

30 TAC 122 - Rule Interpretation Memos

- ! [Determination of whether or not to include fugitives from USCs when determining if a site is a major source \(Reconsideration And Reversal Of The RIT's Original Position\).](#)
[November 12, 1998]

- ! [The use of NMOC in determination of major source for Landfills](#) [July 7, 1998]

- ! [Can xylene isomer emissions be considered as separate HAPs to determine if a site is a major source?](#) [February 19, 1999]

- ! [Revision - For purposes of 30 TAC Chapters 101, 106, 116, 117 & 122 are portable or transportable engines considered a stationary source?](#) [June 2, 2003]

- ! [Applicability of Prevention of Significant Deterioration \(PSD\), Nonattainment \(NA\), and Title V permit requirements to dockside marine vessel emissions](#) [December 12, 2000]

Last Modified: June 2, 2003

Rule Interpretation Summary Form

Code Number	R12-10.001
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Rule/Regulation Citation(s):	Federal Rule: <input type="checkbox"/> State Regulation: <input checked="" type="checkbox"/>
30 Tex. Admin. Code § 122.10	Description: Federal Operating Permits Subchapter A: Definitions
Interpretation Request:	
Do fugitive emissions from underground storage caverns (USCs) and associated transfer operations in petroleum storage service have to be counted in determining major source status under Title 30 Texas Administrative Code (Tex. Admin. Code) Chapter 122.	
Determination:	
Underground Storage Caverns and their associated transfer operations with a total storage capacity exceeding 300,000 barrels do belong to the stationary source category <i>petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels</i> as specified in the definition of “major source.” Therefore, the fugitive emissions from these facilities are required to be included in the determination of whether the site is a major source under 30 Tex. Admin. Code Chapter 122. However, USCs with a total storage capacity less than 300,000 barrels do not belong to the stationary category <i>petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels</i> and do not have to include the fugitive emissions to determine whether the site is a major source. Furthermore, for hazardous air pollutants (HAPs) as listed in 30 Tex. Admin. Code § 112 of the Federal Clean Air Act (FCAA), fugitive emissions from USCs and their associated transfer operations shall also be included when determining if a site is a major source under 30 Tex. Admin. Code Chapter 122.	
Please note, based on 30 Tex. Admin. Code § 122.130(c)(2), sites that become subject to the federal operating permit program as the result of an action by the executive director will have no more than 12 months to submit an application after the action that subjects the site to the requirements of 30 Tex. Admin. Code Chapter 122.	

Bibliography:

Title 30 Tex. Admin. Code Chapter 122 (1997). [November 10, 1997]

Prevention of Significant Deterioration Regulations, 40 C.F.R. 51, 52, August 7, 1980, 45 Fed. Reg. 52676.

Federal Clean Air Act, 42 USC § 7491 [CAA § 169] Definitions, July 14, 1955, Ch 360, Title I, § 169, as added August 7, 1977, Pub. L. 95-95, Title I § 127(a), 91 Stat 740, and amended November 16, 1977, Pub. L. 95-190.

House Report No. 95-294, Senate Report No. 95-127, House Conference Report No. 95-564, May 12, 1977, May 10, 1977, August 3, 1977 (respectively), Legislative History, 1977, p.1077.

Transportation and Marketing of Petroleum Liquids, Section 4.4, (AP-42, September 1985).

U.S. EPA, Compilation of Air Pollutant Emission Factors (AP-42, 3d ed., August 1977).

Organic Liquid Storage Tanks, Section 7.1, (AP-42, January 1995).

Interpretation/Opinion R5-112.007 [February, 1998]

Rule Interpretation Summary Form

REQUEST:

Rule/Regulation Citation(s):	Federal Rule: <u> </u> State Regulation: <u> X </u>
30 TAC Chapter 122	Federal Operating Permits
Interpretation Request:	
For purposes of applicability to the operating permits program, is non-methane organic compounds (NMOC) considered an air pollutant when determining major source status of landfills not subject to Title 40 Code of Federal Regulations, Part 60 (40 CFR 60) NSPS Subpart WWW - Standards of Performance for Municipal Solid Waste Landfills?	

DETERMINATION:

Determination:
For purposes of applicability to the operating permits program, NMOC is considered a regulated air pollutant when determining major source status for all municipal solid waste landfills, regardless of whether or not the municipal solid waste landfill is subject to NSPS Subpart WWW. NMOC is not considered a regulated air pollutant for any other source category.

Bibliography:

30 TAC Chapter 122 (Effective date, November 10, 1997)

40 CFR 60, Subpart WWW (1996)

61 Fed. Reg. 9919 (March 12, 1996)

Air Rule Interpretation Summary Form

REQUEST:

Rule/Regulation Citation(s):	Federal Rule: <u> X </u> State Regulation: <u> X </u>
30 Tex. Admin. Code Chapter 122, § 122.10(8)(A)	Description: Federal Operating Permits Subchapter A: Definitions
Interpretation Request:	
When determining whether a site is a major source of Hazardous Air Pollutants (HAPs), can xylene isomers (o-xylene, m-xylene, and p-xylene) emissions be considered as separate HAPs, since they are assigned unique Chemical Abstracts Service (CAS) numbers on the Environmental Protection Agency's (EPA) HAP list [Section 112(b) of the Federal Clean Air Act (FCAA)]?	

DETERMINATION:

Determination:
<p>When determining whether a site is a major source [as defined in Title 30 Texas Administrative Code § 122.10(8)(A) {30 Tex. Admin. Code § 122.10(8)(A)}], each single HAP as listed in § 112(b) of the FCAA is evaluated to determine the potential to emit. The major source threshold for any single HAP is 10 tons per year (tpy). Also, for any combination of HAPs, the major source threshold is 25 tpy. Since the xylene isomers including o-xylene, m-xylene, and p-xylene as well as xylenes (isomers and mixture) are listed separately as individual HAPs, each should be compared to the 10 tpy threshold. Therefore, when evaluating HAP emissions from a mixture of xylenes, which includes xylene isomers, an owner or operator shall determine if the mixture of xylenes is equal to or greater than 10 tpy of xylenes (isomers and mixture) to determine major source for a single HAP. However, if a pure xylene isomer (not contained in a mixture) is present at the facility, it is evaluated as a single HAP which would be used to determine major source status. Therefore, the following guidance is provided for applicants:</p> <ol style="list-style-type: none"> 1. It is assumed that the individual xylene isomers are listed as a single HAP under FCAA, § 112(b)(1) because there may be sources which either use or produce a material containing a single isomer. If a material contains a single xylene isomer, the single xylene isomer must be compared against the potential to emit threshold of 10 tpy for that single xylene isomer. 2. The xylenes mixture is included as a HAP under FCAA, § 112(b)(1) because there are sources which use solvents containing xylenes (being a mixture of the xylene isomers). In a listing of their contents, product composition information and/or the Material Safety Data Sheet (MSDS) may specify the contents either as a xylenes mixture or it may specify the content of each individual xylene isomer. For a mixture, even if each individual xylene isomer is listed in the contents of the mixture, the individual isomers must be aggregated to find the total content of xylenes and compared to the 10 tpy threshold for a single HAP for xylenes (isomers and mixture). 3. If a source has a material containing a single isomer, o-xylene, m-xylene, or p-xylene and also has additional materials that are xylenes mixtures, the mixed materials (where the isomer contents are known) must be compared to the 10 tpy threshold for a single HAP for xylenes (isomers and mixture) and the single isomer must be compared to the 10 tpy threshold for a single HAP for the xylene isomer. Assuming the site has no other HAPs, the owner or operator can determine the 25 tpy major source threshold for a combination of HAPs by adding the emission from the single xylene isomer to the xylenes mixture. <p>The same rationale and interpretation would result for cresols: cresols/cresylic acid (isomers and mixture), o-cresol, m-cresol, and p-cresol.</p>

Bibliography:

Federal Clean Air Act, Section 112 [November 15, 1990]

42 U.S.C. 7412(b)(1)

30 Tex. Admin. Code Chapter 122 [Effective Date: November 10, 1997]

Richard J. Lewis, Sr., *Hawley's Condensed Chemical Dictionary* (Van Nostrand Reinhold, 1993)

Texas Natural Resource Conservation Commission, Title 30 Tex. Admin. Code, Chapter 122, Potential To Emit Guidance Document

Air Rule Interpretation Summary Form

Code Number	R01-211.003 R06-1.001 R6-110.003 R7-201.003 R12-10.004
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Revision - For purposes of 30 TAC Chapters 101, 106, 116, 117, & 122 portable or transportable engines considered a stationary source?	June 2, 2003
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Rule/Regulation Citation(s):	Federal Rule: <input type="checkbox"/> State Regulation: <input checked="" type="checkbox"/>
	Description:
30 TAC §§ 101.211, 106.1, 116.110(a), 117.201(3), and 122.10	Chapter 101, Subchapter F: Emissions Events and Scheduled Maintenance, Startup, and Shutdown Activities Chapter 106, Subchapter A: General Requirements Chapter 116, Subchapter B: New Source Review Permits Chapter 117, Subchapter B: Combustion at Existing Major Sources Commercial, Institutional, and Industrial Sources Chapter 122, Subchapter A: Definitions
Interpretation Request:	
For purposes of 30 Texas Administrative Code (TAC) Chapters 106, 116, 117, and 122, is an engine that is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another, considered a stationary source? Are portable or transportable engines located at a single point for less than 12 consecutive months exempt from the maintenance notification requirements of 30 TAC § 101.211?	
Determination:	

Title 30 TAC Chapter 106 and 116: A portable or transportable engine which remains or will remain at a single point or location for less than or equal to 12 consecutive months is not considered a stationary source and no authorization under 30 TAC Chapters 106 or 116 would be required. If a portable or transportable engine remains or will remain at a single point or location for more than 12 consecutive months, it is considered stationary and would be subject to 30 TAC Chapters 106 or 116 requirements.

Title 30 TAC Chapter 117: A portable or transportable engine which remains or will remain at a single point or location for less than or equal to 12 consecutive months is not considered a stationary source and will not be subject to Chapter 117. If a portable or transportable engine remains or will remain at a single point or location for more than 12 consecutive months, it would meet the § 117.10 definition of a stationary internal combustion engine and would therefore be subject to Chapter 117.

Title 30 TAC Chapter 122: If a portable or transportable engine remains or will remain at a single point or location for less than or equal to 12 consecutive months, it meets the definition of a nonroad engine and is excluded by the Chapter 122 definition of stationary source. If the portable or transportable engine remains at a single point or location for more than 12 consecutive months, it would meet the definition of a stationary source and must be included when determining applicability of the Federal Operating Permit Program.

(Continued)

Title 30 TAC § 101: Emissions from the exhaust of a portable or transportable engine which meets the 40 CFR § 89.2 definition of nonroad engine, are not subject to 30 TAC § 101.211 notification requirements. However, emissions resulting from maintenance done to the engine (from activities such as degreasing or painting) would be potentially unauthorized emissions and may be subject to applicable § 101.211 requirements. Also, non-engine emissions generated by the maintenance activity (such as volatile organic compound (VOC) emissions resulting from the pumping of VOC liquid powered by a portable/transportable engine) remain subject to applicable § 101.211 notification requirements.

Please note, for these determinations a single point or location means a specific location at a site not just located somewhere at the entire site. In addition, any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period.

Bibliography:

30 TAC Chapter 101 (2002). [Sept. 12, 2002]

30 TAC Chapter 106 (2002). [Dec. 11, 2002]

30 TAC Chapter 117 (2003). [Jan. 17, 2003]

30 TAC Chapter 116 (2003). [Jan. 8, 2003]

30 TAC Chapter 122 (2002). [Dec. 11, 2002]

Evaluation of Testimony for proposed and adopted rule changes to Chapter 117 (1993). [Effective date: June 9, 1993]

40 CFR § 89.2 (2001). [July 1, 2001]

Federal Clean Air Act Amendments of 1990, §§ 111(a)(3), 209, 216, 302(z).

Air RIT Rule Interpretation/Opinion Code #: R01-211.001/R06-1.001/R6-110.003/R7-201.003/R12-10.004

Please note, in the event that an external customer feels that this rule interpretation is in error or a source of information has been overlooked which would change the determination, a request for reconsideration may be submitted. Requests must be submitted on a Reconsideration Process Form which is available at the TCEQ's homepage: <http://www.tnrc.state.tx.us/permitting/airperm/opd/rimhmpg.htm>, or from any of the air rule interpretation team members.

Air Rule Interpretation Summary Form

Code Number	R6-150.001 R6-160.001 R12-10.006
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Applicability of Prevention of Significant Deterioration (PSD) Nonattainment (NA), and Title V permit requirements to dockside marine vessel emissions	December 12, 2000
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Rule/Regulation Citation(s):	Federal Rule: <u> </u> State Regulation: <u> X </u> Description:
30 Tex. Admin. Code § 116.150(a)	Subchapter B: New Source Review Permits Division 5: Nonattainment Review
30 Tex. Admin. Code § 116.160(a)	Subchapter B: New Source Review Permits Division 6: Prevention of Significant Deterioration Review
30 Tex. Admin. Code § 122.10	Subchapter A: Definitions

Interpretation Request:

Are dockside marine vessel emissions included in applicability determinations for Prevention of Significant Deterioration (PSD), Nonattainment (NA), and Title V permit requirements?

Determination:

Dockside vessel loading, unloading, cleaning, degassing, abrasive blasting and painting that serve the purpose of and are under the control of the onshore facilities must be included in applicability determinations for PSD, NA, and Title V permit requirements.

Title 30 Texas Administrative Code (Tex. Admin. Code) Chapter 116 [§§ 116.12(4) and 116.160(a)] inadvertently cross-references or incorporates the vacated 1982 PSD and NA rules; therefore, we are initiating rulemaking to correct that cross-reference or incorporation. Please note, although our state rule contains incorrect citations, the federal requirements are required to be implemented as established by 1980 federal rules. Therefore this rule interpretation does not change the PSD or NA requirement but only clarifies the continued requirement to comply with the 1980 federal rules.

However, since the issue was not explicitly addressed in Title 40 Code of Federal Regulations (C.F.R.) Part 70 previously, pursuant to 30 Tex. Admin. Code § 122.130(c)(2), the applicant has one year from the date of this rule interpretation to submit an application for those sites that were not previously considered major but, based on inclusion of the dockside vessel emissions, now would be major.

Bibliography:

45 Fed. Reg. 52,676, 52,696 (1980) (published Aug. 7, 1980) (Nonattainment and PSD rule).

46 Fed. Reg. 36,695 (1981) (published July 15, 1981) (EPA stay of Aug. 7, 1980 regulations).

46 Fed. Reg. 61,613 (1981) (published Dec. 17, 1981) (EPA stay extension and proposed revised PSD and NA regulations).

47 Fed. Reg. 27,554 (1982) (published June 25, 1982) (final PSD and NA regulation excluding marine vessel emissions).

Natural Resources Defense Council v. United States EPA, 725 F.2d 761 (D.C. Cir. 1984).

54 Fed. Reg. 52,823 (1989) (published Dec. 22, 1989) (EPA proposal to approve Texas PSD program except for marine vessels).

Memorandum from John Calcagni, U.S. EPA, to Ken Waid (Jan. 8, 1990).

Memorandum from Bill Zeis, Staff Attorney, TACB Legal Division, to Lawrence Pewitt, Director, TACB Permits Program (Aug. 7, 1990) (“PSD Applicability Determination Concerning Vessel Emissions”).

U.S. EPA, NSR Workshop Manual (1990) (Section II.B.4., Secondary Emissions).

57 Fed. Reg. 28,093 (1992) (published June 24, 1992) (EPA final approval of Texas PSD program except for marine vessels).

Memorandum from David Duncan, Senior Attorney, TNRCC Legal Division, to Jeff Saitas, Deputy Director, TNRCC Office of Air Quality (May 4, 1998).