SUBCHAPTER A: DEFINITIONS
§§116.10, 116.12 - 116.18, 116.20
Effective July 31, 2014

§116.10. General Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the commission, the terms used by the commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, and in §101.1 of this title (relating to Definitions), the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Best available control technology (BACT)--An air pollution control method for a new or modified facility that through experience and research, has proven to be operational, obtainable, and capable of reducing or eliminating emissions from the facility, and is considered technically practical and economically reasonable for the facility. The emissions reduction can be achieved through technology such as the use of add-on control equipment or by enforceable changes in production processes, systems, methods, or work practice.

(2) Dockside vessel--Any water-based transportation, platforms, or similar structures which are connected or moored to the land.

(3) Dockside vessel emissions--Those emissions originating from a dockside vessel that are the result of functions performed by onshore facilities or using onshore equipment. These emissions include, but are not limited to:

(A) loading and unloading of liquid bulk materials;

(B) loading and unloading of liquified gaseous materials;

(C) loading and unloading of solid bulk materials;

(D) cleaning and degassing of liquid vessel compartments; and

(E) abrasive blasting and painting.

(4) Facility--A discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances

other than emission control equipment. A mine, quarry, well test, or road is not a facility.

(5) Federally enforceable--All limitations and conditions which are enforceable by the United States Environmental Protection Agency (EPA), including:

(A) those requirements developed under Title 40 of the Code of Federal Regulations (CFR) Parts 60 and 61 (40 CFR Parts 60 and 61);

(B) Chapter 113, Subchapter C of this title (relating to National Emission Standards for Hazardous Air Pollutants for Source Categories (FCAA, §112, 40 CFR Part 63));

(C) requirements within any applicable state implementation plan (SIP);

(D) any permit requirements established under 40 CFR §52.21;

(E) any permit requirements established under regulations approved under 40 CFR Part 51, Subpart I, including permits issued under the EPA-approved program that is incorporated into the SIP and that expressly requires adherence to any permit issued under such program; or

(F) any permit requirements established under Subchapter E of this chapter (relating to Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, §112(g), 40 CFR Part 63)).

(6) Grandfathered facility--Any facility that is not a new facility and has not been modified since August 30, 1971.

(7) Lead smelting plant--Any facility which produces purified lead by melting and separating lead from metal and nonmetallic contaminants and/or by reducing oxides into elemental lead. Raw materials consist of lead concentrates, lead-bearing ores or lead scrap, drosses, or other lead-bearing residues. Additional processing may include refining and alloying. A facility which only remelts lead bars or ingots for casting into lead products is not a lead smelting plant.

(8) Maximum allowable emissions rate table (MAERT)--A table included with a preconstruction permit issued under this chapter that contains the allowable emission rates established by the permit for a facility.

(9) Modification of existing facility--Any physical change in, or change in the method of operation of, a facility in a manner that increases the amount of any air contaminant emitted by the facility into the atmosphere or that results in the emission of any air contaminant not previously emitted. The term does not include:

(A) insignificant increases in the amount of any air contaminant emitted that is authorized by one or more permits by rule under Chapter 106 of this title (relating to Permits by Rule);

(B) maintenance or replacement of equipment components that do not increase or tend to increase the amount or change the characteristics of the air contaminants emitted into the atmosphere;

(C) an increase in the annual hours of operation unless the existing facility has received a preconstruction permit or has been exempted, under the TCAA, §382.057, from preconstruction permit requirements;

(D) a physical change in, or change in the method of operation of, a facility that does not result in a net increase in allowable emission of any air contaminant and that does not result in the emission of any air contaminant not previously emitted, provided that the facility:

(i) has received a preconstruction permit or permit amendment or has been exempted under the TCAA, §382.057, from preconstruction permit requirements no earlier than 120 months before the change will occur; or

(ii) uses, regardless of whether the facility has been exempted under the TCAA, §382.057, an air pollution control method that is at least as effective as the BACT that the commission required or would have required for a facility of the same class or type as a condition of issuing a permit or permit amendment 120 months before the change will occur;

(E) a physical change in, or change in the method of operation of, a facility where the change is within the scope of a flexible permit or a multiple plant permit; or

(F) a change in the method of operation of a natural gas processing, treating, or compression facility connected to or part of a natural gas gathering or transmission pipeline which does not result in an annual emission rate of any air contaminant in excess of the volume emitted at the maximum designed capacity, provided that the facility is one for which:

(i) construction or operation started on or before September 1, 1971, and at which either no modification has occurred after September 1, 1971, or at which modifications have occurred only under Chapter 106 of this title; or

(ii) construction started after September 1, 1971, and before March 1, 1972, and which registered in accordance with TCAA, §382.060, as that section existed prior to September 1, 1991.

(10) New facility--A facility for which construction is commenced after August 30, 1971, and no contract for construction was executed on or before August 30, 1971, and that contract specified a beginning construction date on or before February 29, 1972.

(11) New source--Any stationary source, the construction or modification of which is commenced after March 5, 1972.

(12) Nonattainment area--A defined region within the state which is designated by the EPA as failing to meet the national ambient air quality standard for a pollutant for which a standard exists. The EPA will designate the area as nonattainment under the provisions of FCAA, §107(d).

(13) Public notice--The public notice of application for a permit as required in this chapter.

(14) Qualified facility--An existing facility that satisfies the criteria of either paragraph (9)(D)(i) or (ii) of this section.

(15) Source--A point of origin of air contaminants, whether privately or publicly owned or operated.

Adopted September 15, 2010 Effective October 7, 2010

§116.12. Nonattainment and Prevention of Significant Deterioration Review Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the commission, the terms used by the commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms that are defined by the TCAA, and in §101.1 of this title (relating to Definitions), the following words and terms, when used in Subchapter B, Divisions 5 and 6 of this chapter (relating to Nonattainment Review Permits and Prevention of Significant Deterioration Review);

and Subchapter C, Division 1 of this chapter (relating to Plant-Wide Applicability Limits), have the following meanings, unless the context clearly indicates otherwise.

(1) Actual emissions--Actual emissions as of a particular date are equal to the average rate, in tons per year, at which the unit actually emitted the pollutant during the 24-month period that precedes the particular date and that is representative of normal source operation, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a plant-wide applicability limit. Instead, paragraph (3) of this section relating to baseline actual emissions shall apply for this purpose. The executive director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. The executive director may presume that the source-specific allowable emissions for the unit are equivalent to the actual emissions, e.g., when the allowable limit is reflective of actual emissions. For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(2) Allowable emissions--The emissions rate of a stationary source, calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits that restrict the operating rate, or hours of operation, or both), and the most stringent of the following:

(A) the applicable standards specified in 40 Code of Federal Regulations Part 60 or 61;

(B) the applicable state implementation plan emissions limitation including those with a future compliance date; or

(C) the emissions rate specified as a federally enforceable permit condition including those with a future compliance date.

(3) Baseline actual emissions--The rate of emissions, in tons per year, of a federally regulated new source review pollutant.

(A) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the five-year period immediately preceding when the owner or operator begins actual construction of the project. The executive director shall allow the use of a

different time period upon a determination that it is more representative of normal source operation.

(B) For an existing facility (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the facility actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the ten-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received for a permit. The rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply with the exception of those required under 40 Code of Federal Regulations Part 63, had such major stationary source been required to comply with such limitations during the consecutive 24-month period.

(C) For a new facility, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and for all other purposes during the first two years following initial operation, shall equal the unit's potential to emit.

(D) The actual average rate shall be adjusted downward to exclude any non-compliant emissions that occurred during the consecutive 24-month period. For each regulated new source review pollutant, when a project involves multiple facilities, only one consecutive 24-month period must be used to determine the baseline actual emissions for the facilities being changed. A different consecutive 24-month period can be used for each regulated new source review pollutant. The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount. Baseline emissions cannot occur prior to November 15, 1990.

(E) The actual average emissions rate shall include fugitive emissions to the extent quantifiable. Until March 1, 2016, emissions previously demonstrated as resulting from planned maintenance, startup, or shutdown activities; historically unauthorized; and subject to reporting under Chapter 101 of this title (relating to General Air Quality Rules) shall be included to the extent that they have been authorized, or are being authorized.

(4) Basic design parameters--For a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality

based on British thermal units content shall be used for determining the basic design parameters for a coal-fired electric utility steam generating unit. The basic design parameters for any process unit that is not at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator shall consider the primary product or primary raw material when selecting a basic design parameter. The owner or operator may propose an alternative basic design parameter for the source's process units to the executive director if the owner or operator believes the basic design parameter as defined in this paragraph is not appropriate for a specific industry or type of process unit. If the executive director approves of the use of an alternative basic design parameter, that basic design parameter shall be identified and compliance required in a condition in a permit that is legally enforceable.

(A) The owner or operator shall use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameter.

(B) If design information is not available for a process unit, the owner or operator shall determine the process unit's basic design parameter(s) using the maximum value achieved by the process unit in the five-year period immediately preceding the planned activity.

(C) Efficiency of a process unit is not a basic design parameter.

(5) Begin actual construction--In general, initiation of physical on-site construction activities on an emissions unit that are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities that mark the initiation of the change.

(6) Building, structure, facility, or installation--All of the pollutant-emitting activities that belong to the same industrial grouping, are located in one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities are considered to be part of the same industrial grouping if they belong to the same "major group" (i.e., that have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 supplement.

(7) Carbon dioxide equivalent (CO_2 e) emissions--shall represent an amount of greenhouse gases (GHGs) emitted, and shall be computed by multiplying the mass amount of emissions in tons per year (tpy) for the GHGs, as defined in §101.1 of this title (relating to Definitions), by the gas's associated global warming potential as published in 40 Code of Federal Regulations Part 98, Subpart A, Table A-1 - Global Warming Potentials, and summing the resultant values.

(8) Clean coal technology--Any technology, including technologies applied at the precombustion, combustion, or post-combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam that was not in widespread use as of November 15, 1990.

(9) Clean coal technology demonstration project--A project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of $2.5 billion for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the United States Environmental Protection Agency. The federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.

(10) Commence--As applied to construction of a major stationary source or major modification, means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(B) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(11) Construction--Any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in actual emissions.

(12) Contemporaneous period--For major sources the period between:

(A) the date that the increase from the particular change occurs; and

(B) 60 months prior to the date that construction on the particular change commences.

(13) *De minimis* threshold test (netting)--A method of determining if a proposed emission increase will trigger nonattainment or prevention of significant deterioration review. The summation of the proposed project emission increase in tons per year with all other creditable source emission increases and decreases during the contemporaneous period is compared to the significant level for that pollutant. If the significant level is exceeded, then prevention of significant deterioration and/or nonattainment review is required.

(14) Electric utility steam generating unit--Any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is included in determining the electrical energy output capacity of the affected facility.

(15) Federally regulated new source review pollutant--As defined in subparagraphs (A) - (E) of this paragraph:

(A) any pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the United States Environmental Protection Agency;

(B) except for greenhouse gases, any pollutant that is subject to any standard promulgated under Federal Clean Air Act (FCAA), §111;

(C) any Class I or II substance subject to a standard promulgated under or established by FCAA, Title VI;

(D) any pollutant that otherwise is subject to regulation under the FCAA; except that any or all hazardous air pollutants either listed in FCAA, §112 or added to the list under FCAA, §112(b)(2), which have not been delisted under FCAA, §112(b)(3), are not regulated new source review pollutants unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under FCAA, §108; or

(E) greenhouse gases that meet or exceed the thresholds established in §116.164 of this title (relating to Prevention of Significant Deterioration Applicability for Greenhouse Gases Sources).

(16) Greenhouse gases (GHGs)--as defined in §101.1 of this title (relating to Definitions).

(17) Lowest achievable emission rate--For any emitting facility, that rate of emissions of a contaminant that does not exceed the amount allowable under applicable new source performance standards promulgated by the United States Environmental Protection Agency under 42 United States Code, §7411, and that reflects the following:

(A) the most stringent emission limitation that is contained in the rules and regulations of any approved state implementation plan for a specific class or category of facility, unless the owner or operator of the proposed facility demonstrates that such limitations are not achievable; or

(B) the most stringent emission limitation that is achieved in practice by a specific class or category of facilities, whichever is more stringent.

(18) Major facility--Any facility that emits or has the potential to emit 100 tons per year or more of the plant-wide applicability limit (PAL) pollutant in an attainment area; or any facility that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant in Table I of this section for nonattainment areas.

(19) Major stationary source--Any stationary source that emits, or has the potential to emit, a threshold quantity of emissions or more of any air contaminant (including volatile organic compounds (VOCs)) for which a national ambient air quality standard has been issued, or greenhouse gases. The major source thresholds are identified in Table I of this section for nonattainment pollutants and the major source thresholds for prevention of significant deterioration pollutants are identified in 40 Code of Federal Regulations (CFR) §51.166(b)(1). For greenhouse gases, the major source thresholds are specified in §116.164 of this title (relating to Prevention of Significant Deterioration Applicability for Greenhouse Gases Sources). A source that emits, or has the potential to emit a federally regulated new source review pollutant at levels greater than those identified in 40 CFR §51.166(b)(1) is considered major for all prevention of significant deterioration pollutants. A major stationary source that is major for VOCs or nitrogen oxides is considered to be major for ozone. The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this definition whether it is a major stationary source, unless the source belongs to one of the categories of stationary sources listed in 40 CFR §51.165(a)(1)(iv)(C).

(20) Major modification--As follows.

(A) Any physical change in, or change in the method of operation of a major stationary source that causes a significant project emissions increase and a significant net emissions increase for any federally regulated new source review pollutant. At a stationary source that is not major prior to the increase, the increase by itself must equal or exceed that specified for a major source. At an existing major stationary source, the increase must equal or exceed that specified for a major modification to be significant. The major source and significant thresholds are provided in Table I of this section for nonattainment pollutants. The major source and significant thresholds for prevention of significant deterioration pollutants are identified in 40 Code of Federal Regulations §51.166(b)(1) and (23), respectively and in §116.164 of this title (relating to Prevention of Significant Deterioration Applicability for Greenhouse Gases Sources).

Figure: 30 TAC §116.12(20)(A)

TABLE I

MAJOR SOURCE/MAJOR MODIFICATION EMISSION THRESHOLDS

POLLUTANT designation[1]	MAJOR SOURCE tons/year	SIGNIFICANT LEVEL[2] tons/year	OFFSET RATIO minimum
OZONE (VOC, NO_X)[3]			
I marginal	100	40	1.10 to 1
II moderate	100	40	1.15 to 1
III serious	50	25	1.20 to 1
IV severe	25	25	1.30 to 1
CO			
I moderate	100	100	1.00 to 1[4]
II serious	50	50	1.00 to 1[4]
SO_2	100	40	1.00 to 1[4]
PM_{10}			
I moderate	100	15	1.00 to 1[4]

II serious	70	15	1.00 to 1[4]
NO_x[5]	100	40	1.00 to 1[4]
Lead	100	0.6	1.00 to 1[4]

[1] Texas nonattainment area designations as defined in §101.1 of this title (relating to Definitions).

[2] The significant level is applicable only to existing major sources and shall be evaluated after netting, unless the applicant chooses to apply nonattainment new source review (NNSR) directly to the project. The appropriate netting triggers for existing major sources of NO_X and VOC are specified in §116.150 of this title (relating to New Major Source or Major Modification in Ozone Nonattainment Areas) and for other pollutants are equal to the significant level listed in this table.

[3] VOC and NO_X are precursors to ozone formation and should be quantified individually to determine whether a source is subject to NNSR under §116.150 of this title.

[4] The offset ratio is specified to be greater than 1.00 to 1.
VOC = volatile organic compounds
NO_X = oxides of nitrogen
NO_2 = nitrogen dioxide
CO = carbon monoxide
SO_2 = sulfur dioxide
PM_{10} = particulate matter with an aerodynamic diameter less than or equal to ten microns

[5] Applies to the National Ambient Air Quality Standard NO_2.

(B) A physical change or change in the method of operation shall not include:

(i) routine maintenance, repair, and replacement;

(ii) use of an alternative fuel or raw material by reason of an order under the Energy Supply and Environmental Coordination Act of 1974, §2(a) and (b) (or any superseding legislation) or by reason of a natural gas curtailment plan under the Federal Power Act;

(iii) use of an alternative fuel by reason of an order or rule of 42 United States Code, §7425;

(iv) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(v) use of an alternative fuel or raw material by a stationary source that the source was capable of accommodating before December 21, 1976 (unless such change would be prohibited under any federally enforceable permit condition established after December 21, 1976) or the source is approved to use under any permit issued under regulations approved under this chapter;

(vi) an increase in the hours of operation or in the production rate (unless the change is prohibited under any federally enforceable permit condition that was established after December 21, 1976);

(vii) any change in ownership at a stationary source;

(viii) any change in emissions of a pollutant at a site that occurs under an existing plant-wide applicability limit;

(ix) the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with the state implementation plan and other requirements necessary to attain and maintain the national ambient air quality standard during the project and after it is terminated;

(x) for prevention of significant deterioration review only, the installation or operation of a permanent clean coal technology demonstration project that constitutes re-powering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis; or

(xi) for prevention of significant deterioration review only, the reactivation of a clean coal-fired electric utility steam generating unit.

(21) Necessary preconstruction approvals or permits--Those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations that are part of the applicable state implementation plan.

(22) Net emissions increase--The amount by which the sum of the following exceeds zero: the project emissions increase plus any sourcewide creditable contemporaneous emission increases, minus any sourcewide creditable contemporaneous emission decreases. Baseline actual emissions shall be used to determine emissions increases and decreases.

(A) An increase or decrease in emissions is creditable only if the following conditions are met:

(i) it occurs during the contemporaneous period;

(ii) the executive director has not relied on it in issuing a federal new source review permit for the source and that permit is in effect when the increase in emissions from the particular change occurs; and

(iii) in the case of prevention of significant deterioration review only, an increase or decrease in emissions of sulfur dioxide, particulate matter, or nitrogen oxides that occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

(B) An increase in emissions is creditable if it is the result of a physical change in, or change in the method of operation of a stationary source only to the extent that the new level of emissions exceeds the baseline actual emission rate. Emission increases at facilities under a plant-wide applicability limit are not creditable.

(C) A decrease in emissions is creditable only to the extent that all of the following conditions are met:

(i) the baseline actual emission rate exceeds the new level of emissions;

(ii) it is federally enforceable at and after the time that actual construction on the particular change begins;

(iii) the executive director has not relied on it in issuing a prevention of significant deterioration or a nonattainment permit;

(iv) the decrease has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

(v) in the case of nonattainment applicability analysis only, the state has not relied on the decrease to demonstrate attainment or reasonable further progress.

(D) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(23) Offset ratio--For the purpose of satisfying the emissions offset reduction requirements of 42 United States Code, §7503(a)(1)(A), the emissions offset ratio is the ratio of total actual reductions of emissions to total emissions increases of such pollutants. The minimum offset ratios are included in Table I of this section under the definition of major modification. In order for a reduction to qualify as an offset, it must be certified as an emission credit under Chapter 101, Subchapter H, Division 1 or 4 of this title (relating to Emission Credit Banking and Trading; or Discrete Emission Credit Banking and Trading), except as provided for in §116.170(b) of this title (relating to Applicability of Emission Reductions as Offsets). The reduction must not have been relied on in the issuance of a previous nonattainment or prevention of significant deterioration permit.

(24) Plant-wide applicability limit--An emission limitation expressed, in tons per year, for a pollutant at a major stationary source, that is enforceable and established in a plant-wide applicability limit permit under §116.186 of this title (relating to General and Special Conditions).

(25) Plant-wide applicability limit effective date--The date of issuance of the plant-wide applicability limit permit.

(26) Plant-wide applicability limit major modification--Any physical change in, or change in the method of operation of the plant-wide applicability limit source that causes it to emit the plant-wide applicability limit pollutant at a level equal to or greater than the plant-wide applicability limit.

(27) Plant-wide applicability limit permit--The new source review permit that establishes the plant-wide applicability limit.

(28) Plant-wide applicability limit pollutant--The pollutant for which a plant-wide applicability limit is established at a major stationary source.

(29) Potential to emit--The maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or enforceable

operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, may be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions, as defined in 40 Code of Federal Regulations §51.165(a)(1)(viii), do not count in determining the potential to emit for a stationary source.

(30) Project net--The sum of the following: the project emissions increase, minus any sourcewide creditable emission decreases proposed at the source between the date of application for the modification and the date the resultant modification begins emitting. Baseline actual emissions shall be used to determine emissions increases and decreases. Increases and decreases must meet the creditability criteria listed under the definition of net emissions increase in this section.

(31) Projected actual emissions--The maximum annual rate, in tons per year, at which an existing facility is projected to emit a federally regulated new source review pollutant in any rolling 12-month period during the five years following the date the facility resumes regular operation after the project, or in any one of the ten years following that date, if the project involves increasing the facility's design capacity or its potential to emit that federally regulated new source review pollutant. In determining the projected actual emissions, the owner or operator of the major stationary source shall include unauthorized emissions from planned maintenance, startup, or shutdown activities, which were historically unauthorized and subject to reporting under Chapter 101 of this title (relating to General Air Quality Rules), to the extent they have been authorized, or are being authorized; and fugitive emissions to the extent quantifiable; and shall consider all relevant information, including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance plans under the approved state implementation plan.

(32) Project emissions increase--The sum of emissions increases for each modified or affected facility determined using the following methods:

(A) for existing facilities, the difference between the projected actual emissions and the baseline actual emissions. In calculating any increase in emissions that results from the project, that portion of the facility's emissions following the project that the facility could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth may be excluded from the project emission increase. The potential to emit from the facility

following completion of the project may be used in lieu of the projected actual emission rate; and

(B) for new facilities, the difference between the potential to emit from the facility following completion of the project and the baseline actual emissions.

(33) Replacement facility--A facility that satisfies the following criteria:

(A) the facility is a reconstructed unit within the meaning of 40 Code of Federal Regulations §60.15(b)(1), or the facility replaces an existing facility;

(B) the facility is identical to or functionally equivalent to the replaced facility;

(C) the replacement does not alter the basic design parameters of the process unit;

(D) the replaced facility is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable. If the replaced facility is brought back into operation, it shall constitute a new facility. No creditable emission reductions shall be generated from shutting down the existing facility that is replaced. A replacement facility is considered an existing facility for the purpose of determining federal new source review applicability.

(34) Secondary emissions--Emissions that would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the source or modification itself. Secondary emissions must be specific, well-defined, quantifiable, and impact the same general area as the stationary source or modification that causes the secondary emissions. Secondary emissions include emissions from any off-site support facility that would not be constructed or increase its emissions, except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions that come directly from a mobile source such as emissions from the tail pipe of a motor vehicle, from a train, or from a vessel.

(35) Significant facility--A facility that emits or has the potential to emit a plant-wide applicability limit (PAL) pollutant in an amount that is equal to or greater than the significant level for that PAL pollutant.

(36) Small facility--A facility that emits or has the potential to emit the plant-wide applicability limit (PAL) pollutant in an amount less than the significant level for that PAL pollutant.

(37) Stationary source--Any building, structure, facility, or installation that emits or may emit any air pollutant subject to regulation under 42 United States Code, §§7401 *et seq*.

(38) Temporary clean coal technology demonstration project--A clean coal technology demonstration project that is operated for a period of five years or less, and that complies with the state implementation plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

Adopted March 26, 2014 Effective April 17, 2014

§116.13. Flexible Permit Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Emission cap--Emission limit for a specific air contaminant based on total emissions of that pollutant from all facilities that are included in a flexible permit.

(2) Expected maximum capacity--The maximum capacity of a facility according to its physical and operational design and planned operation.

(3) Individual emission limitation--Emission limit for a specific air contaminant for an individual facility.

Adopted July 2, 2014 Effective July 31, 2014

§116.14. Standard Permit Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Off-plant receptor - For the purposes of Subchapter F of this chapter (relating to Standard Permits) only, shall be defined as any recreational area or residence or other structure not occupied or used solely by the owner or operator of the facilities or owner of the property upon which the facilities are located.

(2) Oil and gas facility - For the purposes of Subchapter F of this chapter only, shall be defined as facilities which handle gases and liquids associated with the production, conditioning, processing, and pipeline transfer of fluids found in geologic formations beneath the earth's surface. These oil and gas facilities include, but are not limited to: oil or gas production facilities; water injection facilities; carbon dioxide separation facilities; or oil or gas pipeline facilities consisting of one or more tanks, separators, dehydration units, free water knock-outs, gunbarrels, heater treaters, vapor recovery units, flares, pumps, internal combustion engines, gas turbines, compressors, natural gas liquid recovery units, or gas sweetening and other gas conditioning facilities. This definition does not include sulfur recovery units.

(3) Sulfur recovery unit - For the purposes of Subchapter F of this chapter only, shall be defined as a process device whose primary purpose is to recover elemental sulfur from acid gas.

Adopted June 17, 1998 Effective July 8, 1998

§116.15. Section 112(g) Definitions.

The following words and terms, when used in Subchapter C of this chapter (relating to Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources, Subpart B, Requirements for Control Technology (FCAA, §112(g), 40 Code of Federal Regulations (CFR) Part 63)), as amended December 27, 1996, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Affected source - The stationary source or group of stationary sources which, when fabricated (on-site), erected, or installed meets the criteria in §116.180(a)(1) and (2) of this title (relating to Applicability) and for which no MACT standard has been promulgated under 40 CFR Part 63.

(2) Control technology - Measures, processes, methods, systems, or techniques to limit the emission of HAPs including, but not limited to, measures that:

(A) reduce the quantity of, or eliminate emissions of, such pollutants through process changes, substitution of materials, or other modifications;

(B) enclose systems or processes to eliminate emissions;

(C) collect, capture, or treat such pollutants when released from a process, stack, storage, or fugitive emissions point;

(D) are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in 42 United States Code 7412(h); or

(E) are a combination of subparagraphs (A)-(D) of this paragraph.

(3) Electric utility steam generating unit - Any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that co-generates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.

(4) Greenfield site - A contiguous area under common control that is an undeveloped site.

(5) Hazardous air pollutant (HAP) - Any air pollutant listed under the FCAA, §112(b).

(6) List of source categories - The Source Category List required by FCAA, §112(c).

(7) Maximum achievable control technology (MACT) emission limitation for new sources - The emission limitation which is not less stringent than the emission limitation achieved in practice by the best controlled similar source, and which reflects the maximum degree of reduction in emissions that the executive director, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by the constructed or reconstructed major source.

(8) Process or production unit - Any collection of structures and/or equipment, that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one process or production unit.

(9) Research and development activities - Activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a de minimis manner.

(10) Similar source - A stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or

reconstructed major source such that the source could be controlled using the same control technology.

Adopted June 17, 1998 Effective July 8, 1998

§116.16. Voluntary Emission Reduction Permit Definitions.

The following words and terms, when used in Subchapter H of this chapter (relating to Voluntary Emission Reduction Permits), shall have the following meanings, unless the context clearly indicates otherwise. Airshed -

(1) For grandfathered facilities in nonattainment areas, the nonattainment area in which the facility is located.

(2) For grandfathered facilities in attainment areas, the region in which the facility is located, including any nonattainment area in that region: the East Texas Region or the West Texas Region, as defined in §101.330 of this title (relating to Electric Generating Facility Permits Definitions), or El Paso County.

Adopted December 16, 1999 Effective January 11, 2000

§116.17. Qualified Facility Definitions.

The words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Actual emissions--The highest rate of emissions of an air contaminant actually achieved from a qualified facility within the 120-month period prior to a change to a facility under §116.116(e) of this title (relating to Changes at Facilities). This rate cannot exceed any applicable federal or state emissions limitation. This definition applies only when determining whether there has been a net increase in allowable emissions under §116.116(e) of this title.

(2) Allowable emissions--The authorized rate of emissions of an air contaminant from a facility as determined in accordance with this paragraph. This rate cannot exceed any applicable state or federal emissions limitation. This definition applies only when determining whether there has been a net increase in allowable emissions under §116.116(e) of this title.

(A) Permitted facility--For a facility with a permit under this chapter, the allowable emissions shall be any emission limit established in the permit on a maximum allowable emissions rate table and any emission limit contained in representations in the permit application which was relied upon in issuing the permit,

plus any allowable emissions authorized under Chapter 106 of this title (relating to Permits by Rule).

(B) Facility permitted by rule--For a facility operating under Chapter 106 of this title, the allowable emissions shall be the least of the emissions rate allowed in Chapter 106, Subchapter A of this title (relating to General Requirements), the emissions rate specified in the applicable permit by rule, or the federally enforceable emission rate established in accordance with §106.6 of this title (relating to Registration of Emissions).

(C) Standard permit facility--For a facility authorized by standard permit, other than the Air Quality Standard Permit for Pollution Control Projects , the allowable emissions shall be the maximum emissions rate represented in the registration to use the standard permit.

(D) Special exemption facility--For a facility operating under a special exemption, the allowable emissions shall be the emissions rate represented in the original special exemption request.

(3) Revision--a change made in the conditions or emission rates of a permit issued under §116.111 of this title (relating to General Application), or to the representations in the registration for a standard permit issued under Subchapter F of the chapter (relating to Standard Permits) to codify physical changes or new emission rates as authorized by §116.116(e) of this title (relating to Changes at Facilities).

Adopted September 15, 2010 Effective October 7, 2010

§116.18. Electric Generating Facility Permits Definitions.

The following words and terms, when used in Subchapter I of this chapter (relating to Electric Generating Facility Permits) shall have the following meanings, unless the context clearly indicates otherwise.

(1) Allowance - As defined in §101.330(1) of this title (relating to Definitions).

(2) Capacity factor - Either:

(A) the ratio of an electric generating facility's (EGF) actual annual electric output (expressed in megawatt-hours) to the EGF's nameplate capacity times 8,760 hours; or

(B) the ratio of an EGF's annual heat input (in millions of British thermal units (MMBtu)) to the EGF's maximum design heat input (in MMBtu per hour) times 8,760 hours.

(3) Coal - As defined in §101.330(6) of this title.

(4) Coal-fired - As defined in §101.330(7) of this title.

(5) Compliance account - As defined in §101.330(8) of this title.

(6) Control period - As defined in §101.330(9) of this title.

(7) Electing EGF - As defined in §101.330(11) of this title.

(8) Electric generating facility (EGF) - As defined in §101.330(12) of this title.

(9) Grandfathered EGF - As defined in §101.330(14) of this title.

(10) Nameplate capacity - The maximum electrical output (expressed in megawatts) that an EGF can sustain over a specified period of time when not restricted by seasonal or other deratings.

(11) Natural gas-fired EGF - For purposes of Subchapter I of this chapter, an EGF that was designed to burn either natural gas or an EGF that was designed to burn both natural gas and fuel oil.

(12) Normal Annual Operating Schedule - For the purposes of §116.911(f)(1) of this title (relating to Electric Generating Facility Permit Application), the maximum number of operating hours for an EGF in any 12 consecutive month period between January 1, 1997 and December 31, 1999. For sites with more than one EGF, the owner or operator may use the EGF with the highest number of operating hours.

(13) Peaking unit - An EGF that has:

(A) an average capacity factor of no more than 10% during the past three calendar years; and

(B) a capacity factor of no more than 20% in each of those calendar years.

(14) Person - As defined in §101.330(17) of this title.

Adopted May 22, 2002 Effective June 12, 2002

§116.20. Portable Facilities Definitions.

Unless specifically defined in the Texas Clean Air Act or in the rules of the commission, the terms used by the commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms that are defined by the Texas Clean Air Act, and in §101.1 of this title (relating to Definitions), the following words and terms, when used in Subchapter B, Division 8 of this chapter (relating to Portable Facilities), have the following meanings, unless the context clearly indicates otherwise.

(1) Change of location--The process of gaining approval and moving a permitted facility and associated sources to a new location in which public notice is required, in accordance with the requirements of Chapter 39 of this title (relating to Public Notice).

(2) Portable facility--A facility authorized by a permit containing special conditions that allow the facility to relocate. Portable facilities are authorized by the Texas Commission on Environmental Quality, Air Permits Division. To be a portable facility, the facility shall not exceed the major source thresholds stated in 40 Code of Federal Regulations (CFR) §51.166(b)(1) and the permit for that facility shall be is designated with a portable permit number, portable registration number, or portable account number. The portable facility cannot be located at an account that is subject to the requirements for Prevention of Significant Deterioration and Nonattainment permits under Chapter 116, Subchapter B, Divisions 5 and 6 of this title (relating to Nonattainment Review Permits and Prevention of Significant Deterioration Review). These portable designations are used to facilitate the relocation of these types of facilities under specific criteria, and are not authorized under Chapter 106 of this title (relating to Permits by Rule).

(3) Project--A public works contract or series of contracts for segments of work within close proximity to each other.

(4) Related project segments--For facilities on a Texas Department of Transportation right-of-way, related project segments are one contract with multiple project locations or one contractor with multiple contracts in which separate project limits are in close proximity to each other. A facility that is sited on the right-of-way is usually within project limits. However, a facility located at an intersection or wider right-of-way outside project limits is acceptable if it can be easily associated with the project.

(5) Relocation--The process of gaining approval and moving a facility and associated sources to an approved site in which no public notice is required under Chapter 39 of this title (relating to Public Notice).

(6) Right-of-way of a public works project--Any public works project that is associated with a right-of-way. Examples of right-of-way public works projects are public highways and roads, water and sewer pipelines, electrical transmission lines, and other similar works. A facility must be in or contiguous to the right-of-way of the public works project to be exempt from the public notice requirements listed in Texas Health and Safety Code, §382.056.

(7) Site--As defined in §122.10 of this title (relating to General Definitions).

(8) Temporary facility--A facility that will occupy a designated site for not more than 180 consecutive days or that will supply material (such as concrete, hot mix asphalt, crushed rock, etc.) for a single project (single contract or same contractor for related project segments), but not other unrelated projects.

Adopted February 10, 2010 Effective March 3, 2010