

### Miscellaneous 131.02.07

The Texas Air Control Board has readopted Rules 131.02.07.001-.006 as a part of its Procedural Rules without change in the proposed text.

No comments were received with regard to the rules as proposed in Volume 1, Number 10, of the *Texas Register*, February 6, 1976.

Therefore, pursuant to the authority granted in Articles 6252-13a and 4477-5, Texas Civil Statutes, the Texas Air Control Board has adopted Rules 131.02.07.001-.006 to read as follows:

*.001. Appeal of Permit Action.* Any person, including the applicant, affected by an action of the executive director under Sections 3.27 or 3.28 of the Texas Clean Air Act may appeal to the board by filing written notice of appeal with the executive director within 30 days after the effective date of such action. The matter shall be considered a contested case within the meaning of Section 3(2) of the Administrative Procedure and Texas Register Act.

*.002. Prerequisite to Judicial Appeal.* Appeal to the board in a manner prescribed in Rule 131.02.07.001 is a prerequisite to judicial appeal from any determination by the executive director pursuant to Sections 3.27 and 3.28 of the Texas Clean Air Act.

*.003. Time for Filing Petition for Variance.* In the event a compliance hearing is called to examine into the status of a particular source with regard to the Texas Clean Air Act or the rules and regulations of the board, the source owner or operator must file with the board a petition for variance prior to the commencement of said hearing in order to be entitled to have the board consider the right to a variance with regard to the particular provisions of the Texas Clean Air Act or rules or regulations which are the subject of the hearing. Any order of the board as a result of such hearing shall be deemed to have disposed of the issue of the right to a variance. Any petition for variance filed subsequent to the hearing shall be returned to the applicant without action by the staff or the board unless the petition demonstrates that circumstances have so changed as to make it just and equitable to reopen the matter.

*.004. Effect of Institution of Civil Suit on Petition for Variance.* If the board or the executive director, as authorized by the board, should request the institution of a civil suit pursuant to Section 4.02 of the Texas Clean Air Act for violation of the Texas Clean Air Act or any rule, regulation, variance, or order of the board prior to the time that the board takes action on a petition for variance submitted with regard to the violations to be alleged in the suit, the petition for variance

shall be returned to the applicant without further action.

*.005. Effect of Invalidity of Rule.* If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any rule, or portion thereof, contained herein, such judgment or decree shall not affect, impair, invalidate, or nullify the remainder of these rules, but the effect thereof shall be confined to the rule, or portion thereof, adjudged to be invalid or unconstitutional.

*.006. Effective Date and Repeal.* These rules shall be in effect immediately and shall repeal previous Rule 16 entitled "Invoking Jurisdiction of the Board" and Rule 19 entitled "Initiation of Review" in the General Rules of the Texas Air Control Board.

Issued in Austin, Texas, on April 26, 1976.

Doc. No. 762256 Charles R. Barden, P.E.  
Executive Director  
Texas Air Control Board

Effective Date: May 26, 1976

For further information, please call (512) 451-5711.

### Control of Air Pollution from Nitrogen Compounds 131.09.00

On July 26, 1972, pursuant to the requirements of Section 3.09 of the Texas Clean Air Act, Article 4477-5, Texas Civil Statutes, the Texas Air Control Board modified Regulation VII to require control of nitrogen oxide emissions from existing gas-fired steam generating units of more than 600,000 lbs/hour maximum continuous steam capacity. The regulation applies to units operating only in the Dallas-Fort Worth and Houston-Galveston Air Quality Control Regions. On April 9, 1975, the Dallas Power and Light Company and the Houston Lighting and Power Company jointly recommended to the staff that Regulation VII be modified in order to exempt small generating units used as "peaking units." The units are used less than 30 percent of the time. The annual average emission of these units are less than that of exempt units of 600,000 lbs/hour operating 100 percent of the time.

The Texas Air Control Board proposed an amendment to Rule 131.09.00.001 by adding Section (e) in Volume 1, Number 19, of the *Texas Register*, March 9, 1976. A public hearing was held in Austin on April 6, 1976, to receive public comment on the proposed amendment.

The board has amended Rule 131.09.00.001 by adding Section (e) with two modifications in the proposed text.

The first modification is to clarify that Rule .001 does not apply to units of 600,000 lbs/hour maximum continuous steam capacity or less. The second modification changes the phrase "the annual operating hours of the unit" as proposed to "the number of hours in a year." This modification will simplify the exemption and insure that the exemption will apply to units that are not operated except for demand periods.

The first modification is based on comments received from the staff, Amoco Oil Company, Board of Trade-Port of Corpus Christi, and Houston Lighting and Power Company. The second modification is based on comments received from the staff, Dallas Power and Light Company, and Houston Lighting and Power Company.

In addition, Amoco Oil Company and Board of Trade-Port of Corpus Christi recommended modifying Section (a) of the rule to include Section (e). The board decided against this recommendation because Section (e) is an exemption and, therefore, does not have to be included in Section (a) to achieve its purpose.

The Texas Air Control Board, by authority of Article 4477-5, Texas Civil Statutes, has amended Rule 131.09.00.001 by adding Section (e) to read as follows:

*.001. Gas-fired Steam Generating Rules.*

(a) Rules 131.09.00.001(b), 131.09.00.001(c), and 131.09.00.001(d) shall apply only in the Dallas-Fort Worth and Houston-Galveston Air Quality Control Regions.

(b) No person may cause, suffer, allow, or permit emissions of nitrogen oxides, calculated as nitrogen dioxide, from any "opposed fired" steam generating unit of more than 600,000 lbs/hour maximum continuous steam capacity to exceed 0.7 lbs/million Btu heat input, maximum two-hour average, at maximum steam capacity. An "opposed fired" steam generating unit is defined as a unit having burners installed on two opposite vertical firebox surfaces.

(c) No person may cause, suffer, allow, or permit emissions of nitrogen oxides, calculated as nitrogen dioxide, from any "front fired" steam generating unit of more than 600,000 lbs/hour maximum continuous steam capacity to exceed 0.5 lbs/million Btu heat input, maximum two-hour average, at maximum steam capacity. A "front fired" steam generating unit is defined as a unit having all burners installed in a geometric array on one vertical firebox surface.

(d) No person may cause, suffer, allow, or permit emissions of nitrogen oxides, calculated as nitrogen dioxide, from any "tangential fired" steam generating unit of more than 600,000 lbs/hour maximum continuous steam capacity to exceed 0.25 lbs/million Btu heat input, maximum two-hour average, at maximum

steam capacity. A "tangential fired" steam generating unit is defined as a unit having burners installed on all corners of the unit at various elevations.

(e) Existing gas-fired steam generating units of more than 600,000 lbs/hour but less than 1,100,000 lbs/hour maximum continuous steam capacity are exempt from Rule 131.09.00.001, provided the total steam generated from the unit during any one calendar year does not exceed 30 percent of the product of the maximum continuous steam capacity of the unit times the number of hours in a year. Written records of the amount of steam generated for each day's operation shall be made on a daily basis and maintained for at least three years from the date of each entry. Such records shall be made available for inspection by employees of state and local agencies during regular business hours.

Issued in Austin, Texas, on April 26, 1976.

Doc. No. 762249 Charles R. Barden  
Executive Director  
Texas Air Control Board

Effective Date: May 26, 1976

For further information, please call (512) 451-5711.

## Texas Health Facilities Commission

### Procedures 315.05.00

Under the authority of Article 4418(h), Vernon's Annotated Civil Statutes, the Texas Health Facilities Commission has amended Rule 315.05.00.004 to read as follows:

*.004. Notice of Hearing.* Notice shall be given of all hearings held by the commission for the purpose of carrying out its duties and functions. Posting of notice of hearings shall conform to all laws governing posting and scheduling.

Issued in Austin, Texas, on April 27, 1976.

Doc. No. 762310 Melvin Rowland  
Chairman  
Texas Health Facilities  
Commission

Effective Date: May 17, 1976

For further information, please call (512) 475-6940.