executive director shall determine whether the property is used wholly or partly to control pollution. The executive director is authorized to grant positive use determinations for some or all of the property included in the application that is deemed pollution control property.

(A) If a positive use determination is made, the executive director shall issue a use determination letter to the applicant that describes the proportion of the property that is pollution control property.

(B) If a negative use determination is made, the executive director shall issue a denial letter explaining the reason for the denial.

§18.25. Tier I Eligible Equipment.

[(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 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

[Figure: 30 TAC §18.25(a)]

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, including documentation showing the calculation of the partial determination [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, §26.045(e) [§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	100

No.	Media	Property	Description	%
			particulate matter from exhaust gas streams.	
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 Ignitors	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 (H ₂ S) or nitrogen oxides (NO _x) 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	Chlorofluorocarbon (CFC) Replacement Projects	Projects to replace one CFC with an 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.	100
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

No.	Media	Property	Description	%
A-62	Air	Monitoring Equipment on Final Control Devices	Temperature monitor or controller, flowmeter, 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 (NO _x) emissions from combustion sources. Non-catalytic	100

No.	Media	Property	Description	%
			systems use a reducing agent without a catalyst.	
A-81	Air	Catalytic Converters for Stationary Sources	Used to reduce NO _x 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 NO _x 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 NO _x 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 NO _x formation.	100
A-85	Air	Over-fire Air & Combination of asymmetric overfire 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

No.	Media	Property	Description	%
A-86	Air	Low-NO _x Burners	Installation of low-NO _x burners. The eligible portion is the incremental cost difference. For a replacement burner, the incremental cost difference is calculated by comparing the cost of the new burner with the cost of the existing burner. For new installations, the incremental cost difference is calculated by comparing the cost of the new burner to the cost of a similarly sized burner without NO _x controls from the most recent generation of burners.	100
A-87	Air	Water Lances	Installed in the fire box of boilers and industrial furnaces to eliminate hot spots, thereby reducing NO _x formation.	100
A-88	Air	Electric Power Generation Burner Retrofit	Retrofit of existing burners on electric power generating units with components for reducing NO _x including directly related equipment.	100
A-89	Air	Wet or Dry Sorbent Injection Systems	Use of a sorbent for flue gas desulfurization or NO _x control.	100
A-90	Air	Dry Low-NO _x Emissions Systems	Equipment installed on natural gas-fired compression turbines to reduce NO _x 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.	100
A-91	Air	Lean-Burn Portions of Reciprocating Engines	Turbocharger, fuel injection system consisting of fuel nozzles positioned within a precombustion chamber, and pre-combustion chamber for engines.	100
A-92	Air	Heat Recovery Steam Generators	A boiler designed to capture waste heat from combustion turbine exhaust for the	65

No.	Media	Property	Description	%
			generation of steam while reducing unit output-based emissions.	

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
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

No.	Media	Property	Description	%
A-116	Air	Fixed Storage Tank Roofs	Fixed roofs installed on external floating roof tanks used to store any product containing VOC as an additional VOC control measure.	100
A-117	Air	Geodesic Domes	Geodesic domes installed on external floating roof storage tanks as a means of controlling VOC emissions.	100
A-118	Air	Submerged Fill Pipes	Submerged fill pipes installed in storage tanks used to store any product containing VOC.	100
A-119	Air	Dual Mechanical Pump Seals	The incremental cost difference between the cost of dual mechanical seal pumps and comparable single sealed pumps.	100
A-120	Air	Seal-Less Pumps	The incremental cost difference between the cost of seal-less pumps and the cost of similarly sized pumps with seals.	100

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

No.	Media	Property	Description	%
A-133	Air	Oxidation Systems	Equipment used to change elemental mercury to oxidized mercury. This can be catalysts (similar to Selective Catalytic Reduction (SCR) catalyst) or chemical additives that can be added to the flue gas or directly to the fuel.	100
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. Noncatalytic 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 (CO ₂) upon the effective date of a final rule adopted by the U.S.[United States] Environmental Protection Agency (EPA) regulating CO ₂ as a pollutant).	100

No.	Media	Property	Description	%
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
A-190	Air	Airless Paint Spray Gun	The incremental cost difference between an airless paint spray gun and a comparable standard air powered paint spray gun.	100

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	CPI Separator	Mechanical oil, water, and solids separator.	100
W-3	Wastewater	Dissolved Air Flotation	Mechanical oil, water, and solids separator.	100
W-4	Wastewater	Skimmer	Used to remove hydrocarbon from process wastewater.	100
W-5	Wastewater	Decanter	Used to decant hydrocarbon from process wastewater.	100
W-6	Wastewater	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

No.	Media	Property	Description	%
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
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	100

No.	Media	Property	Description	%
			tanks, aeration equipment, clarifiers, and equipment used to handle sludge.	
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 <u>stormwater</u> [storm water] from process water, control <u>stormwater</u> [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 <u>stormwater</u> [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

No.	Media	Property	Description	%
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	<u>Stormwater</u> [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
W-66	Water	Oil/Water Separator	Mechanical device used to separate oils from <u>stormwater</u> [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 ₂ release in wastewater treatment systems.	100

No.	Media	Property	Description	%
W-74	Water	Diversion	Structures used for the capture and control of <u>stormwater</u> [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/ Water	Solid Waste Incinerator (not used for energy recovery and export or material recovery)	Solid waste incinerators, feed systems, ash handling systems, and controls.	100
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

No.	Media	Property	Description	%
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 management unit or ancillary equipment.	100

No.	Media	Property	Description	%
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

No.	Media	Property	Description	%
S-20	Land/ Water	Waste Storage Used to Collect and/or Store Waste Prior to Treatment or Disposal	Tanks, containers and ancillary equipment such as pumps, piping, secondary containment, and vent controls (e.g., Resource Conservation Recovery Act Storage Tanks, 90-Day Storage Facilities, Feed Tanks to Treatment Facilities).	100
S-21	Air	Fugitive Emission Containment Structures	Structures or equipment used to contain or reduce fugitive emissions or releases from waste management activities (e.g., coverings for conveyors, chutes, enclosed areas for loading and unloading activities).	100
S-22	Water	Double-Hulled Barge	If double-hulled to reduce chance of leakage into public waters, calculate the incremental cost difference between a single-hulled barge and a double-hulled barge.	100
S-23	Land	Composting Equipment	Used to compost material where the compost will be used on site. (Does not include commercial composting facilities.)	100
S-24	Land	Compost Application Equipment	Equipment used to apply compost that has been generated on-site.	100
S-25	Land	Vegetated Compost Sock	Put in place as part of a facility's permanent Best Management Plan (BMP).	100
S-26	Air	Foundry Sand Reclamation Systems for Foundries	Components of a sand reclamation system that provide specific pollution control. Includes hooding over shaker screens vented to a dust collector, conveyor covers, and emission control devices at other points.	100
S-27	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	Fencing installed at landfills, solid waste transfer stations, or storage/treatment areas located at hazardous waste	100

No.	Media	Property	Description	%
		or access control	management facilities to meet environmental regulations.	
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
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

No.	Media	Property	Description	%
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 <u>stormwater</u> [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
M-10	Land/ Water	Poultry Incinerator	Incinerators used to dispose of poultry carcasses.	100

No.	Media	Property	Description	%
M-11	Land/_ Water	Structures, Enclosures, Containment Areas, Pads for Composting Operations	Required to meet ‘no exposure’ <u>stormwater</u> [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 NO _x Combustion System for Drilling Rigs	Equipment on power generating units designed solely to reduce NO _x 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	Land/ Water / Air	Remote Controlled Block Valves	Valves installed on pipelines used to transport hydrocarbons and natural gas as a spill control measure.	100
M-24	Land/ Water	Nondestructive Pipeline Testing	Expenditures for nondestructive pipeline testing such as radiography. Expenditures for non-pollution control purposes are not included.	100
M-25	Air / Land / Water	<u>Amine Treating System (components necessary to transfer impurities removed from natural gas to a final control device)</u>	<u>System components include the foul amine collection system used to collect amine that has absorbed impurities in the amine absorption system for transfer to the amine solvent regeneration system and the vent gas system that transfers to a final control device the impurities stripped from foul amine in the regeneration system. (Excludes the amine absorption system components that remove impurities from natural gas (methane) and the amine solvent regeneration system</u>	<u>100</u>

No.	Media	Property	Description	%
			<u>components used to recover amine for reuse in the amine absorption system).</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

No.	Media	Property	Description	%
T-11	Water	Double-walled Piping	The difference between cost of single-walled piping and the cost of double-walled piping, when the double-walled piping is installed to prevent unauthorized discharges or leaks.	100
T-12	Water	Tank Top Sumps	Liquid tight containers to contain leaks or spills that involve tank top fittings and equipment.	100
T-13	Water	Under Dispenser Sumps	Contains leaks and spills from dispensers and pumps.	100
T-14	Water	Sensing Devices	Installed to monitor for product accumulation in secondary containment sumps.	100
T-15	Land_ Water	Concrete Paving Above Underground Tanks and Pipes	Required concrete paving located above underground pipes and tanks. The use determination value is limited to the difference between the cost per square foot of the concrete paving and the cost per square foot of the other paving installed at the service station. This item only applies to service stations.	100

Release Detection for Tanks and Piping

No.	Media	Property	Description	%
T-20	Water	Automatic Tank Gauging	Includes tank gauging probe and control console.	100
T-21	Water	Groundwater or Soil Vapor Monitoring	Observation wells located inside the tank excavation or monitoring wells located outside the tank excavation.	100
T-22	Water	Monitoring of Secondary Containment	Liquid sensors or hydrostatic monitoring systems installed in the interstitial space for tanks or piping.	100

No.	Media	Property	Description	%
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
T-32	Water	Dielectric Coatings	<u>Includes factory</u> [Factory] installed coal-tar epoxies, enamels, fiberglass reinforced plastic, or urethanes on tanks and/or piping. Field installed coatings limited to exposed threads, fittings, and damaged surface areas.	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 provides [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. An application that identifies an appropriate item from this list must be submitted as the appropriate tier level described in §18.2 (Relating to Definitions) along with the corresponding fee as listed in §18.35(a) (related to Application Fees).

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.

No.	Property	Description
B-4	Flue Gas Recirculation Components	Ductwork, blowers, and ancillary equipment used to redirect part of the flue gas back to the combustion chamber for reduction of nitrogen oxides (NO _x) 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	A boiler designed to capture waste heat from combustion turbine exhaust for the generation of steam while reducing unit output-based emissions.
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.

No.	Property	Description
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 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] <u>EPA</u> [(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.

No.	Property	Description
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, 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 [§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.

§18.35. Application Fees.

(a) Fees shall be remitted with each application for a use determination as required in paragraphs (1) - (2) of this subsection.

(1) Tier I Application. A \$150 fee shall be charged for applications which contain only property that is listed in the figure in §18.25 [§18.25(a)] of this title (relating to Tier I Eligible Equipment) or is necessary for the installation or operation of an item listed on the Tier I Table, as long as the application seeks no variance from the percentage listed on the Tier I Table.

(2) Tier II Application. A \$500 fee shall be charged for applications for property not listed in the figure located in §18.25 [§18.25(a)] of this title [or that is listed in the figure located in §18.26 of this title (relating to Expedited Review List)].

(b) Fees shall be forfeited for applications for use determination on which the executive director will take no further action under §18.15 of this title (relating to Application Review Schedule) [are sent back under §18.15 of this title (relating to Application Review Schedule)]. An applicant who submits an insufficient fee will receive a deficiency notice in accordance with the procedures in §18.15 of this title.

The fee must be remitted with the response to the deficiency notice before the application will be deemed administratively complete. If it is determined that an application was submitted at an inappropriate tier level, the executive director will notify the applicant of the amount in which the fees are deficient or in excess, and if there are deficient fees, the applicant shall remit the appropriate fee described under §18.35(a) before review of the application proceeds. If the deficient fees are not paid in full within 30 days of the applicant being notified of the deficiency, the executive director will take no further action on the application. If the executive director takes no further action on the application, the portion of the fees already paid shall be forfeited by the applicant.

(c) All fees shall be paid by check, money order, electronic funds transfer, or through the commission's payment portal, and shall be made payable to the Texas Commission on Environmental Quality [either be remitted in the form of a check or money order made payable to the Texas Commission on Environmental Quality or by electronic funds transfer by using the commission's ePay system].

(d) The application fee or receipt for payment [check, money order, or electronic funds transfer] must be delivered with the application [to the commission at the address listed on the application form].