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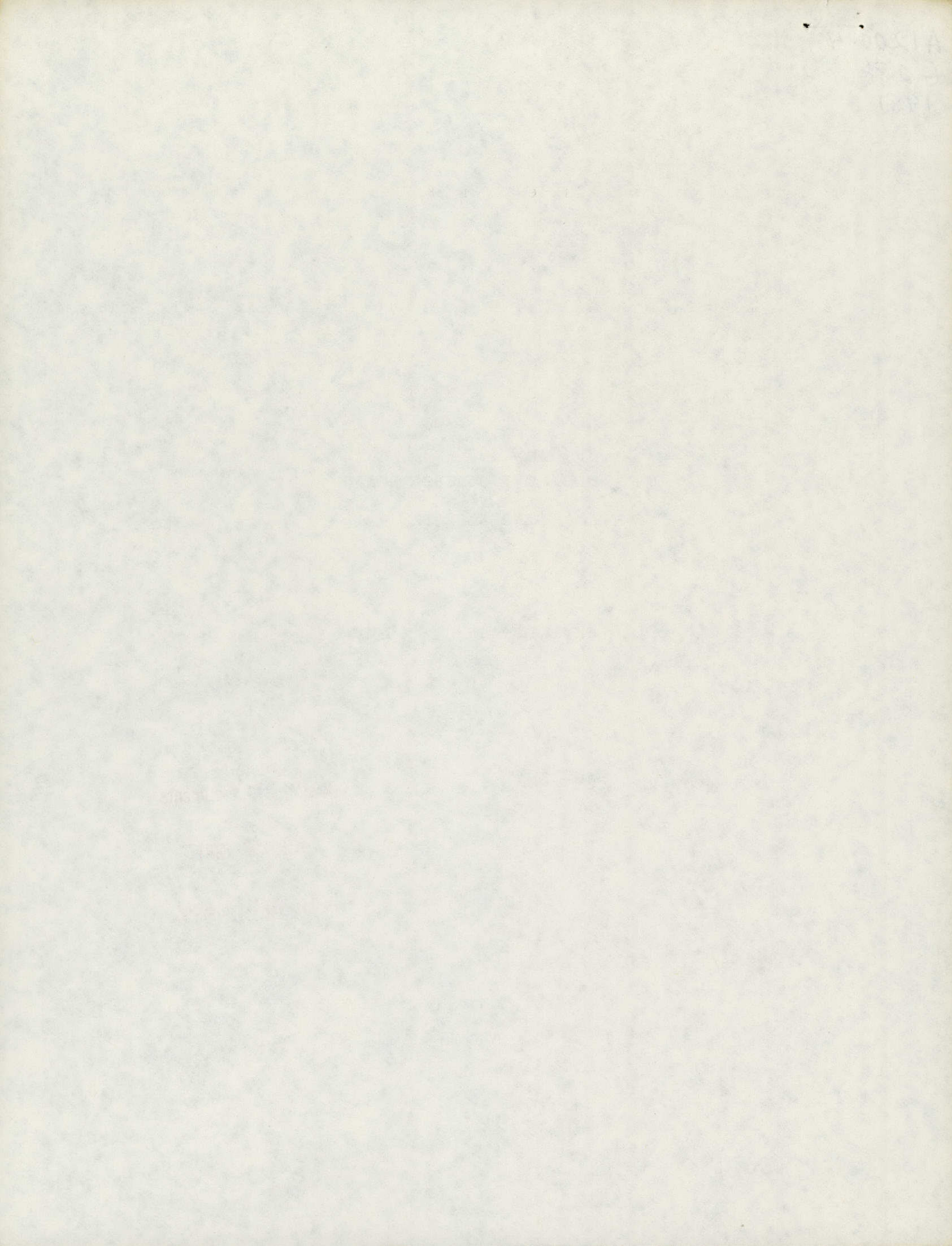
TEXAS AIR CONTROL BOARD
GENERAL RULES
(31 TAC CHAPTER 101)

REVISED MARCH 20, 1981

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Preface to Revised General Rules

This revision incorporates changes adopted by the Texas Air Control Board on March 20, 1981. Pages are dated so that revised pages can be identified.

If you have any questions or suggestions concerning the regulation, please contact Beverly Fowler in the Emissions Standards and Engineering Section of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711.



General Rules

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GENERAL RULES

§101.1(131.01.00.001-.002). Definitions.

(a) In addition to the terms which are defined by the Texas Civil Statutes Article 4477-5, the following terms shall have the meanings given herein:

Acid-gas flare - A flare used exclusively for the incineration of hydrogen sulfide and other acidic gases derived from natural gas sweetening processes.

Act - The Texas Clean Air Act, codified as Texas Civil Statutes article 4477-5.

Ambient air - That portion of the atmosphere, external to buildings, to which the general public has access.

Article - When followed by a number, "article" refers to provisions of the law as codified in Texas Civil Statutes, 1925, as amended.

Background - Background concentration, the level of air contaminants that cannot be reduced by controlling emissions from man-made sources. It is determined by measuring levels in nonurban areas.

Chemical process plant - Any facility, other than a petroleum refinery, which uses carbon or a carbon-based compound as a feedstock and which, through chemical processes or reactions, changes that compound into a different product(s), by-product(s), or waste product(s).

Combustion unit - Any boiler plant, furnace, incinerator, flare, engine, or other device or system used to oxidize solid, liquid, or gaseous fuels, but excluding motors and engines used in propelling land, water, and air vehicles.

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Commercial incinerators - An incinerator used to dispose of waste material from retail and wholesale trade establishments.

Condensate - Liquids that result from the cooling and/or pressure changes of produced natural gas. Once these liquids are processed at gas plants or refineries or in any other manner, they are no longer considered condensates.

Construction-demolition waste - Waste resulting from construction or demolition projects.

Custody transfer - The transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.

De minimis impact - A change in ground level concentration of an air contaminant as a result of the operation of any new major stationary source or of the operation of any existing source which has undergone a major modification, which does not exceed the following specified amounts.

<u>AIR CONTAMINANT</u>	<u>ANNUAL</u>	<u>24-HOUR</u>	<u>8-HOUR</u>	<u>3-HOUR</u>	<u>1-HOUR</u>
TOTAL SUSPENDED PARTICULATE	<u>1.0 $\mu\text{g}/\text{m}^3$</u>	<u>5 $\mu\text{g}/\text{m}^3$</u>			
SULFUR DIOXIDE	<u>1.0 $\mu\text{g}/\text{m}^3$</u>	<u>5 $\mu\text{g}/\text{m}^3$</u>		<u>25 $\mu\text{g}/\text{m}^3$</u>	
NITROGEN DIOXIDE	<u>1.0 $\mu\text{g}/\text{m}^3$</u>				
CARBON MONOXIDE			<u>0.5 mg/m^3</u>		<u>2 mg/m^3</u>

Domestic wastes - The garbage and rubbish normally resulting from the functions of life within a residence.

Downwind level - The concentration of air contaminants

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from a source or sources on a property as measured at or beyond the property boundary.

Exhaust emission - Air contaminants emitted to the atmosphere from an opening downstream from the exhaust ports of a motor vehicle engine.

External floating roof - A cover or roof in an open top tank which rests upon or is floated upon the liquid being contained and is equipped with a single or double seal to close the space between the roof edge and tank shell. A double seal consists of two complete and separate closure seals, one above the other, containing an enclosed space between them.

Federal motor vehicle regulation - The Motor Vehicle Air Pollution Standards, Title 45, Subtitle A, Part 85, Code of Federal Regulations.

Forage - Any vegetation which may be consumed by animals.

Fugitive emission - Any gaseous or particulate contaminant entering the atmosphere without first passing through a vent designed to direct or control its flow.

Garbage - Solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, and handling and sale of produce and other food products.

Gas processing plant - Any facility which is not a part of a petroleum refinery and which uses as its only feedstock a gas stream containing carbon or carbon-based compounds and which, through chemical or mechanical means, processes that stream for the removal of some or all of the carbon compounds, sulfur compounds, carbon dioxide, and/or water.

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Gasoline - Any petroleum distillate having a Reid Vapor Pressure (RVP) of four pounds per square inch (27.6 kPa) or greater which is produced for use as a motor fuel and is commonly called gasoline.

Gasoline bulk plant - A gasoline loading and/or unloading facility having a gasoline throughput less than 20,000 gallons (75,700 liters) per day, averaged over any consecutive 30-day period.

Gasoline terminal - A gasoline loading and/or unloading facility having a gasoline throughput equal to or greater than 20,000 gallons (75,700 liters) per day, averaged over any consecutive 30-day period.

Incinerator - An enclosed combustion apparatus and appurtenances thereto which is used in the process of burning wastes for the primary purpose of reducing its volume and weight by removing the combustibles of the waste, and which is equipped with a flue for conducting products of combustion to the atmosphere. An open-trench type (with closed ends) combustion unit may be considered an incinerator when approved by the Executive Director.

Inorganic fluoride compounds - All inorganic chemicals having an atom or atoms of fluorine in their chemical structure.

Internal floating cover - A cover or floating roof in a fixed roof tank which rests upon or is floated upon the liquid being contained, and is equipped with a closure seal or seals to close the space between the cover edge and tank shell.

Liquid-mounted seal - A primary seal mounted in continuous contact with the liquid between the tank wall and the floating roof around the circumference of the tank.

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Lowest achievable emission rate (LAER) - For any emitting facility, that rate of emissions of a contaminant which does not exceed the amount allowable under applicable new source performance standards and which reflects:

(A) The most stringent emission limitation which 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 which is achieved in practice by a specific class or category of facilities, whichever is more stringent.

Major facility/stationary source - Any facility/stationary source which emits, or has the potential to emit, 100 tons per year or more of any air contaminant (including volatile organic compounds) for which a national ambient air quality standard has been issued.

Major modification - Any modification to an existing facility/stationary source which increases the facility/stationary source's potential to emit by 100 tons per year or more of any air contaminant (including volatile organic compounds) for which a national ambient air quality standard has been issued.

Major upset - An unscheduled occurrence or excursion of a process or operation that results in an emission of air contaminants that contravenes the Texas Clean Air Act and is beyond immediate control, or a release that is initiated to protect life in the immediate or adjacent areas.

Motor vehicle - A self-propelled vehicle designed for transporting persons or property on a street or highway.

Motor vehicle fuel dispensing facility - Any site where gasoline is dispensed to motor vehicle fuel tanks from stationary storage tanks.

Municipal solid waste - Solid waste resulting from or incidental to municipal, community, commercial, and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste except industrial solid waste.

Net ground-level concentration - The upwind ground level concentration subtracted from the downwind ground level concentration.

New source - Any stationary source, the construction or modification of which is commenced after the date of adoption of these regulations.

Non-methane hydrocarbons - The total hydrocarbon content of the sample minus the methane content of the sample.

Opacity - The degree to which an emission of air contaminants obstructs the transmission of light, expressed as the percentage of light obstructed as measured by an optical instrument or trained observer.

Outdoor burning - Any fire or smoke-producing process which is not conducted in a combustion unit.

Particulate matter - Any material, except uncombined water, that exists as a solid or liquid in the atmosphere or in a gas stream at standard conditions.

Petroleum refinery - Any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of crude

oil, or through the redistillation, cracking, extraction, reforming, or other processing of unfinished petroleum derivatives.

Population equivalent - The hypothetical population which would generate an amount of solid waste equivalent to that actually being processed or disposed of based on a generation rate of five pounds per capita per day and applied to situations involving solid waste not necessarily generated by individuals.

Potential to emit (as contained in the definitions of major facility/stationary source and major modification herein) - The maximum design or operational capacity of a facility/stationary source to emit a pollutant. Any physical or enforceable operational limitation on the capacity of the facility/stationary source to emit a pollutant may be treated as part of its design. Limitations may include but are not limited to special operating limitations, air pollution control equipment, and/or restrictions on hours of operation or on the type of material combusted, stored, or processed.

Process or processes - Any action, operation or treatment embracing chemical, commercial, industrial or manufacturing factors such as combustion units, kilns, stills, dryers, roasters, and equipment used in connection therewith, and all other methods or forms of manufacturing or processing that may emit smoke, particulate matter, gaseous matter, or visible emissions.

Process weight per hour - "Process weight" is the total weight of all materials introduced or recirculated into any

specific process which process may cause any discharge of air contaminants into the atmosphere. Solid fuels charged into the process will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. The "process weight per hour" will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment used to conduct the process is idle. For continuous operation, the "process weight per hour" will be derived by dividing the process weight for a 24-hour period by twenty-four.

Property - All land under common control or ownership coupled with all improvements on such land, and all fixed or movable objects on such land, or any vessel on the waters of this State.

Reasonable further progress (RFP) - Annual incremental reductions in emissions of the applicable air contaminant which are sufficient to provide for attainment of the applicable national ambient air quality standard in the designated nonattainment areas by the date required in the State Implementation Plan.

Rubbish - Nonputrescible solid waste, consisting of both combustible and noncombustible waste materials; combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and like materials which will not burn at ordinary incinerator temperatures (1600°F to 1800°F).

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Smoke - Small gas-born particles resulting from incomplete combustion, consisting predominately of carbon and other combustible material and present in sufficient quantity to be visible.

Sour gas - Any natural gas containing more than 1.5 grains of hydrogen sulfide per 100 cubic feet, or more than 30 grains of total sulfur per 100 cubic feet.

Sour crude - A crude oil which will emit a sour gas when in equilibrium at atmospheric pressure.

Source - A point of origin of air contaminants, whether privately or publicly owned or operated. Upon request of a source owner the Executive Director shall determine whether multiple processes emitting air contaminants from a single point of emission will be treated as a single source or as multiple sources.

Specified solvent-using processes

(A) **Cutback asphalt** - Any asphaltic cement which has been liquified by blending with petroleum solvents (diluent).

(B) **Cold solvent cleaning** - The batch process of cleaning and removing soils from metal surfaces by spraying, brushing, flushing and/or immersion while maintaining the solvent below its boiling point. Wipe cleaning (hand cleaning) is not included in this definition.

(C) **Open-top vapor degreasing** - The batch process of cleaning and removing soils from metal surfaces by condensing hot solvent vapors on the colder metal parts.

(D) **Conveyorized degreasing** - The continuous process of cleaning and removing soils from metal surfaces by operating with either cold or vaporized solvent.

Standard conditions - A condition at a temperature of 68°F (20°C) and a pressure of 14.7 pounds per square inch

absolute (101 kPa). Pollutant concentrations from an incinerator will be corrected to a condition of 50% excess air if the incinerator is operating at greater than 50% excess air.

Standard metropolitan statistical area - An area consisting of a county or one or more contiguous counties which is officially so designated by the U.S. Bureau of the Budget.

Submerged fill pipe - A fill pipe that extends from the top of a tank to have a maximum clearance of 6 inches from the bottom or, when applied to a tank which is loaded from the side, that has a discharge opening entirely submerged when the pipe used to withdraw liquid from the tank can no longer withdraw liquid in normal operation.

Sulfur compounds - All inorganic or organic chemicals having an atom or atoms of sulfur in their chemical structure.

Surface coating processes - Continuous or assembly-line surface coating operations using solvent-containing liquids.

(A) **Large-appliance coating** - The coating of doors, cases, lids, panels, and interior support parts of residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dishwashers, trash compactors, air conditioners, and other large appliances.

(B) **Metal furniture coating** - The coating of metal furniture (tables, chairs, waste baskets, beds, desks, lockers, benches, shelves, file cabinets, lamps, and other metal furniture products) or the coating of any metal part which will be a part of a nonmetal furniture product.

(C) **Coil coating** - The coating of any flat metal sheet or strip supplied in rolls or coils.

(D) **Paper coating** - The coating of paper and

pressure-sensitive tapes (regardless of substrate and including paper, fabric, and plastic film) and related web coating processes on plastic film (including typewriter ribbons, photographic film and magnetic tape) and metal foil (including decorative gift wrap, and packaging). This definition does not include operations using a web coating (printing process) that do not distribute coatings uniformly across the web.

(E) **Fabric coating** - The application of coatings to fabric, including application of rubber (rainwear, tents, and industrial products such as gaskets and diaphragms).

(F) **Vinyl coating** - The use of printing or any decorative or protective topcoat applied over vinyl sheets or vinyl-coated fabric.

(G) **Can coating** - The coating of cans for beverages (including beer), edible products (including meats, fruit, vegetables and others), tennis balls, motor oil, paints, and other mass-produced cans.

(H) **Automobile coating** - The assembly-line coating of passenger cars, or passenger car derivatives, capable of seating 12 or fewer passengers.

(I) **Light-duty truck coating** - The assembly-line coating of motor vehicles rated at 8500 pounds (3900 kg) gross vehicle weight or less and designed primarily for the transportation of property, or derivatives such as pick-ups, vans, and window vans.

(J) **Miscellaneous metal parts and products coating** - The coating of miscellaneous metal parts and products in the following categories:

(i) **Large farm machinery** (harvesting, fertilizing and planting machines, tractors, combines, etc.);

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- (ii) **Small farm machinery** (lawn and garden tractors, lawn mowers, rototillers, etc.);
- (iii) **Small appliances** (fans, mixers, blenders, crock pots, dehumidifiers, vacuum cleaners, etc.);
- (iv) **Commercial machinery** (computers and auxiliary equipment, typewriters, calculators, vending machines, etc.);
- (v) **Industrial machinery** (pumps, compressors, conveyor components, fans, blowers, transformers, etc.);
- (vi) **Fabricated metal products** (metal covered doors, frames, etc.); and
- (vii) **Any other category of coated metal products, except the specified list in subparagraphs (A) through (I) of surface coating processes**, which are included in the Standard Industrial Classification Code major group 33 (primary metal industries), major group 34 (fabricated metal products), major group 35 (non-electrical machinery), major group 36 (electrical machinery), major group 37 (transportation equipment), major group 38 (miscellaneous instruments), and major group 39 (miscellaneous manufacturing industries).

(K) **Factory surface coating of flat wood paneling** - Coating of flat wood paneling products, including hardboard, hardwood plywood, particle board, printed interior paneling, and tileboard.

Sweet crude oil and gas - Those crude petroleum hydrocarbons that are not "sour" as defined in this section.

System or device - Any article, chemical, machine, equipment or other contrivance, the use of which may eliminate, reduce, or control the emission of air contaminants to the atmosphere.

True vapor pressure - The absolute aggregate partial vapor pressure (psia) of all volatile organic compounds at the temperature of storage, handling or processing.

Upwind level - The representative concentration of air contaminants flowing onto a property as measured at any point.

Vapor-mounted seal - A primary seal mounted so there is an annular space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the tank wall, the liquid surface, and the floating roof or cover.

Vapor recovery system - Any control system that reduces volatile organic compound (VOC) emissions such that the aggregate partial pressure of all VOC vapors will not exceed a level of 1.5 psia (10.3 kPa) or other emission limits specified in Chapter 115 of this title (relating to Volatile Organic Compounds).

Vapor-tight - Not capable of allowing the passage of gases at the pressures encountered, except where other acceptable leak-tight conditions are prescribed in the Regulations.

Vent - Any duct, stack, chimney, flue, conduit or other device used to conduct air contaminants into the atmosphere.

Visible emissions - Particulate or gaseous matter which can be detected by the human eye. The radiant energy from an open flame shall not be considered a visible emission under this definition.

Volatile organic compound (VOC) - Any compound of carbon or mixture of carbon compounds excluding methane, ethane, methyl chloroform, Freon 113, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

Volatile organic compound-water separator - Any tank, box, sump, or other container in which any volatile organic compound, floating on or contained in water entering such tank, box, sump, or other container, is physically separated and removed from water prior to outfall, drainage, or recovery of such water.

Waxy, high pour point crude oil - A crude oil with a pour point of 50°F (10°C) or higher as determined by the American Society for Testing and Materials Standard D97-66, "Test For Pour Point of Petroleum Oils."

(b) Unless specifically defined in the Act or in the rules of the Board, the terms used by the Board have the meanings commonly ascribed to them in the field of air pollution control.

§101.2(131.01.00.003). Multiple Air Contaminant Sources or Properties.

(a) In an area where an additive effect occurs from the accumulation of air contaminants from two or more sources on a single property or from two or more properties, such that the level of air contaminants exceeds the ambient air quality standards established by the Texas Air Control Board, and each source or each property is emitting no more than the allowed limit for an air contaminant for a single source or from a single property, further reduction of emissions from each source or property shall be made as determined by the Board.

(b) Two or more property holders in a county having a population of less than 50,000 as determined by the most recent federal census may petition the Board to have their properties designated a single property for purposes of controlling emissions therefrom, if the properties are contiguous except for intervening roads, railroads, rights-of-way, canals and watercourses, which are considered a part of the area for purposes of this provision. The petition shall describe generally the manner in which control of emissions from the combined properties will be administered and shall name the party or parties accepting responsibility thereof. The petition shall be accompanied by an executed copy of a written agreement between the property holders who consent to having their properties so designated and shall also be accompanied by a detailed map of the vicinity showing geographical features such as roads, watercourses, and well-known landmarks, the boundaries of the petitioner's properties, the area to be included in the single property designation and present land uses in the areas surrounding the area to be included. The Board may place such conditions on the approval of the petition as it may deem appropriate.

§101.3(131.01.00.004). Circumvention.

No person shall use any plan, activity, device or contrivance which the Executive Director determines will, without resulting in an actual reduction of air contaminants, conceal or appear to minimize the effects of an emission which would otherwise constitute a violation of the Act or regulations. Air introduced for dilution purposes only is considered a circumvention of the regulations.

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§101.4(131.01.00.005). Nuisance.

No person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property.

§101.5(131.01.00.006). Traffic Hazard.

No person shall discharge from any source whatsoever such quantities of air contaminants, uncombined water, or other materials which cause or have a tendency to cause a traffic hazard or an interference with normal road use.

§101.6(131.01.00.007). Notification Requirements for Major Upset.

The Executive Director and the appropriate local air pollution control agency shall be notified as soon as possible of any major upset condition which causes or may cause an excessive emission that contravenes the intent of the Texas Clean Air Act or the regulations of the Board. A list of persons to contact may be obtained from the Executive Director upon request.

**§101.7(131.01.00.008). Notification Requirements for
Maintenance.**

The Executive Director and the appropriate local air pollution control agency shall be notified in writing at least 10 days prior to any planned maintenance, start-up, or shut-down which will or may cause an excessive emission that contravenes the intent of the Texas Clean Air Act or the regulations of the Board. If 10 days notice cannot be given due to an unplanned occurrence, notice shall be given as soon as practical prior to the shut-down.

§101.8(131.01.00.009). Sampling.

(a) Any person owning or operating a source which emits air contaminants into the air of this state shall, upon request by the Board or the Executive Director, conduct sampling to determine the opacity, rate, composition, and/or concentration of such emissions. Sampling shall be conducted at a frequency and within a period of time which are reasonable as specified by the Board or Executive Director. The sampling method shall be specified by the Board or the Executive Director and, further, the sampling shall be conducted so as to reflect with reasonable accuracy the above listed characteristics of such emissions.

(b) Any person affected by subsection (a) of this section may request the Executive Director to approve alternate sampling techniques or other means to determine the opacity, rate, composition, and/or concentration of emissions.

The Executive Director may approve such alternate methods or means if it can be demonstrated that such alternatives will be substantially equivalent to the sampling methods specified by the Executive Director or the Board.

(c) If requested to obtain air contaminants emission data pursuant to subsection (a) of this section, the owner or operator shall attest to and report the results so obtained to the Executive Director within a reasonable time specified by and on forms furnished by the Executive Director.

(d) Copies of all data, the computations, and results obtained under subsection (a) of this section shall be retained by the owner or operator of a source for at least five years and shall be made available to the Board, or any members, employees or agents thereof, and to any local air pollution control agencies, during regular business hours.

§101.9(131.01.00.010). Sampling Ports.

Any person, at the request of the Board, shall provide in connection with each flue a power source near the point of testing in addition to such sampling and testing facilities and sampling ports, including safe and easy access thereto, exclusive of instruments and sensing devices, as may be necessary for the Board to determine the nature and quality of emissions which are or may be discharged as a result of source operations. Evidence and data based on these samples and calculations may be used to substantiate violations of the Act, rules and regulations. Agents of the Board shall be permitted to sample the stacks during operating hours.

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§101.10(131.01.00.011). Filing of Emissions Data.

Upon request by the Board or the Executive Director, any person affected by any rule or regulation of the Texas Air Control Board shall file emissions data with the Board on forms supplied by the Board.

§101.11(131.01.00.012). Exemptions from Rules and Regulations.

(a) Emissions occurring during major upsets may not be required to meet the allowable emission levels set by the rules and regulations upon proper notification as set forth in §101.6 of this title (relating to Notification Requirements for Major Upset), if a determination is made by the Executive Director after consultation with appropriate local agencies and with appropriate officials of the subject source that the upset conditions were unavoidable and that a shut-down or other corrective actions were taken as soon as practicable.

(b) Emissions occurring during start-up or shut-down of processes or during periods of maintenance may not be required to meet the allowable emission levels set by the rules and regulations if so determined by the Executive Director upon proper notification as set forth in §101.7 of this title (relating to Notification Requirements for Maintenance). The Executive Director may specify the amount, time, and duration of emissions that will be allowed during start-up and shut-down and during periods of maintenance.

(c) Smoke generators and other devices used for training inspectors in the evaluation of visible emissions at a training school approved by the Board are not required to meet the allowable emission levels set by the rules and regulations, but must be located and operated such that a nuisance is not created at any time.

(d) Equipment, machines, devices, flues, contrivances built or installed to be used at a domestic residence for domestic use are not required to meet the allowable emission levels set by the rules and regulations unless specifically required by a particular regulation.

(e) Sources emitting air contaminants which cannot be controlled or reduced due to a lack of technological knowledge may be exempt from the applicable rules and regulations when so determined and ordered by the Texas Air Control Board. The Board may specify limitation and conditions as to the operation of such exempt sources.

(f) No nuisance conditions shall be permitted to occur under these exemptions.

§101.12(131.01.00.013). Board Seal.

The seal of the Board shall bear the words "Texas Air Control Board," the star, and the oak and olive branches common to other official state seals.

§101.13(131.01.00.014). Use and Effect of Rules.

These rules may be used by the Board as guides in the exercise of discretion, where discretion is vested. They shall not be construed as a limitation or restriction on the exercise of discretion, where it exists, nor shall they be construed to deprive the Board of the exercise of any power, duties, and jurisdiction conferred by law, or to limit or restrict the amount and character of data or information which may be required for the proper administration of the law.

§101.14(131.01.00.015). Sampling Procedures and Terminology.

Where not otherwise specified in the rules, regulations, determinations and orders of the Board, the procedures used for sampling air and measuring air contaminants, and the methods of expressing the findings shall be those commonly accepted and used in the field of air pollution control.

§101.15(131.01.00.016). Petition for Variance.

Any person seeking a variance, amendment of a variance, or extension of a variance issued to that person shall file a petition on a form prepared by the Board. The form shall be furnished by the Board without charge upon request. In order to obtain a variance past the date by which compliance is to be achieved, a person must have demonstrated continuous and substantial progress toward compliance before the date of petition.

**§101.16(131.01.00.017). Effect of Acceptance of Variance
or Permit.**

Acceptance of a variance or a permit constitutes an acknowledgement and agreement that the holder thereof will comply with its terms and with the rules, regulations, and orders of the Board adopted pursuant to the Act.

§101.17(131.01.00.018). Transfers.

A variance or a permit is granted in personam, and does not attach to the realty to which it relates. A variance cannot be transferred without prior notification to the Board. If a transfer of ownership of a source covered by a variance is contemplated by the holder of the variance, and the source and characteristics of the emissions will remain unchanged, upon notification, the Executive Director shall issue an endorsement to the variance reflecting the name of the new owner. Continuation of emissions by the new owner without prior notification to the Board makes the variance subject to forfeiture.

§101.18(131.01.00.019). Remedies Cumulative.

The administrative and judicial procedures available to the Board to prevent, correct, or remedy air pollution conditions or violations are cumulative. Within the limits of the authority set forth in the Act and these rules, the Board or the Executive Director may act under any one or more of these procedures, as applicable to the facts of a particular air pollution condition or claimed violation.

§101.19(131.01.00.020). Severability.

If any provisions of any of the regulations of the Board or the application of that provision to any person, situation, or circumstance is for any reason adjudged invalid, the adjudication does not affect any other provision of the regulations or the application of the adjudicated provision to any other person, situation, or circumstances. The Board declares that it would have adopted the valid portions and applications of the regulations without the invalid part and to this end the provisions of the regulations are declared to be severable.

§101.20(131.01.00.021). Compliance with Environmental Protection Agency Standards.

Any person owning or operating a source of air contaminants shall comply with any applicable new source performance standards promulgated by the Environmental Protection Agency pursuant to section 111 of the Federal Clean Air Act, as amended, and any applicable emissions standards for hazardous air pollutants promulgated by the Environmental Protection Agency pursuant to section 112 of the Federal Clean Air Act, as amended.

§101.21(131.01.00.022). The National Primary and Secondary Ambient Air Quality Standards.

The National Primary and Secondary Ambient Air Quality Standards as promulgated pursuant to section 109 of the Federal Clean Air Act, as amended, will be enforced throughout all parts of Texas.

March 30, 1979

§101.22(131.01.00.023). Effective Date.

The general rules contained herein shall be in force immediately and shall supersede all previous general rules of the Texas Air Control Board.

§101.23. Alternate Emission Reduction ("Bubble") Policy.

An owner or operator of any facility that is affected by any control requirement of TACB Regulations I, II, III, V, VII and IX adopted on or after March 30, 1979 may, prior to compliance with such requirement, request the Executive Director to approve control of emissions from an alternate facility or from alternate facilities located on the affected property and owned or operated by or under the control of the owner or operator of the affected facility in lieu of compliance with the requirement as prescribed in the regulation provided the alternate proposed controls are not required by any TACB rule, regulation, permit condition, Board Order or court order. The Executive Director shall approve control of emissions from alternate facilities if the applicant demonstrates that the alternate controls will yield, by the date specified in the rule, emission reductions that are substantially equivalent to the emissions reductions which would otherwise be required in terms of their quantity, character, air quality impacts including health and welfare effects, and area affected. Facilities which receive the Executive Director's approval of an alternate emissions control plan will be deemed to have complied with the otherwise applicable TACB rule. However, the Executive Director may,

after notice and opportunity for public hearing, revoke the credit or authority for alternate controls if he determines that any of the prerequisites for approval of the alternate controls are no longer met or if further emission reductions are needed to meet the intent of the Texas Clean Air Act.

Date Adopted: January 27, 1972
Date Filed with the Secretary of State: February 4, 1972
Date Effective: March 5, 1972

Amendment of §101.9(131.01.00.010)
Date Adopted: July 27, 1972
Date Filed with the Secretary of State: August 1, 1972
Date Effective: August 31, 1972

Amendment of §101.1(131.01.00.001)
Date Adopted: February 13, 1973
Date Filed with the Secretary of State: April 12, 1973
Date Effective: May 12, 1973

Amendment of §101.9(131.01.00.010)
Date Adopted: October 30, 1973
Date Filed with the Secretary of State: November 1, 1973
Date Effective: December 1, 1973

Amendment of §101.21(131.01.00.022)
Date Adopted: March 27, 1975
Date Filed with the Secretary of State: March 28, 1975
Date Effective: April 27, 1975

Amendment of §§101.1 and 101.22(131.01.00.001 and 131.01.00.023)
Date Adopted: March 30, 1979
Date Filed with the Secretary of State: April 6, 1979
Date Effective: May 6, 1979

Amendment of §101.1(131.01.00.001)
Date Adopted: July 11, 1980
Date Filed with the Secretary of State: August 1, 1980
Date Effective: August 22, 1980

Addition of §101.23

Date Adopted: February 13, 1981

Date Filed with the Secretary of State: February 20, 1981

Date Effective: March 13, 1981

Amendment of §§101.1 and 101.22 (131.01.00.001 and 131.01.00.023)

Date Adopted: March 20, 1981

Date Filed with the Secretary of State: March 26, 1981

Date Effective: April 16, 1981