The Texas Natural Resource Conservation Commission (commission) adopts amendments to §101.1, concerning Definitions; §101.24, concerning Inspection Fees; and §101.27, concerning Emissions Fees; and revisions to the State Implementation Plan regarding these adoptions. The amendments are adopted with changes to the proposed text as published in the June 24, 1997, issue of the *Texas Register* (22 TexReg 6006).

EXPLANATION OF ADOPTED RULES. The definitions of site found in 30 TAC §122.10, account in §101.1, and account in §101.24 and §101.27 were different. Prior to the advent of Title V permitting, the term "account" was the unique facility identifier for air and air related programs. The definition of site can encompass multiple accounts, which has the effect of creating a new, partially overlapping facility identifier for the affected air programs. Multiple Title V permits may be issued at a site. In addition, the situation arises that a single Title V permit could span accounts at a site, because of the difference in definitions of site and account. Under the federal operating permit program, all emission units at a site must be permitted, but nothing requires that a single permit cover all. It is clear, however, that the intent of the federal operating permit program is to put in one list all of the requirements to which a site is subject. In order to increase flexibility to the regulated community, the commission allows multiple permits at a site, but does not require that those permits cover distinct geographic areas within that site. Unfortunately, prior to the proposed rule change, the definition of site could incorporate a geographic area that could span multiple accounts. At present, the commission documents actions and emissions from those sources both internally and to the United States Environmental Protection Agency (EPA) on an account basis, because this is the highest level of accounting for air purposes. The EPA data system cannot address multi-account permits in a

comprehensive manner. One solution to this problem is simply to change the definition of account to end this problem. Another solution is to require multiple permits at a multiple account site, issued along account boundary lines. This would require that the company submit multiple permit applications. The consequence of this is that the responsible official would have to verify each of those multiple permits annually, and that the agency would have to handle the multiple permit administrative overhead each time it addressed the units at the site either in a site inspection or in annual emissions inventory reporting to the EPA. This adoption amends the definition of account such that the term continues as the key identifier for a facility while retaining the necessary structure for federal permitting purposes.

The commission reviewed various options prior to adopting the amendments. The compelling rationale for the selected response is the fact that once the EPA has identified a site as major and thus subject to Title V, the site is viewed, from an air regulatory perspective, as an integrated whole from that time forward. It is incorrect for the commission, the public, and the regulated community to continue to view the multiple account sites as simply an aggregation of sources with no logical connection. If the commission were to view the accounts individually in the future, then each time the commission addressed the site, whether it be for fees, inspection, or compliance purposes, the commission would be required to assemble the information for data collection purposes, and then disassemble the information for reporting to EPA.

The commission also adopts administrative changes to §101.24 and §101.27 to keep them consistent with current rule citations, definitions, and designations of areas failing to meet the National Ambient Air Quality Standard for ozone contained in §101.1. Additionally, references to 30 TAC §101.6, concerning Upset Reporting and Recordkeeping Requirements and 30 TAC §101.7, concerning Maintenance, Start-up and Shutdown Reporting, Recordkeeping, and Operational Requirements are amended to reflect changes in the title designations of those sections, which were effective August 5, 1997.

TAKINGS IMPACT ASSESSMENT. The commission has prepared a takings impact assessment for these amendments under Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of these amendments is to modify the definition of account so that it may serve as the key identifier for facilities under air pollution control programs of the commission and to adopt administrative changes to §101.24 and §101.27 to keep them consistent with current rule citations and definitions. Promulgation and enforcement of these sections will not affect private real property.

COASTAL MANAGEMENT PLAN. The commission has determined that this rulemaking action is subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code, §§33.201 et. seq.), the rules of the Coastal Coordination Council (31 TAC Chapters 501-506), and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with the Texas Coastal Management Program. As required by 31 TAC §505.11(b)(2) and §505.22(a), and 30 TAC §281.45(a)(3), relating to actions and rules subject

to the CMP, agency rules governing air pollutant emissions must be consistent with applicable CMP goals and policies. The commission has reviewed this rulemaking action for consistency, and has determined that it is consistent with the applicable CMP goals and policies because these rules comply with regulations in Code of Federal Regulations, Title 40, adopted under the Federal Clean Air Act, United States Code, §§7401 et. seq., to protect and enhance air quality and promote public health, safety, and welfare in the coastal natural resources areas. Therefore, in compliance with 31 TAC §505.22(e), the commission affirms that these rules are consistent with CMP goals and policies.

PUBLIC HEARING. A public hearing was held July 15, 1997. Five organizations submitted comments during the public comment period, which closed on July 24, 1997. Texas Mid-Continent Oil and Gas Association (TMOGA), Exxon Company, U.S.A. (Exxon), Amoco Corporation (Amoco), and Phillips 66 Company (Phillips) opposed the proposal. The EPA expressed no concerns.

TMOGA, Exxon, and Amoco commented that oil and gas production accounts are often tied to individual leases, and each lease may have unique working interest percentages. Each owner with an interest in the lease is assessed a portion of the operating costs, such as air emission fees. A separate account allows companies to accurately bill out associated costs. Under this adoption, multiple leases would be combined because they are designated as a single site. Since emission fees vary among the various leases, it would be labor intensive to develop new cost accounting systems to assign fee responsibility among the leases. Amoco stated that combining existing accounts into one account is an unnecessary burden. Exxon recommended creating a unique Title V permit number that could be linked to all account numbers at a site. Exxon also requested guidance on the implementation schedule

of the proposal. The three commenters questioned whether the commission will require consolidation of accounts during Title V processing, at the next emission inventory submission, or at some other time.

The commission requires this amendment to allow efficient management of internal account data. The basis for the commission's position was established in this preamble under the heading of EXPLANATION OF ADOPTED RULES. The commission expects the effect on total fees from a source to be unchanged for the following reasons.

The emissions used as the basis for the fees originate at the unit level, with the total fee calculated at the account level. Within an account, each emission unit is uniquely numbered. The adoption retains this requirement of unique emission unit numbering. Therefore, the ability to allocate cost to respective parties would not change, as they are on an emission unit basis now.

The federal rules implementing the operating permits program use the term "site" to include all those emission units in a geographic area that are under common control and are interrelated. The commission is not requiring that entire leases be combined; rather, the commission is requiring that all sources of air pollution at a federally designated site be identified as a single location of air contaminants for regulatory purposes. Since the federal operating permit program requires that a responsible official be accountable for compliance with all air requirements at the site, it follows logically that the agency implementing that program also recognize the site as a unified whole.

The commission intends to consult with those sources subject to the interim program during the fall of 1997, and spring of 1998 to work out the details of account consolidation where required, such as renumbering of emission units where that is required. This would occur in the December 1997-March 1998 period, as this is the time of the year that has the lowest emissions inventory related activity date. It would be desirable for the combination of accounts to occur prior to the issuance of a Title V permit. The commission does not anticipate that the account consolidation activities will materially affect the Title V permitting process. The commission expects affected companies with multiple account sites to consolidate their account data prior to issuance of federal operating permits. For those multiple account sites where permits have already been issued, the commission expects consolidation to occur within one year of the issuance date of their operating permits. The commission staff will assist companies in the few cases where emission unit name changes are required prior to account consolidation.

Exxon stated that the commission has not done a complete economic analysis of the proposal and the expenses it would place on industries, and the proposal is not justified unless this analysis is complete. The preamble does not address the economic effect or any alternatives to the proposal.

The commission recognizes that the company must uniquely identify emission units and pay fees based on emissions from those units, and this will not change under the adopted rule language; thus, ongoing costs should be unchanged. The account number to which some of those emission units are assigned will change. A review of applications received for the interim Title V program indicates that the number of emission units requiring renaming is very small. Of the 965

applications received, between 20 and 30 of those applications were for permits for multiple account sites. Those permits would be issued at 18 sites comprising a total of 49 accounts. Those 49 accounts contain approximately 432 emission units. The merger of accounts will result in a total of 149 emission points moved to other account numbers, with only 22 of those units requiring renaming. The majority of the cost of reassigning emission units to accounts will be borne by the commission, and that cost, overall, is estimated to be less than $1,000. This one-time total cost is arguably less expensive than the development and submission of even one additional Title V permit.

Amoco and Exxon commented that emission units at multiple sites could be numbered similarly, requiring renumbering for inventory purposes.

A review of the emission units at the multiple-account sites subject to the interim program indicates that only 22 of the 432 total emission units at those multiple-account sites will require renumbering.

TMOGA and Exxon stated that the proposed change would require companies to revise their emission inventory database identifiers. The current identifier is assigned in such a way that it preserves the underlying oil and gas leases identification. If the agency were to renumber all of the emission units, it would be unable to preserve the oil and gas leases information.

Renumbering will be required only in limited cases, and only for those emission unit names that are common across the accounts. A review of emission unit names indicates that many companies have identified their emission units in such a manner that renumbering any of them will not be required. In every case, the staff of the commission will work closely with the company so that renumbering, where required to assure unique names, will conform to the company naming convention to the extent that it is consistent with the emissions inventory naming conventions.

TMOGA and Amoco also expressed concern that the proposal will cause increased times for permit review in that multiple sites aggregated under Title V of the Federal Clean Air Act Amendments will be treated as a single site. They asked that the commission clarify its intent.

The commission has adopted the definition of site to conform to federal rules. The agency will not aggregate sites, but will aggregate only those accounts that make up a site. The commission does not anticipate that the aggregation of accounts will delay the issuance of permits.

TMOGA stated that several members have reported that they have paid emission fees based on actual emissions only to have the commission come back and request additional fees based on allowable emissions. Actual emission data resulting from accepted engineering methods should be the base for emission fees, and allowables should be used only when this data is absent. TMOGA requested that the commission issue a clear policy directive that emission fees will be based on actual emissions where that data is available. Without this base, the commission creates a disincentive to operate below allowable levels. Amoco supported this comment.

These commenters refer to recently completed emissions fee audits in which companies were being asked to pay fees on permit allowable levels if measured data was not available. The audits were only recently completed, but the requirement has always been in effect. The historical intent of the emissions fee rule was to base the fees on allowable levels, where present, and actual emissions, either measured or estimated, in all other cases. The Texas Air Control Board, responding to comments in a 1991 rule amendment, made a limited exception to the use of allowables. That exception was to allow the use of measured data for permitted facilities if certain additional requirements were met. These restrictions were intended to provide an incentive for companies to reduce unnecessarily high allowable levels. Comments received under later rulemaking indicated opposition to the use of estimated emissions as the basis for fee payments. The current rule language strikes a balance between these two opposing viewpoints. The commenters also stated that the requirement for measured data provides a disincentive to operate below allowable levels. The commission has not seen a general trend toward companies operating near allowable levels because of these requirements. Quite the opposite, emissions have been steadily declining over the years.

TMOGA and Exxon requested that the commission provide an analysis of the revenue generated at the current emission fee rate of $26 per ton. They stated that a previous commission analysis indicates that the current fee produces more revenue than necessary to provide adequate funding to implement Title V, and that the commission should consider a rate reduction if revenues are creating a significant fund balance. Exxon also stated that any balance in this fund should not be used to partially pay settlement expenses charged against the state in the lawsuit involving Tejas Testing and MARTA Technologies and

the termination of the vehicle inspection/maintenance program by the Texas Legislature in 1995. Such an action may place the commission in violation of the stated purpose of emission fees to implement the Title V federal operating permit program. Exxon also stated that it would be not be fair to use the money paid by stationary sources to fund a permitting program that applies to these stationary sources for an unrelated purpose.

The commission anticipates the emissions fee rate of $26 per ton to generate approximately $37 million in fiscal year (FY) 1998. This is about $3 million less than the monies collected in FY 1997 due to emissions reductions. This fee, when combined with other sources of Clean Air Account revenue, is not expected to result in a significant excess in funds and should be sufficient to cover the estimated costs of the Title V permitting program and associated activities in the field offices and other agency divisions.

A detailed breakdown of expenditures on the Title V program is not available. The commission has not, and will not, expend funds collected under this rule in violation of the Texas Clean Air Act or the Federal Clean Air Act. Comments on the settlement of the lawsuits involving Tejas Testing and MARTA Technologies are outside the scope of this proposal.

Phillips stated that the term "account" is used for regulatory applicability in 30 TAC Chapter 115. In §115.217(a)(2), control requirements are based on throughput at an account. This proposal would change the status of a facility based on a Title V status rather than an air quality status. It is unfair to have different definitions for Title V and non-Title V sources.

The commission does not intend for this rulemaking to eliminate existing exemptions. This rule will be interpreted and enforced so that all valid existing exemptions remain intact.

Phillips commented that the proposal will not accomplish its stated objective to produce one reference number for sources at a site. Because air quality accounts are integral with New Source Review (NSR) permits and emission inventories (EI) which are based on ownership and management and not just control, a number of sites will have NSR permits and EIs assigned to one entity and Title V permits to another. This will cause considerable repermitting effort and could affect reporting and recordkeeping. There would be an additional burden for sources with contractual agreements for facilities affected by this proposal, for example, when a number of points are required to be transferred from one account to another. To provide a single identifier for a site, Phillips recommended using latitude and longitude coordinates or a Title V permit number. Amoco commented that the proposal is cumbersome and will place additional burdens on industries as they make the transition into the Title V program.

The commission's existing data management structure was designed around the term "account." All air quality related activities at a source were managed under this designation. The term "account" is synonymous with EPA's plant identification in the aerometric information and retrieval system (AIRS). Clearly, the intent of the EPA in implementing Title V is to address all the federally enforceable air requirements at a major air pollution site. Thus, in practice, the EPA has required that the commission redefine its designation of "account" into broader terms. This means that to address the site comprehensively in all data management endeavors both

internally and for EPA purposes (permitting, compliance, and emissions inventory), the commission must begin to treat the newly defined site as a single entity.

The commenter raised concerns over the interaction of NSR authorizations and EI with changing account numbers. The commission will be required to transfer all information (NSR, EI, and compliance) from the multiple accounts into a single account. The decision of which account number to retain and how to address those few emission units that are not uniquely named at those combined accounts will be made in consultation with the company. Once the decisions have been made, the transfer will be made by emissions inventory staff, and should not require further action by the company.

The assignment of NSR authorizations to any given party should be readily resolved during the process that will lead the company to select the responsible official for the site. This decision would necessarily require that the parties involved agree on who is in control, or who is responsible for the site as a whole.

Phillips questioned how the commission will handle flexible permits if sources within it transfer to a different account number. Phillips is concerned about potential competitive disadvantages if there are two different definitions for account based on Title V status.

Like other issues related to the combination of accounts, transfer of flexible permits will be handled in consultation with the company. This adoption provides an option for sources not

subject to Chapter 122, concerning federal operating permits, to combine their operations under one account if management chooses. If multiple accounts at a site are operating as one site, it would appear that this is because the entities involved decided that there was a significant advantage to the arrangement. This amendment does not affect the amount of emissions fees paid by a source.

Phillips stated that the proposal is not clear on the definition of account for sources not permitted under Title V and appears to give greater flexibility to some sources based on Title V status. This does not seem equitable unless there is a need for a different fee structure. Phillips requested that fees reference the type of facility in the tables rather than change a definition that affects other rules.

The definition makes a clear distinction between existing minor source accounts that are not part of a major air pollution site and facilities that must be aggregated under EPA Title V requirements. The commission has been unable to identify how being classified a major source has any more flexibility associated with it than being a minor source of air pollution.

The commission has no plans for a different fee structure from the existing inspection fee program for non-Title V sources. This fee structure does reference type of facility as suggested.

Phillips does not see the conflict in the definitions of account and site as they are used in different programs for different purposes. The fact that a site can have several accounts does not seem to be a problem since they are for different purposes. The commission should not make substantive changes to

the rules to provide information access. Phillips recommended addressing the problem in databases rather than making substantive rule changes simply to provide information access.

Prior to the advent of Title V, the agency has had the key identifier "account" at the highest level of aggregation of information for all air pollution sources. This identifier has and is being used routinely by all areas of the commission affected by air issues such as permitting, enforcement, and emissions inventory. The term "account" is related directly to the EPA plant identification, the highest level of aggregation in the EPA AIRS database. The agency routinely forwards required air information such as permitting, emissions inventory, and enforcement to the EPA. It is within the responsibilities of the commission to seek better ways to simplify information exchange among interested parties. This adoption should simplify information exchange among all interested parties involved with or affected by the air program.

Exxon stated that there is no reason to change the definition of account for sources not subject to the Title V program. The proposed definition makes a substantive change by referring to sources "under common ownership or control" rather than "common ownership, management, and control." The commenter suggested language that would retain the latter phrase, and also recommended adding the sentence "Each account will be assigned an individual account number" to the end of the definition. Exxon also recommended the retention of the previous format using subparagraphs, since that format was less likely to be misinterpreted. In §101.27, Exxon recommended that the commission use "Each account will be assessed a separate emissions fee" rather than the proposed "Accounts carried on the records of this agency under separate numbers, will be charged a separate fee for each account."

The definition of account for sources not subject to Title V is changing from the definition that was in the general rule definitions (ownership and control), but is not changing from the definition used in the inspection and emissions fee programs (ownership or control). This was done for consistency of application of fee requirements. The use of the fee definition preserves existing account configurations that were requested by the regulated entities. The commission has chosen to omit the term "management," as it is implicit in the term "control."

The suggested addition of the sentence "Each account will be assigned an individual account number" does not add any clarification. The proposed replacement sentence "Each account will be assessed a separate emissions fee" more accurately reflects the situation. Also, the commission considered a definition for account arranged in subparagraphs and believes that the adopted format more clearly expresses the intent of the amendment.

Exxon commented that the use of the terms "commission" and "Texas Natural Resource Conservation Commission" is ambiguous in §101.24 and §101.27, as in one sentence the longer term is deleted and replaced by the shorter. In a following sentence, the longer term is added back to the rule text.

Exxon is correct. The use of the terms is inconsistent and the staff has made the necessary corrections. Additionally, the abbreviation "TNRCC" was inadvertently placed in parenthesis in the published proposal for both sections when it should have been placed in brackets for deletion. The term, which is no longer officially defined, has been deleted in the adoption. The commission also identified an incorrect reference to the Federal Clean Air Act Amendments, Title III in

§101.27(a)(4) and (5) and made the necessary corrections.

The commission has also changed articles in §101.24 and §101.27 to clarify meaning and applicability of the sections.

STATUTORY AUTHORITY. The amendments are adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §§382.011, 382.012, 382.016, and 382.017 and Texas Water Code, §5.102 and §5.103. These sections provide the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA and rules necessary to carry out its powers and duties, and require the commission to administer the act and develop a general comprehensive plan for proper control of the state's air. They also provide the authority to control air contaminants by all practical and economically feasible methods. The commission has the authority to assess fees for emissions of air pollutants and require reasonable data management methods of owners and operators of sources of air pollution.

CHAPTER 101
GENERAL RULES

§101.1. 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, the following terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Account - For those sources required to be permitted under Chapter 122 of this title (relating to Federal Operating Permits), all sources which are aggregated as a site. For all other sources, any combination of sources under common ownership or control and located on one or more contiguous properties, or properties contiguous except for intervening roads, railroads, rights-of-way, waterways, or similar divisions.

§101.24. Inspection Fees.

(a) Applicability. The owner or operator of each account to which this rule applies shall remit to the commission an inspection fee each fiscal year. A fiscal year is defined as the period from September 1 through August 31. A fiscal year, having the same number as the next calendar year,

begins on the September 1 prior to that calendar year. An account subject to both an inspection fee and an emissions fee, under §101.27 of this title (relating to Emissions Fees), is required to pay only the greater of the two fees. Each account will be assessed a separate inspection fee. The inspection fee shall apply to each account which contains one or more of the types of plants, facilities, and/or processes described in subsection (d) of this section, including permitted and non-permitted facilities. References for the industrial categories used are provided in the *Standard Industrial Classification (SIC) Manual* (Executive Office of the President, Office of Management and Budget, 1987). If more than one SIC category can apply to an account, the fee assessed shall be the highest fee listed for the applicable classifications in the fee schedule. Provisions of this section apply to all accounts, including accounts which have not been assigned specific commission account numbers. The owner or operator of an account subject to an inspection fee requirement is responsible for contacting the appropriate commission regional office to obtain an account number. The commission will not initiate the combination or separation of accounts solely for fee assessment purposes. If an account is operated at any time during the fiscal year for which the fee is assessed, a full inspection fee is due. If the commission is notified in writing that the plant is not and will not be in operation during that fiscal year, a fee will not be due.

(b) - (f) (No change.)

§101.27. Emissions Fees.

(a) Applicability. The owner or operator of each account to which this rule applies shall remit to the commission an emissions fee each fiscal year. A fiscal year is defined as the period from September 1 through August 31. A fiscal year, having the same number as the next calendar year, begins on the September 1 prior to that calendar year. An account subject to both an emissions fee and an inspection fee, under §101.24 of this title (relating to Inspection Fees), is required to pay only the greater of the two fees. Each account will be assessed a separate emissions fee. Provisions of this section apply to all accounts, including accounts which have not been assigned specific commission account numbers. The owner or operator of an account subject to an emissions fee requirement is responsible for contacting the appropriate commission regional office to obtain an account number. The commission will not initiate the combination or separation of accounts solely for fee assessment purposes. If an account is operated at any time during the fiscal year for which the fee is assessed, a full emissions fee is due. If the commission is notified in writing that the plant is not and will not be in operation during that fiscal year, a fee will not be due. All regulated air pollutants, as defined in subsection (c)(3) of this section, including, but not limited to, those emissions from point and fugitive sources during normal operations with the exception of (for applicability purposes only) hydrogen, oxygen, carbon dioxide, water, nitrogen, methane, and ethane, are used to determine applicability of this section. In accordance with rules proposed by the United States Environmental Protection Agency (EPA) at 40 Code of Federal Regulations (CFR) 70, concerning the use of fugitive emissions in major source determinations, fugitive emissions shall be considered toward applicability of this section only for those source categories listed at 40 CFR 51.166(b)(1)(iii). For purposes of this section, an affected

account shall have met one or more of the following conditions:

(1) (No change.)

(2) the account has the potential to emit, at maximum operational or design capacity, 50 tons per year or more of volatile organic compounds (VOC) or nitrogen oxides (NO_X) and is located in any serious ozone nonattainment area listed in §101.1 of this title (relating to Definitions);

(3) the account has the potential to emit, at maximum operational or design capacity, 25 tons per year or more of VOC or NO_x and is located in any severe ozone nonattainment area listed in §101.1 of this title;

(4) the account emits ten tons per year or more of a hazardous air pollutant, as defined in the FCAA, §112;

(5) the account emits an aggregate of 25 tons per year or more of hazardous air pollutants, as defined in the FCAA, §112;

(6) - (9) (No change.)

(b) (No change.)

(c) Basis for fees.

(1) The emissions fee shall be based on allowable levels and/or actual emissions at the account during the last full calendar year preceding the beginning of the fiscal year for which the fee is assessed. For purposes of this section, the term "allowable levels" are those limits as specified in an enforceable document such as a permit or Commission Order which are in effect on the date the fee is due. The fee applies to the tonnage of regulated pollutants at the account, including those emissions from point and fugitive sources during normal operations. Although certain fugitive emissions are excluded for applicability determination purposes under subsection (a) of this section, all fugitive emissions must be considered for fee calculations after applicability of the fee has been established. A maximum of 4,000 tons of each regulated pollutant will be used for fee calculations. The fee for each fiscal year is set at the following rates. Figure: 30 TAC §101.27(c)(1)

Figure: 30 TAC §101.27(c)(1)

Fiscal Year	Rate Per Ton	Minimum Fee
1992	$ 3	
1993	$ 5	$25
1994	$25	$25
1995	$26	$26
1996	$26	$26
1997	$26	$26

The rate of $26 per ton will remain effective for future fiscal years until amended. If the fee is applicable, the company responsible for the account shall pay the calculated emissions fee or the minimum fee, whichever is greater.

(2) (No change.)

(3) For purposes of this section, the term "regulated pollutant" shall include any volatile organic compound, any pollutant subject to the FCAA, §111, any pollutant listed as a hazardous air pollutant under the FCAA, §112, each pollutant for which a national primary ambient air quality standard has been promulgated (including carbon monoxide), and any other air pollutant subject to requirements under commission rules, regulations, permits, orders of the commission, or court orders. The term "normal operations" shall mean all operations other than those documented under

§101.6 of this title (relating to Upset Reporting and Recordkeeping Requirements) or §101.7 of this title (relating to Maintenance, Start-up and Shutdown Reporting, Recordkeeping, and Operational Requirements).

(d) - (f) (No change.)

The agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on October 1, 1997.