

proposal are available at the central office of the TACB, Air Quality Planning Annex, located at 12118 North IH35, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Dwayne Meckler at (512) 908-1487.

The new section is being proposed for adoption under the Texas Clean Air Act, §382.017, Texas Health and Safety Code (Vernon 1990), which provides the TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§101.28. Asbestos Notification Fees.

(a) Applicability. On or after September 1, 1992, the owner or operator of a demolition or renovation activity shall remit to the Texas Air Control Board (TACB) a fee that is based upon the amount of asbestos subject to the reporting requirements of the National Emission Standards for Hazardous Air Pollutants (for Asbestos) promulgated in the Code of Federal Regulations (CFR) at 40 CFR 61, Subpart M. For purposes of this section, the term "owner/operator" is used as defined in 40 CFR 61, Subpart M.

(b) Payment. Fees shall be remitted to the Texas Air Control Board, (Attention: Asbestos Fees), 12124 Park 35 Circle, Austin, Texas 78753, in the form of a check or money order made payable to the Texas Air Control Board. An Asbestos Fee Form must accompany all fees remitted to insure proper credit and shall include at least the contractor identification number, contractor name, site name, site physical address, asbestos removal date(s), and number of asbestos reporting units (ARUs) as defined in subsection (c) of this section. Fees and accompanying forms shall be submitted on a schedule commensurate with the reporting requirements of 40 CFR 61, Subpart M, and as defined by subsection (d) of this section.

(c) Basis for fees. The fee shall be based on the total amount of regulated asbestos-containing material (RACM), reported to be removed, as defined in 40 CFR §61.141. The fee shall be calculated on the Asbestos Fee Form at a rate of \$20 per ARU. The number of ARUs associated with a removal activity is determined by dividing the number of linear feet reported by 260, the number of square feet reported by 160, and the number of cubic feet reported by 35. The sum of these ARUs, rounded up to the nearest tenth of a whole number, shall then be multiplied by the \$20 rate to calculate the fee due with the notification. The minimum fee shall be \$50 per notification, and the maximum fee shall be \$7,500 per notification. Annual notifications of maintenance activities subject to 40 CFR 61, Subpart M, are included in the fee requirement.

(d) Schedule. A check or money order for the dollar amount of the fee due

shall be remitted in conjunction with an Asbestos Fee Form at the same time that 40 CFR 61, Subpart M, asbestos renovation/demolition notification is made. The following fee schedule shall apply for all notification revisions.

(1) If a revision is made in which the original amount of asbestos reported is more than the actual amount removed, no refund will be given.

(2) If a revision is made in which the original amount of asbestos reported is less than the actual amount removed, an additional fee covering the difference shall be remitted in conjunction with an Asbestos Fee Form at the same time that renotification is made.

(3) If a revision is made in which the original amount of asbestos reported remains unchanged, payment and the Asbestos Fee Form are not required when the renotification is made.

(e) Nonpayment of fees. The provisions of this section, as first adopted and as amended thereafter, shall remain in effect for purposes of any unpaid assessment, and the fees assessed pursuant to such provisions, as adopted or as amended, remain a continuing obligation. Failure to remit the full asbestos fee or to submit the written documentation shall result in formal enforcement action under the Texas Clean Air Act, §382.082 or §382.088. In addition, §382.091(a)(2) provides for criminal penalties for those failing to pay fees.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 17, 1992.

TRD-9205471 Lane Hartsock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Proposed date of adoption: July 31, 1992

For further information, please call: (512) 908-1451

Chapter 111. Control of Air Pollution from Visible Emissions and Particulate Matter

Visible Emissions

• 31 TAC §111.111

The Texas Air Control Board (TACB) proposes amendments to §111.111, concerning Visible Emissions. The proposed changes satisfy federal specifications for the installation of Continuous Emissions Monitoring (CEM) Systems to monitor opacity and meet the state's obligations under federal grant requirements. A new paragraph (2) is added in

subsection (a) requiring CEM installation on solid fossil fuel-fired steam generators with heat input of greater than 250 million Btu per hour and catalyst regenerators for fluid bed catalytic cracking units with a total feed capacity of greater than 20,000 barrels per day. The new paragraph also specifies equipment and installation standards, an installation deadline, and criteria for exemptions. Other changes to the section are made to maintain consistency with the new paragraph, to require United States Environmental Protection Agency (EPA) and TACB Executive Director approval for alternate compliance methods, and to renumber subsections and paragraphs.

Lane Hartsock, deputy director of Air Quality Planning, has determined that for the first five-year period the proposed changes are in effect, the anticipated fiscal implications for state and local units of government as a result of enforcing the section would be minor expenses of record review and enforcement.

Facilities required to implement the proposed measures will have costs associated with installation, operation, monitoring, and recordkeeping for each CEM unit which are estimated as follows: the annual costs in 1993 \$38,100; in 1994-1997 \$20,000.

The procedure for the cost analysis is based upon the Emission Measurement Technical Information Center CEM Cost Model Program, Version 2.0 under EPA Contract Number 68D9005 Work Assignment Number 49 by Entropy Environmentalists, Incorporated. Any costs incurred beyond 1997 would be continuing annual operation, maintenance, and recordkeeping costs. All estimates are stated in 1992 dollars with no adjustment for inflation.

Mr. Hartsock also has determined that for the first five-year period the proposed changes are in effect, the public benefit anticipated as a result of enforcing the proposed changes will be enhanced monitoring of affected sources resulting in more consistent compliance with emission standards. There will be no effect on small businesses. There are no anticipated economic costs for persons who are required to comply with the section.

A public hearing on this proposal will be held at 6 p.m. on May 21, 1992, in the City of Houston Pollution Control Building Auditorium located at 7411 Park Place Boulevard, Houston. A second hearing will be held at 11 a.m. on May 22, 1992, at the John Gray Institute, 855 Florida Avenue, Beaumont. The hearings are structured for the receipt of oral and written comments by interested persons. Interrogation or cross-examination is not permitted, however, the TACB staff will discuss the proposal at 5:30 p.m., before the Houston hearing, and at 10:30 a.m., before the Beaumont hearing, and will be available to answer questions.

Written comments not presented at the hearings may be submitted to the TACB central office in Austin through May 25, 1992. Material received by the Regulation Development Division by 4 p.m. on that date will be considered by the board prior to any final action on the proposed section. Copies of the proposal are available at the central office of the

TACB, Air Quality Planning Annex, located at 12118 North IH35, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Mr. Robert B. Cameron at (512) 908-1495.

The amendments are proposed for adoption under the Texas Clean Air Act (TCAA) §382.017, Texas Health and Safety Code (Vernon 1990), which provides the TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§111.111. Requirements for Specified Sources.

(a) Visible emissions. No person may cause, suffer, allow, or permit visible emissions from any source, except as follows.

(1) Stationary vents. Visible emissions from any vent shall not exceed the following opacities and must meet the following requirements.

(A)-(B) (No change.)

(C) Opacity shall not exceed 15% averaged over a six-minute period for any source having a total flow rate greater than or equal to 100,000 actual cubic feet per minute, unless an optical instrument capable of measuring the opacity of emissions is installed in the vent in accordance with subparagraph (D) of this paragraph. Facilities utilizing such instruments shall meet opacity limits outlined in subparagraph (A) or (B) of this paragraph as applicable. Records of all such measurements shall be retained as provided for in §101.8 of this title (relating to Sampling). [This provision shall not apply to vents having gas streams containing moisture which interferes with proper instrument operation, if so determined by the executive director.]

(D) Any opacity monitoring system installed as provided for in subparagraph (C) of this paragraph or paragraph (2) of this subsection must satisfy the new source performance standards requirement for opacity continuous emission monitoring systems as contained in 40 Code of Federal Regulations (CFR) Part 60, Appendix B, Performance Specification 1, and shall be installed, calibrated, maintained, and operated in accordance with the provisions of 40 CFR 51 Appendix P, hereby incorporated by reference. In order to demonstrate compliance with Performance Specification 1 [I], the system shall undergo performance specification testing as outlined in 40 CFR 60.13. The facility will maintain records of all such testing for a period of not less than two years. Except as specifically stated in paragraph (3)(A) of this subsection, compliance with the

opacity standards in subparagraph (C) of this paragraph shall be determined by use of a continuous emission monitoring system for opacity. Compliance determinations for subparagraphs (A)-(B) of this paragraph may be made based on results of monitoring with a certified opacity monitor or by a currently certified opacity reader, as described in subparagraph (G) of this paragraph. [Compliance for vents with condensable particulate or water vapor shall be determined by a certified opacity reader.] Compliance with this provision shall be accomplished within one year of the effective date of this rule, except as specified in paragraph (2) of this subsection.

(E) (No change.)

(F) Compliance with subparagraphs (A), (B), and (C) of this paragraph shall be determined by applying the following test methods, as appropriate:

(i) Test Method 1 (40 CFR, Appendix A); or

(ii) [(i)] Test Method 9 (40 CFR, Appendix A); or

(iii)[(ii)] Equivalent test method approved by the Executive Director of the Texas Air Control Board (TACB) and the United States Environmental Protection Agency (EPA).

(G) Current certification of opacity readers for determining opacities outlined in subparagraphs (A)-(D) of this paragraph shall be accomplished [determined] by the successful completion of a [having completed the] TACB Visible Emissions Evaluator's course by opacity readers no more than [within] 180 days before [of] the opacity reading.

(2) Sources Requiring Continuous Emission Monitoring. Beginning March 1, 1994, all stationary vents located at the sources specified in this paragraph shall be equipped with a calibrated and properly operating continuous emission monitoring system for opacity. The system shall be calibrated, installed, operated, and maintained as specified in paragraph (1)(D) of this subsection:

(A) steam generators fired by solid fossil fuel with an annual average capacity factor of greater than 30%, as reported to the Federal Power Commission for calendar year 1974, and with a heat input of greater than 250 million Btu per hour;

(B) steam generators that burn oil or a mixture of oil and gas and

are not able to comply with the applicable particulate matter and opacity regulations without the use of particulate matter collection equipment, and have been found to be in violation of any visible emission standard contained in a State Implementation Plan;

(C) catalyst regenerators for fluid bed catalytic cracking units of greater than 20,000 barrels per day of total feed capacity.

(3) Exemptions from continuous emissions monitoring requirements.

(A) Opacity monitors shall not be installed or used to determine opacity from any gas stream or portion of a gas stream containing condensed water vapor which could interfere with proper instrument operation, as determined by the executive director. The opacity of such a gas stream shall be determined daily as specified in 40 CFR 60 Appendix A, Method 9, unless visibility or other conditions prevent opacity observation.

(B) Except for the sources specified in paragraph (2) of this subsection, the executive director and the EPA may approve an equivalent method for opacity determination.

(4) [(2)] Gas Flares.

(A) Visible emissions from a gas flare shall not be permitted for more than five minutes in any two-hour period, except as provided in §101.11(a) of this title (relating to Exemptions from Rules and Regulations). Acid gas flares, as defined in §101.1 of this title (relating to Definitions), [are exempt from the provisions of this subsection, but] are subject only to the provisions of paragraph (1) of this subsection.

(B) Compliance with subparagraph (A) of this paragraph shall be determined by applying the following test methods, as appropriate:

(i) (No change.)

(ii) equivalent test method approved by the executive director and the EPA.

(5)[(3)] Motor vehicles. Motor vehicles shall not have visible exhaust emissions for more than 10 consecutive seconds. Compliance shall be determined as specified in 40 CFR 60, Appendix A, Method 22.

(6)[(4)] Railroad locomotives or ships.

(A) (No change.)

(B) Compliance with subparagraph (A) of this paragraph shall be determined by applying the following test methods, as appropriate:

(i) (No change.)

(ii) equivalent test method approved by the executive director and the EPA.

(7)(5) Structures.

(A) (No change.)

(B) Compliance with subparagraph (A) of this paragraph shall be determined by applying the following test methods, as appropriate:

(i) (No change.)

(ii) equivalent test method approved by the executive director and the EPA.

(8)(6) Other sources.

(A) (No change.)

(B) Compliance with subparagraph (A) of this paragraph shall be determined by applying the following test methods, as appropriate:

(i) (No change.)

(ii) equivalent test method approved by the executive director and the EPA.

(b)-(c) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 17, 1992.

TRD-9205474 Lane Hartsock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Proposed date of adoption: July 17, 1992

For further information, please call: (512) 908-1451

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Chapter 112. Control of Air
Pollution from Sulfur
Compounds

Control of Sulfur Dioxide

- 31 TAC §§112.1-112.14,
112.16-112.20

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the

Texas Air Control Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Air Control Board (TACB) proposes the repeal of §§112.1-112.14 and §§112.16-112.20, concerning control of sulfur dioxide. In concurrent action, the TACB is proposing new §§112.1-112.22, concerning control of sulfur dioxide. The repeals delete provisions which are obsolete or incompatible with new federal requirements. The concurrently-proposed new sections will contain substantial changes to the texts of some existing sections and will include some renumbering of sections. The provisions of the new sections will simplify allowable emissions calculations, combine similar requirements of the repealed sections, and meet federal requirements for continuous emissions monitoring and rule enforceability. In some cases, the content of a new section may be similar or identical to an existing section being repealed. For example, only the section number is proposed for change in the existing §112.5.

Lane Hartsock, deputy director of air quality planning, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Hartsock also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be the removal of obsolete language and the replacement of old language with improved provisions which meet federal requirements. There will be no costs to small businesses or persons as a result of the repeals.

A public hearing on this proposal will be held at 6 p.m. on May 21, 1992 in the City of Houston Pollution Control Building Auditorium located at 7411 Park Place Boulevard, Houston. A second hearing will be held at 11 a.m. on May 22, 1992, at the John Gray Institute, 855 Florida Avenue, Beaumont. The hearings are structured for the receipt of oral and written comments by interested persons. Interrogation or cross-examination is not permitted, however, the TACB staff will discuss the proposal at 5:30 p.m., before the Houston hearing, and at 10:30 a.m., before the Beaumont hearing, and will be available to answer questions. Written comments not presented at the hearings may be submitted to the TACB central office in Austin through May 25, 1992. Material received by the Regulation Development Division by 4 p.m. on that date will be considered by the board prior to any final action on the proposed section. Copies of the proposal are available at the central office of the TACB, Air Quality Planning Annex, located at 12118 North IH35, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Mr. Robert B. Cameron at (512) 908-1495.

The repeals are proposed under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code (Vernon 1990), which provides the TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§112.1. Allowable Rates—Elemental Sulfur.

§112.2. Allowable Rates—Sulfuric Acid Plant.

§112.3. Allowable Rates—Sulfur Recovery Plant.

§112.4. Allowable Rates—Nonferrous Smelters.

§112.5. Allowable emissions from Solid Fossil Fuel-Fired Steam Generators.

§112.6. Allowable Rates—Liquid Fuel-Fired Steam Generator.

§112.7. Net Ground Level Concentration—Galveston and Harris Counties.

§112.8. Net Ground Level Concentration—Jefferson and Orange Counties.

§112.9. Net Ground Level Concentration—Exemption Conditions.

§112.10. Executive Director May Set Rules.

§112.11. Temporary Fuel Shortage Plan Filing Requirements.

§112.12. Temporary Fuel Shortage Plan Operating Requirements.

§112.13. Temporary Fuel Shortage Plan Notification Procedures.

§112.14. Temporary Fuel Shortage Plan Reporting Requirements.

§112.16. Nonferrous Smelter Processes.

§112.17. Application for Area Control Plan.

§112.18. Exemption Procedure.

§112.19. Allowable Emissions Under Area Control Plan.

§112.20. Compliance Deadlines.

§112.10. Executive Director May Set Rules.

§112.11. Temporary Fuel Shortage Plan Filing Requirements.

§112.12. Temporary Fuel Shortage Plan Operating Requirements.