

An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, except where a federal statute or regulation requires implementation of a rule on shorter notice.

An agency, on request, shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling considerations urged against the agency's decision.

Numbering System—Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the chapter of rules to which the rule belongs. The third unit (two digits) indicates the subchapter of rules, if any, within the chapter. The fourth unit (three digits) indicates the individual rule.

Symbology—Changes to existing material are indicated in *bold italics*. [Brackets] indicate deletion of existing material.

Texas Air Control Board

Regulation II—Control of Air Pollution from Sulfur Compounds

Temporary Fuel Shortage Control Plan 131.04.01

The Texas Air Control Board is proposing to reactivate and amend Rules 131.04.01.011-.015, which deal with the Temporary Fuel Shortage Control Plan due to the projected possibility for low sulfur fuel shortages. These rules, originally adopted by the board on December 19, 1973, expired December 31, 1976. The proposed amendments will suspend during periods of low sulfur fuel shortage Rules .006-.009 and any permit requirements affecting sulfur dioxide emissions from combustion units. Under the proposed amendments, a person must file a plan, including certain data regarding the lack of low sulfur fuel, which will be evaluated by the executive director. If the plan will not cause or contribute to a violation of a national ambient air quality standard or PSD increment for sulfur dioxide, the person may operate under the plan as necessary during periods of low sulfur fuel shortage. The plan will terminate at the end of the year unless renewed by the applicant. In addition, the executive director may terminate the plan if he determines that it is no longer necessary. If the plan would cause or contribute to a violation of a national ambient air quality standard or PSD increment for sulfur dioxide, the person filing the plan may petition the governor for relief under Section 110(f) of the Federal Clean Air Act Amendments of 1977.

The proposed amendments reinstate an expired provision of Regulation II. The mechanism for enforcement is in place within the TACB. Therefore, no increase in funding would be required for the TACB or local governments in Texas.

The TACB has scheduled public hearings at the following times and locations to secure information and requests public comment as to whether the rules should be amended.

November 14, 1979, 6:30 p.m.
Holiday Inn Medical Center
Briar Grove Room
6701 South Main
Houston, Texas 77030

November 15, 1979, 6:30 p.m.
Texas Air Control Board
Auditorium
6630 Highway 290 East
Austin, Texas 78723

Copies of the proposed amendments are available at the TACB Austin office and all TACB regional offices. Public comment on the proposed amendments is invited orally and in writing, both at the hearing and by submission of written comments. Fifteen copies of written comments are desirable, given to the hearing examiner at the hearing or mailed to the Texas Air Control Board, 6630 Highway 290 East, Austin, Texas 78723, by November 26, 1979. Copies of the oral and written testimony from any previous hearing on these rules are available for review during normal working hours at the Austin office.

These amendments are proposed under the authority of Article 4477-5, Vernon's Annotated Texas Civil Statutes.

.011. Temporary Fuel Shortage Plan Filing Requirements. If any person is unable to comply with Rules .006, .007, .008, [or] .009, or *any permit requirements limiting sulfur dioxide emissions from any combustion unit* solely because of the nonavailability of low sulfur fuels, that person may file with the Texas Air Control Board a Temporary Fuel Shortage Control Plan, which shall include all of the following:

(1) Evidence of the nonavailability of low sulfur fuels. Such evidence shall include but not be limited to statements from suppliers of fuel as to the availability of lower sulfur fuels, the price of such fuels, and the expected duration of any period of nonavailability of particular fuels. [Such evidence shall be updated semiannually as long as the Temporary Fuel Shortage Control Plan remains on file with the Texas Air Control Board or as long as it can reasonably be concluded that there may be necessity to operate under the Temporary Fuel Shortage Plan.] *The person filing the plan must annually request and receive an extension from the executive director or the plan will automatically expire. The executive director may make an independent determination that there is no longer a necessity to operate under the temporary fuel shortage control plan. This determination shall be effective upon receipt by the person of written notice of such determination from the executive director.*

(2) A statement that all emission inventory data required by the board are complete, accurate, and on file with the board.

(3) Data for each source within the entire plant that utilizes the higher sulfur fuel. The data shall include the type, quantity, and sulfur content of all the fuels to be burned, excess air to be used, and the associated sulfur abatement procedure to be used, if any.

(4) Any other information as specified by the board or the executive director. The executive director may require more frequent and extensive monitoring for persons affected by Rule .011 than would normally be required for persons affected by Rules .006-.009.

.012. Temporary Fuel Shortage Plan Operating Requirements. After a person has filed a Temporary Fuel Shortage Control Plan pursuant to Rule .011, the provisions of that plan will govern the operation of the source with regard to emissions of sulfur dioxide during the periods of low sulfur fuel shortages, and Rules .006-.009 *or any permit require-*

ments limiting sulfur dioxide emissions from any combustion unit shall not apply during these periods, provided that the person has complied with the notification procedures of Rule .013 and provided that the cumulative emissions of sulfur dioxide from the entire plant will not cause or contribute to a violation of any national ambient air quality standard and/or PSD increment for sulfur dioxide [condition in which the ambient air quality will exceed 0.5 ppm sulfur dioxide averaged over a three-hour period more than once per year]. An evaluation of the plan will be made by the executive director using appropriate diffusion modeling. If the plan cannot adequately demonstrate that the burning of higher sulfur fuels will not cause or contribute to a violation of any national ambient air quality standard and/or any PSD increment for sulfur dioxide, then the person filing the plan may request that the governor file a petition for relief under Section 110(f) of the Federal Clean Air Act with the President of the United States of America. [condition in which the ambient air quality will exceed 0.5 ppm sulfur dioxide averaged over a three-hour period more than once per year, then the executive director will notify the applicant of the inadequacy of the plan. If a revised acceptable plan is not received within 14 days of notification, the executive director will refer the plan to the Texas Air Control Board for appropriate action.]

.013. *Temporary Fuel Shortage Plan Notification Procedures.* Any person who finds it necessary to operate under a Temporary Fuel Shortage Control Plan filed pursuant to Rule .011 must comply with the following notification procedures:

(1) The executive director and the appropriate local air pollution control agency shall be notified in writing as soon as practicable of a fuel shortage or impending fuel shortage which causes or may cause an excessive emission that contravenes Rule .006, .007, .008, or .009. Such notification shall include an estimate of the expected duration of the fuel shortage which will necessitate the person to operate under the Temporary Fuel Shortage Control Plan.

(2) The executive director and the appropriate local air pollution control agency shall be notified in writing as soon as practicable of the termination of a fuel shortage which would allow the person to operate in compliance with Rules .006-.009.

.014. *Temporary Fuel Shortage Plan Reporting Requirements.* Any person who files a Temporary Fuel Shortage Control Plan under Rule .011 and operates under that plan pursuant to Rules .012 and .013 must submit to the Texas Air Control Board on a semiannual basis a written report detailing the following:

(1) the types, quantity, and sulfur content of fuels burned during the prior six months, and the sources at which these fuels were burned, and the dates on which the higher sulfur fuel was burned;

(2) the program the person has undertaken to achieve compliance with the applicable Rule .006, .007, .008 or .009 by December 31, 1976, including, if applicable, the minimum time required to design, procure, install, and test abatement equipment and procedures.]

.015. *Compliance Dates.* Rules .011-.014 shall be effective only until December 31, 1976, at which time all persons must comply with Rules .006 and either .007, .008, or .009. Persons affected by Rules .011-.012 must demonstrate through the reports required by Rule .013(b) how compliance

will be achieved with the applicable Rule .006, .007, .008, or .009 as soon as practicable, but in no event later than December 31, 1976. The provisions of Rule .015 shall be reviewed periodically by the board to determine if Rules .011-.014 should be extended beyond December 31, 1976.]

Issued in Austin, Texas, on October 3, 1979.

Doc. No. 796741 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Proposed Date of Adoption: After public hearing
For further information, please call (512) 451-5711, ext. 354.

Office of the Governor

Criminal Justice Division

Criminal Justice Information Systems—Security and Privacy 001.55.21

The Criminal Justice Division proposes to adopt new rules and guidelines as they relate to security and privacy in criminal justice information systems. These new rules and guidelines cover collection, maintenance, dissemination, and security of criminal history information.

The Law Enforcement Assistance Administration promulgated regulations regarding criminal history records which were published in the *Federal Register* and are applicable to certain grantees in the State of Texas funded by the Criminal Justice Division or the Law Enforcement Assistance Administration. Specifically, any state or local criminal justice agency which collects, stores, or disseminates criminal history record information processed by manual or automated operation where such a collection, storage, or dissemination has been or will be funded, directly or indirectly, in whole or in part, with funds made available by the Law Enforcement Assistance Administration subsequent to July 1, 1973, to the Criminal Justice Division for the funding of such projects is required to comply with the Code of Federal Regulations, Title 28, Judicial Administration, Chapter I, Department of Justice, Part 20, Criminal Justice Information Systems.

The federal regulations require that the Criminal Justice Division document and certify the implementation of the federal regulations which are included in these rules and guidelines for such items as individual access; challenge and review requirements; administrative security; physical security to the maximum extent possible; description of dissemination of criminal history record information; and standards and operating procedures to be followed by all criminal justice agencies covered by the Law Enforcement Assistance Administration criminal history records regulations.

The criminal justice agencies that are affected by these rules and guidelines have been funded by the Criminal Justice Division, directly or indirectly, in whole or in part, for the collection, storage, and dissemination of criminal history record information; therefore, the fiscal implications should be minimal (source: Criminal Justice Division, Office of the Governor).

Written comments are invited and may be sent to Willis Whatley, general counsel, Criminal Justice Division, 411