

Texas Register

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determined daily by applying the following test methods, as appropriate:

- (i) (No change.)
- (ii) Test Method 9, 40 CFR 60, Appendix A; or
- (iii) equivalent test method approved by the executive director and EPA.

(5) 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) 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 EPA.

(7) 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 EPA.

(8) 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 EPA.

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

This agency hereby certifies that the rule as adopted 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 2, 1992.

TRD-9213370 Lane Hartscock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Effective date: October 23, 1992

Proposal publication date: April 24, 1992

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

Chapter 112. Control of Air Pollution from Sulfur Compounds

Control of Sulfur Dioxide

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

The Texas Air Control Board (TACB) adopts the repeal of §§112.1-112.14 and §§112.16-112.20, concerning control of sulfur dioxide, without changes to the proposed text as published in the April 24, 1992, issue of the *Texas Register* (17 TexReg 2934). In concurrent action, TACB adopts §§112.1-112.9 and §§112.14-112.21, concerning control of sulfur dioxide.

The repeals delete provisions which are obsolete or incompatible with new federal requirements. The concurrently adopted new sections contain substantial changes to the texts of some existing sections and include some renumbering of sections. The provisions of the new sections 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 a section being repealed.

Public hearings were held in Houston on May 21, 1992, and in Beaumont on May 22, 1992, to consider the proposed repeals. No one commented on the repeals.

In compliance with the Americans With Disabilities Act, this document may be requested in alternate formats by contacting Air Quality Planning Program staff at (512) 908-1457, (512) 908-1500 FAX, or 1-800-RELAY-TX (TDD), or by writing or visiting at 12124 Park 35 Circle, Austin, Texas 78753.

The repeals are adopted 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.

This agency hereby certifies that the rule as adopted 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 2, 1992.

TRD-9213369 Lane Hartscock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Effective date: October 23, 1992

Proposal publication date: April 24, 1992

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

Control of Sulfur Dioxide

• 31 TAC §§112.1-112.9, 112.14-112.21

The Texas Air Control Board (TACB) adopts new §§112.1-112.9 and 112.14-112.21, concerning control of sulfur dioxide, with changes to the proposed text as published in the April 24, 1992, issue of the *Texas Register* (17 TexReg 2934).

The new sections represent a reorganization of the existing sulfur dioxide (SO₂) rules to include combinations of similar requirements, the removal of obsolete language, and an overall simplification of this undesignated head. The sections also satisfy federal requirements for the installation and use of continuous emission monitoring systems (CEMS) for SO₂ and rule enforceability.

Public hearings were held in Houston on May 21, 1992, and in Beaumont on May 22, 1992. A total of 20 commenters submitted testimony on the proposal during the comment period which was extended until July 9, 1992. All of the commenters opposed the proposal.

The emission limits and standards proposed for SO₂ were drafted initially to address exceedances of the SO₂ standard in the Houston/Galveston and Beaumont/Port Arthur areas. However, the proposals were very stringent and were anticipated to be quite costly. The staff believes that, under developing circumstances, it would be preferable to conduct workshops and form working groups to reach a consensus on appropriate controls. Since the exceedances in the Beaumont/Port Arthur area were attributable to source upset conditions and since EPA has expressed a willingness to reconsider the nonattainment status of the Houston/Galveston area, the immediate need for these stringent measures has diminished. Industry within the area is offering voluntary reductions which the staff believes will be sufficient to demonstrate attainment. Additionally, there have been no monitored SO₂ exceedances in the area for eight consecutive quarters. The TACB staff, United States Environmental Protection Agency (EPA), and a private contractor have developed a modeling protocol for the attainment demonstration. For these reasons, the staff has withdrawn all provisions within the proposal not associated with federal CEMS requirements and enforceability improvements.

The Greater Houston Partnership (GHP) commented extensively on the Houston SO₂ modeling activity. GHP also stated that the four new industrial categories added to the rule, fluid catalytic cracking units (§112.10), catalyst reclamation plants (§112.11), carbon black plants (§112.12), and refinery fuel gas combustion units (§112.13), were not mentioned in the preamble, nor did they contain a compliance schedule. GHP also stated that new SO₂ standards proposed in §112.3(a)

and §112.7(c) were not identified in the preamble. Additionally, GHP commented that these proposed sections contained provisions not required by EPA, the Federal Clean Air Act (FCAA), or the Texas Clean Air Act (TCAA). GHP asked for the withdrawal of these sections and all other changes not required by EPA guidance and expressed their willingness to meet with TACB and help develop alternative proposals. GHP objected that no consultation with affected industry occurred prior to this proposal to determine if the change was necessary to address a particular problem. GHP also stated that a more extensive analysis of the costs to meet the proposal should have been included and requested a 60-day extension of the public comment period.

GHP stated that the resources of the regulated community in Texas should be conserved to meet the pending regulations on volatile organic compounds and oxides of nitrogen which are required under the new amendments to the FCAA. GHP commented that the expensive SO₂ controls required under the proposal would place Texas industry at a competitive disadvantage in relation to domestic and foreign competitors.

The sections referenced by GHP were mentioned in the preamble. However, given the extent of the proposal, the staff agrees that a greater emphasis should have been made. The staff further agrees that there was an unfortunate and inadvertent element of surprise associated with this complex proposal. The proposed change in SO₂ standards and the addition of new industrial categories to the coverage of the rule were initially drafted on the anticipated classification of the Houston/Galveston and Beaumont/Port Arthur areas as nonattainment for SO₂. Subsequent actions and developments, as mentioned previously, have indicated that the Houston/Galveston area will likely remain in attainment. The staff believes that these developments make the proposed revisions unnecessary at this time. All proposed new SO₂ limits and industrial categories as proposed in §§112.10-112.13 have been withdrawn.

In a separate written comment, GHP identified two other instances where allowable SO₂ limits were lowered and applied to a wider geographical area in response to an anticipated nonattainment classification. Section 112.9 would have extended limitations on sulfur content of liquid fuel to Galveston and Orange Counties and within 30 miles of Harris, Galveston, Jefferson, and Orange Counties. The section would also lower the allowable limits to 50 parts per million by volume (ppmv) beginning in 1996. Section 112.7 would have extended emission limits for sulfur recovery plants in a similar manner.

These proposed revisions are also unnecessary due to industry voluntary reductions and additional air quality modeling. The proposed new limits in §112.7 and §112.9 have been withdrawn. The comments of GHP were endorsed and emphasized by Texas Mid-Continent Oil and Gas Association, Exxon Company, U.S.A., Amoco Oil Company, Lyondell Petrochemical Company, and Phibro Energy USA, Inc.

Gulf States Utilities Company (GSU) stated that utilities should be exempt from SO₂ stan-

dards contained in this regulation. They cited the 1990 FCAA amendments which will limit emissions under the Acid Rain Program. Additionally, GSU quoted EPA statistics that show utilities in Texas emitting SO₂ at a rate of less than a third of the national average and stated that there is no public health or welfare threat posed by exceedances of the national ambient air quality standard (NAAQS).

The staff acknowledges the effort of the Texas utility industry to control SO₂ emissions and the fact that the FCAA will impose strict limits on these emissions. However, the FCAA is principally implemented through state regulations and an exemption from those regulations is clearly inappropriate. The staff disagrees that the health and welfare of the public is not threatened by exceedances of the NAAQS. In fact, the NAAQS is based on health effects studies. The regulations controlling SO₂ emissions are designed to protect the NAAQS, and no exemptions for utilities are to be granted.

A substantial amount of testimony related to the proposed revisions which have been withdrawn. In many cases, the testimony covered topics already discussed. In others, the comments related to effects of the proposal on individual companies and their operations. This analysis does not address each of these comments individually. However, the comments are a part of the public record and were considered in reaching the adopted rule language. These comments will be considered in developing any future rule revisions as needed. The additional commenters included: Electric Reliability Council of Texas (ERCOT), Aluminum Company of America (ALCOA), J.M. Huber Corporation (Huber), Environmental Health Association of the Carbon Black Industry, Fina Oil and Chemical Company, Olin Chemicals, Marathon Oil Company (Marathon), Witco Corporation (Witco), GSU, ASARCO, Inc. (ASARCO), Southwestern Public Service Company (SPS), Texas Utilities Services, Inc. (TU), and Houston Lighting and Power (HLP). The comments that follow address issues in those portions of the proposal where sections were adopted with changes to the proposed language. It should be noted also that language was added to some section titles to achieve consistency in wording.

EPA requested that a specific citation of the TCAA be added in the opening paragraph of §112.1. TU commented that the definition for "continuous monitoring" should specify "continuous emissions monitoring" to differentiate from fuel sampling and other monitoring systems. TU also stated that the definition for "in-stack concentration" should refer to pollutant concentration. Additionally, TU observed that the equation for "in-stack concentration" was missing a division symbol.

The staff agrees that these changes make the definitions more precise and has added the appropriate language. The equation for "in-stack concentration" has been corrected. The designation for the term "Cx" has been changed to read "measured pollutant concentration" to clarify terms used in the definition.

Huber commented that language should be added to §112.2 to include raw material feed-

stock in sulfur content sampling procedures since this is the primary source of SO₂ in carbon black plants. ASARCO suggested that the monitoring requirements of this section be transferred to a section dealing with the particular source category required to have CEMS under federal requirements. Marathon stated that facilities complying with §112.13, concerning allowable rates-refinery fuel gas combustion units, not be required to install CEMS. GSU, ERCOT, and TU commented that the deadline for installing CEMS should be January 1, 1995, to be consistent with the FCAA. An individual stated that the general public should be allowed a comment period prior to the executive director making a determination to substitute fuel analysis for CEMS.

The staff has added language that would specify the sampling of raw material feedstock as an additional testing requirement since this is a source of SO₂ emissions in carbon black plants. Additionally, federally mandated monitoring requirements, along with any options allowed under 40 CFR 51, Appendix P, have been transferred to the section covering the specific source category. Refinery fuel gas combustion units are not included under the federal mandate and, therefore, are not required to install CEMS.

There is no provision in the adopted rule that will require CEMS installation in these units. The staff has made the deadline for CEMS installation consistent with the FCAA where appropriate. For the purposes of this revision, a date consistent with 40 CFR 51, Appendix P, is usually required instead of the Title IV, FCAA requirements. The determination of the use of a fuel analysis system in place of CEMS is based solely on technical requirements. Some sources are configured or have substances in the effluent stream which render CEMS ineffective in monitoring emissions. The staff believes a public comment period on substitution of a fuel analysis system would unnecessarily delay the review process and has retained the language as proposed.

ASARCO, SPS, HLP, ERCOT, TU, and GSU objected to language in §112.3 prohibiting emissions that would cause or contribute to an exceedance of the NAAQS for SO₂. They stated that such a linking of stack emissions and NAAQS could only be related through dispersion modeling. As a result, each source would be responsible for modeling to establish emission limitations, and each source in an area where the NAAQS was exceeded would be individually responsible for the exceedance. The commenters stated that this linking of NAAQS and source emissions is the responsibility of the state. The responsible agency can set individual source limitations through the state implementation plan and permitting processes to protect NAAQS.

The staff agrees that a number of complexities would arise in emissions determination, compliance demonstrations, modeling, and enforcement. These proposed revisions to §112.3 have been withdrawn.

Witco commented that there is no scientific basis for the lower maximum ground level concentrations of 0.28 ppm of SO₂ specified for Harris and Galveston Counties as opposed to the rest of the state.

The lower concentrations in Harris and Galveston Counties are specified to protect NAAQS due to the number of SO₂ sources in these counties. This requirement existed in Regulation II prior to the proposal, and the staff does not support any relaxation of the standard.

GHP commented that the specification of an "ambient" ground level concentration in §112.3(a), as opposed to a "net" level is a new concept and is unnecessary, given the current SO₂ attainment status within the state.

The staff agrees that the concept of an individual source protecting an ambient standard should not be adopted. The reasons for this recommendation were stated in the discussion on the linking of individual source emissions and NAAQS.

ALCOA commented that there should be flexibility in §112.3(e) monitoring requirements that would consider multiple stacks on one baghouse unit or multiple baghouses for one unit.

The staff has deleted monitoring requirements from this section, including the requirement under specific source categories. The adopted monitoring requirements do not include monitoring baghouses for SO₂.

An individual commented that source compliance records should be made available for public view.

The staff does not agree that public inspection of source compliance records be included in this section. However, these records are available to the public upon request under the TCAA, §381.020.

New language that was proposed for §112.4 would apply exemptions from net ground level concentrations (NGLC) only in El Paso County. This would reverse the current situation where exemptions are allowed statewide, except for the Houston/Galveston and Beaumont/Port Arthur areas, and El Paso County. GSU commented that the proposed language removes the previous exemption for sources utilizing best available control technology (BACT) which do not contribute to an exceedance of NAAQS. They further stated that there is no EPA requirement to remove the exemption. ASARCO stated that the proposed language was unnecessary as exemptions are currently available for El Paso County under approved area control plans. They mentioned their own plant which currently operates under such a plan. ASARCO stated that the proposed change would upset the current legal structure.

The staff has considered these comments in conjunction with the SO₂ attainment status of affected areas of the state and agrees that the current exemption conditions and areas of applicability should be retained along with the option of using an approved area control plan. It should be noted that one of the conditions under which an exemption may be granted is that NAAQS not be exceeded. The staff believes the language change is not needed and places an unnecessary burden on industries outside of El Paso County and the Houston/Galveston and Beaumont/Port Arthur areas. The language as adopted preserves the original intent of this section.

An individual expressed his objection to exemption of El Paso County sources from established NGLC of SO₂.

As previously discussed, an exemption for El Paso County sources is not to be included in this section. Any exemptions to NGLC will be granted only after a source meets the requirements of BACT and demonstrates its emissions will not cause a violation of NAAQS. These exemptions are available under §112.19, Application for Area Control Plan, for all areas of the state except Harris, Galveston, Jefferson, and Orange Counties.

Sections 112.5, 112.6, and 112.7 each contained proposed revisions requiring reduction in SO₂ allowable emissions and compliance demonstrations. The allowable emissions reductions which applied only in Harris, Galveston, Jefferson, and Orange Counties and within a 30-mile radius of Harris, Galveston, Jefferson, and Orange Counties are not needed at this time since an enforceable voluntary reduction program is being developed. These reductions will need to be sufficient to demonstrate attainment, and necessary compliance demonstrations will be required under §112.2. Therefore, the compliance demonstration requirements identified in §§112.5, 112.6, and 112.7 are not necessary, and have been withdrawn. The current SO₂ emission limitations required under these sections has been retained.

During a meeting held on July 1, 1992, between EPA, the TACB staff, and affected industries, two issues concerning §112.8 were discussed. EPA requires that SO₂ emission standards be averaged over a three-hour period. The affected industries commented that source monitoring requirements under 40 CFR Part 51, Appendix P, would be best located in the sections concerning that particular source category. Solid fossil fuel-fired steam generators of greater than 250 million British thermal unit heat input per hour have such a monitoring requirement.

The staff has added averaging times to the section to meet EPA enforcement requirements. For reasons of rule clarity, the required monitoring proposed in §112.2 has been transferred to §112.8. As stated previously, the staff has transferred source monitoring requirements to the section concerning a specific source category. Additionally, compliance dates for the monitoring requirements have been set by agreement between TACB, EPA, and the affected industries.

A private citizen opposed to the TACB/TU joint study of SO₂ and the "white haze" phenomenon in the Dallas/Fort Worth area.

The referenced study is a past amendment to this rule and was not an issue in this proposal. No changes for the existing section language were included in this proposal.

TU commented that the amendment to §112.9, lowering SO₂ standards from 440 ppm to 350 ppm, is not necessary since all parts of the state are in attainment for this pollutant. They also stated that this revision would eliminate the use of Number 5 or 6 fuel oils for alternative fuels. HLP and GSU commented that it will be impossible to meet the retroactive compliance date in subsection (b)

for the lowering of SO₂ standards to 150 ppm as averaged over three hours. HLP objected to the linking of source emission standards and NAAQS and to the necessity of a compliance demonstration. GSU commented that ambient SO₂ levels in Jefferson, Orange, Harris, and Galveston Counties do not warrant the lowering of the emission standards to 50 ppm in 1996.

After review of available monitoring data, the staff agrees that a new statewide standard of 350 ppm is not necessary and has deleted that provision. As mentioned previously in this discussion, industries in Harris, Galveston, Jefferson, and Orange Counties have voluntarily reduced their allowable SO₂ emissions. Considering this and the fact that the counties are in attainment of the NAAQS, subsection (b) has been deleted. For reasons stated earlier, the staff has withdrawn all language linking point source emissions and NAAQS. Also, the staff has added an averaging time to the emission limits in subsection (c) to comply with EPA enforceability requirements.

Section 112.10, concerning allowable rates-fluid catalytic cracking units, §112.11, concerning allowable rates-catalyst recovery and catalyst metal reclamation plants, §112.12, concerning allowable rates-carbon black plants, and §112.13, concerning allowable rates-refinery fuel gas combustion units were intended to provide additional SO₂ controls for specific source categories in the Houston/Galveston and Beaumont/Port Arthur areas due to an anticipated reclassification of the areas to nonattainment for SO₂. As discussed previously, the staff believes this reclassification will not occur, and the new standards are not necessary. The language in these sections has been deleted and the sections are held in reserve.

ASARCO questioned the revision of §112.14 since there are no SO₂ nonattainment problems associated with nonferrous smelters in Texas. ASARCO pointed out that current modifications to their facility include the application of BACT and compliance demonstrations. ASARCO also objected to lowering the emission standard for reverberatory furnaces to 650 ppmv during the current modification of their facility. While ASARCO will have no trouble in meeting a much lower standard once the plant modifications are complete, the TACB proposal would require immediate compliance. After completion of the reverberatory furnace modification, ASARCO's source permit will allow emissions of 500 ppmv. ASARCO believes that, regardless of their ability to meet a lower standard, there is no reason to lower the current reverberatory furnace limit of 6,000 ppmv. ASARCO also stated that it is inappropriate to impose new source performance standard and compliance demonstrations on sulfuric acid plants used for emission control at smelters. In further comment on this section, an individual stated that language requiring the control of SO₂ emissions from gas collection systems such that leakage will be "prevented to the maximum extent possible" is insufficient and should provide exact limits. EPA suggested language to clarify the equations in this section.

The staff is aware of ASARCO's initiative in updating the emissions control technology at their El Paso plant and applauds this effort. An effective date has been included in this section that will allow current emission levels and a six-hour averaging time until a permit modification is complete. EPA requires the compliance test for sulfuric acid plants. Regardless of the primary purpose of the acid plant, it has SO₂ emissions and should be subject to control. The proposed language of §112.14(e) has been adopted as proposed. Prevention of all SO₂ leaks from smelting processes is not practicable due to the nature of the operation. Field inspectors can make an accurate determination on whether a facility is controlling these leaks to the maximum extent possible. The language concerning control of leakage in §112.14(f)(2) has been adopted as proposed, and the EPA suggested language to clarify the equations has been added.

Commenting on §112.15, Witco asked for a definition of "fuel" as it would apply to the filing of a fuel shortage plan. Witco questioned whether the definition of fuel applies to raw material used in the production of saleable products, as is the case with carbon black plants, or only to the production of heat. Witco challenged the need for statements concerning the availability and price of lower sulfur fuels. An individual objected to the allowance of any exemptions from ground level concentration standards in this section and §112.16. EPA commented that a clear basis for the executive director's approval of a fuel shortage plan should be stated.

Specification has been added to require that fuel oil used as raw material feed stock be included in the filing requirements of this section since this is the primary source of SO₂ in carbon black plants. While carbon black plants are not included under specific SO₂ source limits, knowledge of the sulfur content of raw materials used in the production process is important for accurate emission inventories. Statements concerning the

availability and price of low sulfur fuels are important in accurately evaluating a fuel shortage plan. Such statements are reasonable and the requirement has been retained in the adopted rule. Temporary fuel shortages do occur and industries need the flexibility to continue operation during such periods. Fuel shortage plans may exempt sources from complying with NGLC; however, they are still required to comply with NAAQS. The staff has retained the option for fuel shortage operating plans based on economic necessity, and has added language stating the basis on which the executive director will approve a fuel shortage plan.

Sections 112.19, 112.20, and 112.21 concern the implementation of area control plans to grant exemptions from NGLC of SO₂. ASARCO commented that there is no reason presented for revising the area control plan requirements and that the revisions appear to provide relief from the NAAQS. ASARCO also stated that the revision to §112.21 would allow a NGLC of 0.4 ppm which is the same as the generally applicable NGLC. This would mean an area control plan would have no effect. An individual objected to the concept of an area control plan and the exemptions it would provide from NGLC.

The staff has reviewed the situation concerning area control plans, particularly with regard to El Paso County, and has determined that no substantive change need be made to the procedures. The staff has made changes in section references to coincide with other changes made in this proposal. Sources operating under area control plans must not contribute to a violation of NAAQS. The staff believes these plans offer flexibility to the shifting operational requirements of industry and TACB is retaining this option in these sections.

TU commented that the March 1, 1994, compliance date in §112.22 should be changed to January 1, 1995, to be consistent with the FCAA amendment. HLP and GSU stated that deadlines contained in this section conflict with schedules in §112.9(b) and would require retroactive compliance.

Section 112.9(b) is not being adopted as its lower SO₂ limits are not necessary, and compliance schedules, consistent with federal requirements, are contained in the section concerning the category of source to which they apply. Therefore, §112.22 is not needed and has been withdrawn.

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The new sections are adopted under the 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. Definitions. Unless specifically defined in the Texas Clean Air Act (TCAA), §382.003 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. In addition to the terms which are defined by the TCAA, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Continuous emissions monitoring—Sampling, analyzing, and recording at least one measurement of sulfur dioxide concentration in each 15-minute period from the effluent of each affected process or the emission control system serving each affected process.

Effective stack height—A value in feet calculated by the following equation:

$$He = H + 0.083 Ve De \left[1.5 + 0.82 \left(\frac{Te - 550}{Te} \right) De \right]$$

Where:

He = Effective stack height in feet

H = Physical stack height above ground level in feet

Ve = Stack exit velocity in feet per second

De = Stack exit inside diameter in feet

Te = Stack exit temperature in degrees Rankine

In-stack concentration—The concentration of a pollutant inside the stack measured in parts per million by volume (ppmv) referenced at 0% stack gas oxygen on a dry basis averaged over a period of one hour with oxygen determined by the equation:

$$C_i = 20.9 C_x / (20.9 - C_o)$$

Where:

C_i = in-stack pollutant concentration corrected for 0% oxygen in ppmv

20.9 = % of oxygen in the air

C_x = measured pollutant concentration

C_o = % dry oxygen measured in the stack

Secondary metal recovery facility—A facility which recovers metals and alloys from new and used scrap and dross. It does not mean assembling, sorting, and breaking up scrap metal, without smelting and refining.

Short-stack reduction factor—The factor by which the allowable emission rate must be multiplied if the source has an effective stack height less than the standard effective stack height. The short-stack reduction factor is calculated by the following equation:

$$\text{Short-stack reduction factor} = \left(\frac{H_e}{H_s} \right)^2$$

Where:

He = Effective stack height

Hs = Standard effective stack height

§112.2. Compliance, Reporting, and Recordkeeping.

(a) When requested under §101.8(a) of this title (relating to Sampling), a facility that is subject to the sulfur dioxide (SO₂) limits of this chapter shall demonstrate compliance by Method 6, 6A, or 6C as described in 40 Code of Federal Regulations (CFR), Part 60, Appendix A. Any person affected by this subsection may request approval by the executive director of the Texas Air Control Board (TACB) and by the United States Environmental Protection Agency of alternative test methods, including sampling and analysis of fuel or raw material feedstock, as described in Method 19 of 40 CFR, Part 60, Appendix A, to determine compliance.

(b) A facility that is required to demonstrate compliance with SO₂ emission limits under this chapter shall report the results so obtained, when requested, to the appropriate regional office of TACB within a reasonable time specified by and on forms furnished by the executive director.

(c) A facility that is required to demonstrate compliance with SO₂ emission limits under this chapter shall maintain records on site of any SO₂ emissions data, fuel sampling data, or sampling data of fuel oil used as raw material for two years. These records shall be available for inspection by federal, state, or local air pollution control agencies.

§112.3. Net Ground Level Concentrations.

(a) Except as specified in subsections (b) or (c) of this section or §112.4 of this title (relating to Net Ground Level Concentration-Exemption Conditions), no person in the State of Texas may cause, suffer, allow, or permit emissions of sulfur dioxide (SO₂) from a source or sources operated on a property or multiple sources operated on contiguous properties to exceed a net ground level concentration of 0.4 part per million by volume (ppmv) averaged over any 30-minute period.

(b) No person in Galveston or Harris County may cause, suffer, allow, or permit emissions of SO₂ from a source or sources operated on a property or multiple sources operated on contiguous properties to exceed a net ground level concentration of 0.28 ppmv averaged over any 30-minute period.

(c) No person in Jefferson or Orange County may cause, suffer, allow, or permit emissions of SO₂ from a source or sources operated on a property or multiple sources operated on contiguous properties to exceed a net ground level concentration of 0.32 ppmv averaged over any 30-minute period.

§112.4. Net Ground Level Concentration-Exemption Conditions. The executive director, in consideration of a request from an affected party, may find that, except in El Paso County, a property or contiguous properties are exempt from the requirements of §112.3(a) of this title (relating to Net Ground Level Concentrations), if the new or modified emission source is constructed

and operated on such property or properties under all the following conditions.

(1) The construction and operation of the new or modified emission source meets all applicable federal new source performance standards and uses best available control technology, with consideration to the technical practicability and economic reasonableness of reducing or eliminating the emissions from the facility.

(2) The permit application contains a demonstration using appropriate diffusion modeling, as approved by the United States Environmental Protection Agency and the Texas Air Control Board Modeling Division, that the construction and operation of the new or modified emission source does not cause or contribute to a condition such that either the primary or the secondary sulfur dioxide national ambient air quality standards are exceeded in the area.

(3) Those sources proposed for an exempt property and those sources existing on an exempt property prior to the effective date of this section shall be in compliance with this section or with an area control plan obtained pursuant to §112.19 of this title (relating to Application for Area Control Plan).

§112.5. Allowable Emission Rates-Sulfuric Acid Plant Burning Elemental Sulfur.

(a) No person may cause, suffer, allow, or permit emissions of sulfur dioxide (SO₂) from any sulfuric acid plant burning elemental sulfur to exceed the emission limits specified by the equation:

$$E = 0.01983 q$$

Where:

E = allowable emission rate in pounds per hour

q = stack effluent flow rate in standard cubic feet
per minute (scfm)

(b) If a source has an effective stack height less than the standard effective stack height determined by the equation:

$$H_e = 0.885 q^{0.5}$$

Where:

H_e = standard effective stack height in feet

q = stack effluent flow rate in scfm

(c) Beginning September 30, 1994, sulfuric acid plants of greater than 300 tons per day production capacity, with production being expressed as 100% acid, and to which this section applies, shall be equipped with a continuous emissions monitoring system (CEMS) for SO₂. The CEMS shall be installed, calibrated, and operated as specified in 40 Code of Federal Regulations Part 51, Appendix P, hereby incorporated by reference.

§112.6. Allowable Emission Rates-Sulfuric Acid Plant.

(a) Except as provided in §112.5 of this title (relating to Allowable Emission Rates-Sulfuric Acid Plant Burning Elemental Sulfur), and in §112.14 of this title (relating to Allowable Emission Rates-Nonferrous Smelter Processes), no person may cause, suffer, allow, or permit emissions of sulfur dioxide (SO₂) from any sulfuric acid plant to exceed the emission limits specified by the equation:

$$E = 0.0347 q$$

Where:

E = allowable emission rate in pounds per hour
q = stack effluent rate in standard cubic feet per
minute (scfm)

(b) If a source has an effective stack height less than the standard effective stack height determined by the equation:

$$H_e = 1.17 q^{0.5}$$

Where:

H_e = standard effective stack height in feet
q = the stack effluent flow rate in scfm

(c) Beginning September 30, 1994, sulfuric acid plants of greater than 300 tons per day production capacity, with production expressed as 100% acid, and to which this section applies, shall be equipped with a continuous emissions monitoring system (CEMS) for SO₂. The CEMS shall be installed, calibrated, and operated as specified in 40 Code of Federal Regulations Part 51, Appendix P, hereby incorporated by reference.

§112.7. Allowable Emission Rates-Sulfur Recovery Plant.

(a) No person may cause, suffer, allow, or permit emissions of sulfur dioxide (SO₂) from any sulfur recovery plant to exceed the emission limits specified for stack effluent flow rates less than or equal to 4,000 standard cubic feet per minute (scfm) as determined by the equation:

$$E = 123.4 + 0.091 q$$

and the emission limits, specified for stack effluent flow rates in excess of 4,000 scfm, as determined by the equation:

$$E = 0.614 q^{0.8042}$$

Where:

E = allowable emission rate in pounds per hour

q = stack effluent flow rate in scfm

(b) If a source has an effective stack height less than the standard effective stack height determined for stack effluent rates less than or equal to 4,000 scfm by the equation:

$$He = 7.4 (123.4 + 0.091 q)^{0.5}$$

and determined for stack effluent rates greater than 4,000 scfm, by the equation:

$$He = 5.8 q^{0.402}$$

Where:

H_e = standard effective stack height in feet

q = stack effluent flow rate in scfm

then, the allowable emission limit in subsection (a) of this section must be reduced by multiplying it by the short-stack reduction factor.

§112.8. Allowable Emission Rates From Solid Fossil Fuel-Fired Steam Generators.

(a) Except as provided in subsection (b) of this section, no person may cause, suffer, allow, or permit emissions of sulfur dioxide (SO_2) from any solid fossil fuel-fired steam generator to exceed 3.0 pounds per million Btu (MMBtu) heat input averaged over a three-hour period.

(b) No person may cause, suffer, allow, or permit emissions of SO_2 from any solid fossil fuel-fired steam generator located in Milam County, which began operation prior to January 1, 1955, to exceed 4.0 pounds per MMBtu heat input averaged over a three-hour period.

(c) Units having a design heat input of greater than 1,500 MMBtu per hour and, which on January 1, 1991, were not subject to new source performance standards, shall meet one of the following requirements:

(1) after July 31, 1996, no person may cause, suffer, allow, or permit emissions of SO_2 from any solid fossil fuel-fired steam generator to exceed 1.2 pounds per MMBtu heat input averaged over a three-hour period or an equivalent in total allowable annual site emissions; or

(2) the owner/operator of the unit(s) shall fund and support a research study of winter atmospheric haze, also known as "white haze," in the Dallas/Fort Worth (DFW) area, to be completed by July 31, 1996. Within 90 days from the effective date of this rule, the owner/operator shall submit a formal proposal for this study designed to allow successful completion of this study by the date specified previously. The proposal shall include milestone dates, the study's general approach and objectives, and shall include minimum and maximum financial responsibilities on the part of the owner/operator. The Texas Air Control Board (TACB) executive director shall approve or reject the study within 120 days from date of the proposal submittal. The TACB shall base its approval or rejection on the technical merits and adequacy of approach to the research study. Should the proposal be rejected, an extension not to exceed 60 days for renegotiation may be granted at the discretion of the executive director. Should this extension expire without proposal approval, then paragraph (1) of this subsection shall apply. Following such approval, the study shall be directed by a steering committee selected by TACB in consultation with the owner/operator of the unit(s) and shall be controlled, comprehensive, state-of-the-art, and quality-assured. The steering committee shall define the

scope of the study and establish appropriate milestones to assure completion of the study by July 31, 1996. The study shall be designed to demonstrate conclusively whether or not a reduction of SO_2 emissions from the affected unit(s) to 1.2 pounds per MMBtu will significantly improve winter visibility in the DFW area. No later than October 31, 1996, TACB shall make a finding based on the study as follows, either:

(A) that reductions of SO_2 emissions from the affected unit(s), as defined in subsection (c) of this section, will significantly improve winter visibility in the DFW area. If such finding is made, then the affected unit(s) shall achieve compliance with a SO_2 emission limit of 1.2 pounds per MMBtu or an equivalent in total allowable annual site emissions by July 31, 2000; or

(B) that reductions of SO_2 emissions from the affected unit(s), as defined in subsection (c) of this section, will not significantly improve winter visibility in the DFW area. If such a finding is made or if TACB cannot make a finding on the basis of the study by October 31, 1996, then the affected unit(s) shall maintain compliance with subsection (a) of this section.

(d) Except as provided in subsection (e) of this section, beginning Septem-

ber 30, 1994, solid fossil fuel-fired steam generators of greater than 250 MMBtu heat input per hour which are equipped with SO₂ control equipment shall be equipped with a continuous emissions monitoring system (CEMS) for SO₂. The CEMS shall be installed, calibrated, and operated as specified in 40 Code of Federal Regulations Part 51, Appendix P, hereby incorporated by reference.

(e) In lieu of the requirements of subsection (d) of this section, beginning

September 30, 1994, sources subject to the Federal Clean Air Act, §412(c), as amended in 1990 shall meet the requirements of §412(c) and the regulations promulgated there-under.

§112.9. Allowable Emission Rates-Combustion of Liquid Fuel.

(a) No person may cause, suffer, allow, or permit emissions of sulfur dioxide (SO₂) from any liquid fuel-fired steam gen-

erator, furnace, or heater to exceed 440 parts per million by volume (ppmv) at actual stack conditions and averaged over a three-hour period.

(b) If a source has an effective stack height less than the standard effective stack height as determined from the equation:

$$He = 0.49 q^{0.50}$$

re:

He = standard effective stack height in feet

q = stack effluent flow rate in standard cubic feet
per minute

the allowable emission concentration must be reduced by multiplying it by the short-stack reduction factor.

(c) No later than July 31, 1993, no person in Harris or Jefferson County may cause, suffer, allow, or permit the use of liquid fuel for combustion from any stationary liquid fuel-fired steam generator, furnace, or heater with a sulfur content greater than 0.3% by weight or emissions of SO₂ from any liquid fuel-fired steam generator, furnace, or heater to exceed 150 ppmv, as calculated based on 20% excess air and as averaged over a three-hour period. The requirements of this subsection are not intended to apply to sulfuric acid plants.

(d) Except as provided in subsection (e) of this section, beginning Septem-

ber 30, 1994, liquid fossil fuel-fired steam generators of greater than 250 MMBtu heat input per hour which are equipped with SO₂ control equipment shall be equipped with a continuous emissions monitoring system (CEMS) for SO₂. The CEMS shall be installed, calibrated, and operated as specified in 40 Code of Federal Regulation Part 51, Appendix P, hereby incorporated by reference.

(e) In lieu of the requirements of subsection (d) of this section, beginning September 30, 1994, sources subject to the Federal Clean Air Act, §412(c), as amended in 1990 shall meet the requirements of §412(c) and the regulations promulgated there-under.

§112.14. Allowable Emission Rates-Nonferrous Smelter Processes.

(a) This section is applicable to all processes in nonferrous smelters, including, but not limited to, roasters, smelting furnaces, converters, sintering machines, blast furnaces, fuming furnaces, retorts, slag treatment plants, and sulfuric acid plants.

(b) No person may cause, suffer, allow, or permit emissions of sulfur dioxide (SO₂) to the atmosphere from any process as specified in this section to exceed the applicable concentration of SO₂ as follows:

		SO ₂ Parts Per Million by Volume (ppmv) Maximum	
		Two-Hour Average	Three-Hour* Average
(1)	Primary Copper Smelter for all purposes other than those listed below:		650
(A)	Reverberatory Furnace		6,000
(2)	Primary Zinc Smelter	1,000	
(3)	Primary Lead Smelter		
(A)	Sinter Machine Discharge End (provided gases do not pass through Sinter bed),	2,500	
(B)	Sinter Handling Equip- ment Emission Collect- ing Systems	2,500	
(C)	All Other Processes	650	
(4)	Other Primary Smelter	2,500	
(5)	Secondary Metal Recovery Facility	3,500	
(6)	Sulfuric Acid Plant		650

*The three-hour standards will be based on a six-hour average until September 30, 1994.

(c) Each stack or emission point in a primary smelter or secondary metal recovery facility shall have a standard effective stack height not less than that determined by the equation:

$$H_e = K(q)^{0.5}$$

Where:

H_e = standard effective stack height in feet

q = effluent flow rate in standard cubic feet per minute (scfm)

K = a constant dependent on the type of facility as follows:

<u>Type of Facility</u>	<u>K</u>
Primary Copper Smelter	0.50
Primary Lead Smelter	0.61
(all processes except Sintering Machine, Discharge End, and Equipment Ventilation)	
Metallurgical Sulfuric Acid Plant	0.61
Primary Zinc Smelter	0.61
Other Primary Smelters	0.90
Primary Lead Smelter Sintering Machine Discharge End and Equipment Ventilation	1.17
Secondary Metal Recovery Facilities	1.17

When two or more gas streams either wholly or in part are discharged through a single stack, the combined flow rate of all streams shall be used to determine the required standard effective stack

height. If streams with different SO₂ concentration allowables, as determined in subsection (b) of this section, are combined into a single stream, the required effective stack height is determined as follows.

(1) Calculate a total combined stream SO₂ concentration allowable as follows:

$$\text{PPMt} = \frac{(\text{PPM1})(\text{SCFM1}) + (\text{PPM2})(\text{SCFM2}) + \dots (\text{PPMn})(\text{SCFMn})}{(\text{SCFM1} + \text{SCFM2} + \dots \text{SCFMn})}$$

Where:

PPMt = Allowable SO₂ concentration in total combined stream, ppmv

PPM1 = Allowable SO₂ concentration in stream No.1, ppmv

PPM2 = Same as PPM1 except for stream No. 2

PPMn = Same as PPM1 except for Nth stream

SCFM1 = Effluent flow rate of stream No. 1, scfm

SCFM2 = Same as SCFM1 except for stream No. 2

SCFMn = Same as SCFM1 except for Nth stream

(2) Calculate interpolation constant (Kt) for the total combined stream as follows:

$$K_t = \frac{(\text{PPMt} - \text{PPM}_x)(K_h - K_x)}{(\text{PPM}_h - \text{PPM}_x)} + K$$

Where:

Kt = Interpolation constant for use in the following standard effective stack height equation

PPMt = Allowable SO₂ concentration in total combined stream previously calculated and for the stated total ppmv, the other parameters are:

<u>PPMt</u>	<u>PPMx</u>	<u>PPMh</u>	<u>Kx</u>	<u>Kh</u>
650 to 1,000	650	1,000	0.50	0.61
1,000 to 2,500	1,000	2,500	0.61	0.90
> 2,500	2,500	3,500	0.90	1.17

(3) Calculate standard effective stack height for total combined stream as follows:

$$He = Kt (q)^{0.5}$$

Where:

He = Standard effective stack height in feet

Kt = Interpolation constant calculated previously

q = Total stack effluent flow rate in scfm

(SCFM1 + SCFM2 + ... SCFMn)

(d) If a stack or emission point has an effective stack height less than the standard effective stack height as determined in subsection (c) of this section, the allowable concentration of SO₂ must be reduced by multiplying it by the short-stack reduction factor.

(e) The owner or operator of a non-ferrous smelter shall utilize best engineering

techniques to capture and vent fugitive SO₂ emissions through a stack or stacks. Such techniques shall include, but not be limited to, the following:

(1) operating and maintaining all ducts, flues, and stacks in a leak-free condition;

(2) operating and maintaining all process equipment and gas collection systems in such a fashion that leakage of

SO₂ gases will be prevented to the maximum extent possible;

(3) collecting SO₂ emissions through the tallest stack or stacks serving the facility, whenever possible, using gas collection systems and/or ducting.

(f) The owner or operator of any primary smelter subject to the provisions of this section shall install, calibrate, maintain, and operate a measurement system or sys-

tems approved by the executive director for continuously monitoring SO₂ emissions in the effluent of each process subject to subsection (a) of this section. The executive director shall not require continuous monitoring for sources emitting less than 25 tons per year of SO₂ into the atmosphere.

§112.15. Temporary Fuel Shortage Plan Filing Requirements.

(a) Any person may file with the Texas Air Control Board (TACB) a temporary fuel shortage control plan if unable to comply with §112.3 of this title (relating to Net Ground Level Concentration), §112.9 of this title (relating to Allowable Emission Rates-Combustion of Liquid Fuel), or with any permit requirements, other than those required under the Federal Clean Air Act, §111, which limit sulfur dioxide emissions from any combustion unit solely because of the nonavailability of low sulfur fuels. The plan shall include all of the following:

(1) evidence of the nonavailability of low sulfur fuels, including, but not limited to, statements from fuel suppliers which address the availability and prices of lower sulfur fuels and the expected duration of any period of non-availability of particular fuels. The person filing the plan must annually request and receive an extension from the executive director or the plan will automatically expire one year after receipt of the plan by TACB;

(2) a statement that all emissions inventory data required by TACB are complete, accurate, and on file with TACB;

(3) data for each source within the entire plant that uses 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 executive director. The executive director may require more frequent and extensive monitoring for persons affected by this section than would normally be required for persons affected by §112.3 of this title and §112.9 of this title.

(b) The executive director may make an independent determination of a need to operate under the temporary fuel shortage control plan based on the evidence of the nonavailability of low sulfur fuel. This determination/approval shall be effective on the date specified in the executive director's written notification of such determination.

(c) The requirements of this section and §§112.16, 112.17, and 112.18 of this title (relating to Temporary Fuel Shortage Plan Operating Requirements; Temporary Fuel Shortage Plan Notification Procedures;

and Temporary Fuel Shortage Plan Reporting Requirements) shall also apply to shortages of low sulfur fuel oils where those oils are used as raw material in the production of a saleable product.

§112.16. Temporary Fuel Shortage Plan Operating Requirements.

(a) Following the approval of a temporary fuel shortage plan filed pursuant to §112.15 of this title (relating to Temporary Fuel Shortage Plan Filing Requirements), the provisions of a plan will govern the operation of the source with regard to emissions of sulfur dioxide (SO₂) during the periods of low sulfur fuel shortages.

(1) During operation under an approved fuel shortage plan, the source shall continue to comply with the following:

(A) permit conditions required under the Federal Clean Air Act (FCAA), §111;

(B) the national ambient air quality standard (NAAQS) for SO₂ or an SO₂ increment for prevention of significant deterioration (PSD) of air quality;

(C) §112.17 of this title (relating to Temporary Fuel Shortage Plan Notification Procedures).

(2) During operation under an approved fuel shortage plan, the source will be exempt from the following:

(A) §112.3 of this title (relating to Net Ground Level Concentrations);

(B) §112.9 of this title (relating to Allowable Emission Rates-Combustion of Liquid Fuel);

(C) existing permit conditions regulating emissions of SO₂, except as specified in paragraph (1)(A) of this subsection.

(b) An evaluation of the plan will be made by the applicant using appropriate diffusion modeling, as approved by the United States Environmental Protection Agency and the Texas Air Control Board Modeling Section, and following a signed modeling protocol agreement. If the plan cannot adequately demonstrate that the burning of higher sulfur fuels will not cause or contribute to a violation of any NAAQS and/or any PSD increment for SO₂, then the person filing the plan shall request that the governor file a petition for relief under the FCAA, §110(f) with the president of the United States.

§112.17. Temporary Fuel Shortage Plan Notification Procedures. Any person who operates a source under a temporary fuel shortage control plan filed pursuant to §112.15 of this title (relating to Temporary Fuel Shortage Plan Filing Requirements), shall 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 §112.3 of this title (relating to Net Ground Level Concentration) and §112.9 of this title (relating to Allowable Emission Rates-Combustion of Liquid Fuel), or any permit requirements. The notification shall include an estimate of the expected duration of the fuel shortage.

(2) The executive director of the Texas Air Control Board 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 resumption of operations in compliance with §112.3 of this title, §112.9 of this title, and any permit requirements.

§112.18. Temporary Fuel Shortage Plan Reporting Requirements. Any person who files a temporary fuel shortage control plan under §112.15 of this title (relating to Temporary Fuel Shortage Plan Filing Requirements), and operates a source under that plan pursuant to §112.16 of this title (relating to Temporary Fuel Shortage Plan Operating Requirements) and §112.17 of this title (relating to Temporary Fuel Shortage Plan Notification Procedures), must submit to the Texas Air Control Board, on a semi-annual basis, a written report detailing the types, quantity, and sulfur content of fuels burned during the previous six months, the sources at which these fuels were burned, and the dates on which the higher sulfur fuels were burned.

§112.19. Application for Area Control Plan. The owner or operator of a source which emits sulfur dioxide (SO₂) may petition the Texas Air Control Board for relief from the requirements of §112.3(a) of this title (relating to Net Ground Level Concentrations), by filing with the Executive Director, an application for an area control plan. An application for an area control plan shall include, but is not limited to, a combination of evidence that best available control technology is being employed at all the affected sources, having due regard for the technical practicability and the economic reasonableness of reducing or eliminating the emissions of SO₂ from the affected source, and an ambient air sampling system to record SO₂ levels in the affected area.

Any person who files an application for an area control plan shall demonstrate the capability of all sources in the affected area of the state to maintain all promulgated SO₂ ambient air quality standards.

§112.20. Exemption Procedure. Upon recommendation by the executive director, the Texas Air Control Board may enter a board order exempting a source from the requirements of §112.3(a) of this title (relating to Net Ground Level Concentrations), if the owner/operator has filed an application pursuant to §112.19 of this title (relating to Application for Area Control Plan), contingent upon the continued compliance by the owner/operator with the remaining terms of the board order.

§112.21. Allowable Emission Rates Under Area Control Plan. No person or persons who have been issued a board order establishing an area control plan pursuant to §112.20 of this title (relating to Exemption Procedure), may cause or contribute to a condition in which the ambient air quality in the affected areas of the state will exceed 0.5 parts per million by volume of sulfur dioxide averaged over a one-hour period.

This agency hereby certifies that the rule as adopted 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 2, 1992.

TRD-9213360 Lane Hartscock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Effective date: October 23, 1992

Proposal publication date: April 24, 1992

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

Part IX. Texas Water Commission

Chapter 292. River Authorities

The Texas Water Commission adopts new §§292.1-292.3 and 292.11-292.13, concerning general provisions, and administrative policies for water districts and river authorities, without changes to the proposed text as published in the August 14, 1992, issue of the *Texas Register* (17 TexReg 5671). These new rules are adopted in order to provide guidelines for supervision of certain districts and river authorities.

Subchapter A of Chapter 292 (relating to General Provisions) is comprised of §§292.1-292.3. Section 292.1 (relating to Objective and Scope of Rules) delineates the objective and scope of the rules. Section 292.2 (relating to Meaning of Certain Words) defines terms and phrases to be used in the rules. Section 292.3 (relating to Texas Water Commission Report to the Legislature) dictates

that the executive director is to submit a report of findings made during the supervision of districts and authorities to the governor, lieutenant governor, and speaker of the house. This section also describes the contents of the report.

Subchapter B of Chapter 292 (relating to Administrative Policies) is comprised of §§292.11-292.13. Section 292.11 (relating to Administrative Policies to be Adopted by the Board) states that the provisions set forth in §292.13 (relating to Minimum Provisions) are to be considered the minimum standards by which the conduct of the board of a district or an authority is to be measured. Section 292.12 (relating to the Right of Executive Director to Review Policies and Other Documents) provides a basis for the executive director to determine if administrative policies comply with these rules and documents comply with the administrative policies. Section 292.13 (relating to Minimum Provisions) dictates that certain provisions are to be incorporated into the administrative policies adopted by the districts and authorities that are subject to this chapter. The provisions in this section include a code of ethics for river authority or district officials and employees, a travel expenditures policy, an investment policy for the funds of river authorities or districts, a policy for the selection of professional services, and a management policy.

During the 30-day comment period, which closed on September 14, 1992, we received one comment regarding these rules. The comment was received from a director of the Sabine River Authority, requesting clarification and direction in addressing the following administrative policies of river authorities paying for the preparation of wills for river authority employees; paying 25% of gross pay to employees' retirement benefit in addition to Social Security benefits; providing hospitalization insurance for directors, and paying \$100 per diem to directors to read and review newspaper articles and authority correspondence.

In general, the comment letter received brings forth issues which may need clarification for each authority. However, the commenter did not express concerns on any specific section of this chapter. The commission believes that those issues identified should be processed as a complaint and addressed within the context of the operation of the authority. To the extent that these issues require additional legislative guidance, such issues will be incorporated into the report required pursuant to the Texas Water Code, §12.081.

Subchapter A. General Provisions

• 31 TAC §§292.1-292.3

The new sections are adopted under the Texas Water Code, §§5.013, 5.103, 5.105, and 12.081, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, to establish and approve all general policies of the commission, and to issue rules necessary to supervise districts and authorities.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 30, 1992.

TRD-9213322 Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Effective date: October 22, 1992

Proposal publication date: August 14, 1992

For further information, please call: (512) 463-8069

Subchapter B. Administrative Policies

• 31 TAC §§292.11-292.13

The new sections are adopted under the Texas Water Code, §§5.103, 5.105, and 12.081, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, to establish and approve all general policy of the commission, and to issue rules necessary to supervise districts and authorities.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 30, 1992.

TRD-9213323 Mary Ruth Holder
Director, Legal Division
Texas Water Commission

Effective date: October 22, 1992

Proposal publication date: August 14, 1992

For further information, please call: (512) 463-8069

TITLE 34. PUBLIC FI- NANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter Q. Franchise Tax

• 34 TAC §3.413

The Comptroller of Public Accounts adopts the repeal of §3.413, concerning franchise tax reports and payments, without changes to the proposed text as published in the June 19, 1992, issue of the *Texas Register* (17 TexReg 4432).

This section is being repealed in order that it can be adopted under the Texas Administrative Code, Title 34, Part I, Chapter 3, Subchapter V. The section will be replaced with a new 34 TAC §3.544, concerning Reports and Payments.