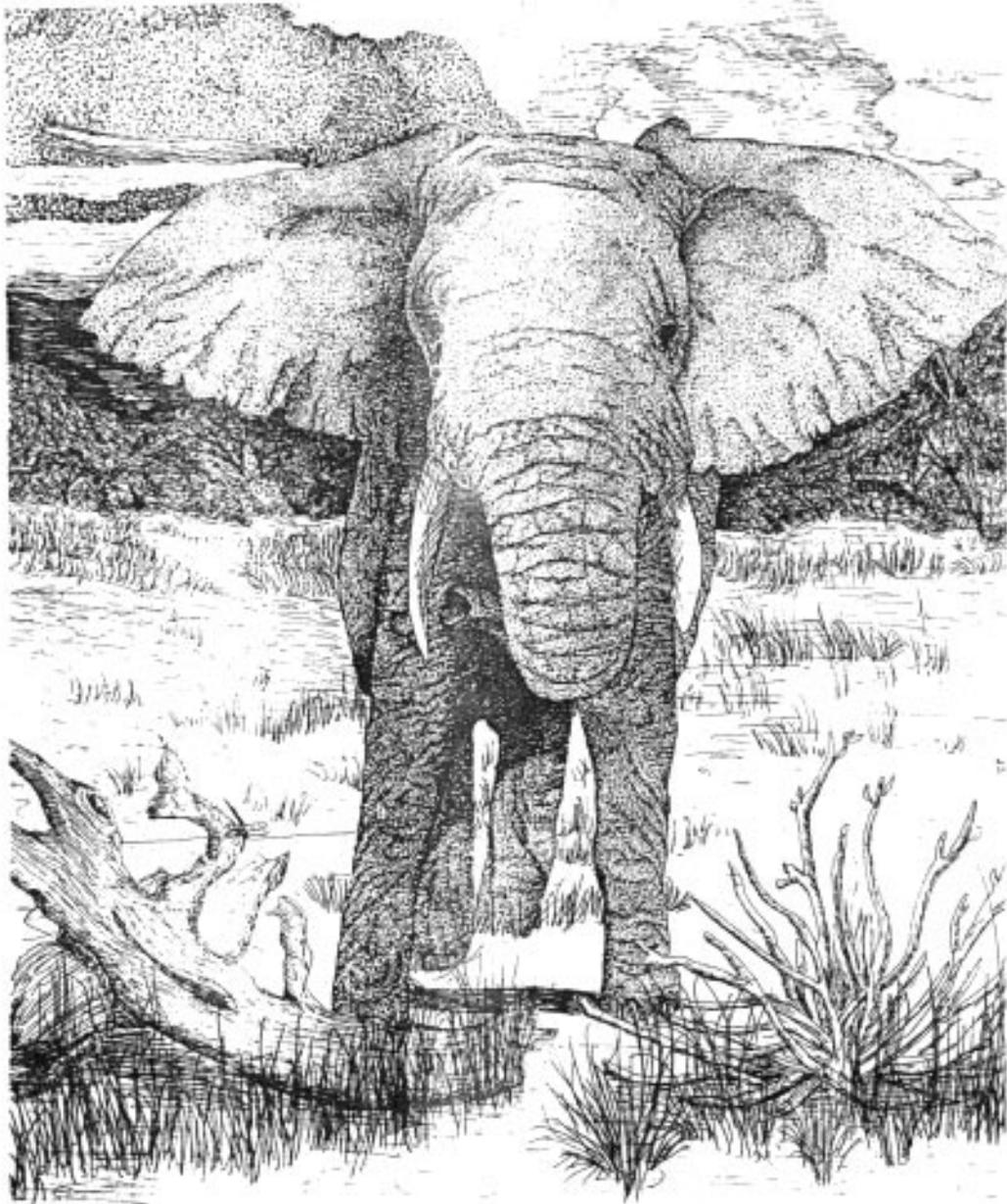


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of education. The purpose of the internal audit shall be to evaluate the controls over assets and test compliance with TEA rules and procedures.

(7) The State Auditor's Office is an independent state agency that performs an annual financial audit of the TEA at the direction of the Texas Legislature. The financial audit, conducted according to generally accepted auditing standards, is designed to test compliance with generally accepted accounting principles. The state auditor performs tests of the transactions of the PSF Investment Office as part of this annual audit, including compliance with governing statutes and SBOE policies and directives.

(8) The SBOE may retain independent external auditors to review the PSF accounts annually or on an as-needed basis.

(c) The SBOE shall meet on a regular or as-needed basis to conduct the affairs of the PSF.

(d) In case of emergency or urgent public necessity, the SBOE Committee on the Permanent School Fund or the SBOE, as appropriate, may hold an emergency meeting under the Texas Government Code, §551.045.

(e) The SBOE shall have the following exclusive duties:

(1) determining the strategic asset allocation mix between asset classes based on the attending economic conditions and the PSF goals and objectives;

(2) ratifying the investment transactions pertaining to the purchase, sale, or reinvestment of fixed income, equity, or cash securities by all internal and external managers for the current reporting period;

(3) appointing members to the SBOE Investment Advisory Committee;

(4) approving all contracts with external professional investment managers, financial advisors, financial consultants, or other external professionals employed to help the SBOE invest the PSF;

(5) approving the performance measurement contract with a well recognized and reputable firm employed to evaluate and analyze PSF investment results. The service shall compare investment results to the written investment objectives of the SBOE and also compare the investment of the PSF with the investment of other public and private funds against market indices and by managerial style;

(6) setting policies, objectives, and guidelines for investing PSF assets; and

(7) representing the PSF to the state.

(f) The SBOE may establish committees to administer the affairs of the PSF. The duties and responsibilities of any committee established shall be specified in the PSF Investment Procedures Manual.

(g) The PSF shall have an executive administrator, with a staff to be adjusted as necessary, who functions directly with the SBOE through the SBOE Committee on the Permanent School Fund concerning investment matters, and who functions as part of the internal operation under the commissioner of education. At all times, the PSF executive administrator and staff shall invest PSF assets as directed by the SBOE according to the Texas Constitution and

all other applicable Texas statutes, as amended, and SBOE rules governing the operation of the PSF. The PSF staff shall:

(1) administer the PSF according to SBOE goals and objectives;

(2) execute all directives, policies, and procedures from the SBOE and the SBOE Committee on the Permanent School Fund;

(3) keep records and provide a continuous and accurate accounting of all PSF transactions, revenues, and expenses and provide reports on the status of the PSF portfolio;

(4) advise any officials, investment firms, or other interested parties about the powers, limitations, and prohibitions regarding PSF investments that have been placed on the SBOE or PSF investment staff by statutes, attorney general opinions and court decisions, or by SBOE policies and operating procedures;

(5) continuously research all internally managed securities held by the PSF and report to the SBOE Committee on the Permanent School Fund and the SBOE any information requested, including reports and statistics on the PSF, for the purpose of administering the PSF;

(6) establish and maintain a procedures manual that implements this section to be approved by the SBOE;

(7) make recommendations regarding investment and policy matters to the SBOE Committee on the Permanent School Fund and the SBOE; and

(8) establish and maintain accounting policies and internal control procedures concerning all receipts, disbursements and investments of the PSF, according to the procedures adopted by the SBOE.

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

Issued in Austin, Texas, on March 26, 1997.

TRD-9704161

Criss Cloudt

Associate Commissioner, Policy Planning and Research
Texas Education Agency

Earliest possible date of adoption: May 5, 1997

For further information, please call: (512) 463-9701

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TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 112. Control of Air Pollution from Sulfur Compounds

Control of Sulfur Dioxide

30 TAC §112.8

The commission proposes an amendment to §112.8, concerning Allowable Emission Rates From Solid Fossil Fuel-Fired Steam Generators by deleting subsection (c).

EXPLANATION OF PROPOSED RULE. In September 1992, the Texas Air Control Board (TACB) amended §112.8 to require owners of solid fossil fuel-fired steam generators of greater than 1,500 million British thermal units (MMBtu) heat input per hour to conduct a study of the sulfur dioxide (SO₂) emissions from these units and the effect on winter haze in the Dallas/Fort Worth area. The purpose of the study was to determine if reductions in SO₂ emissions from these units would result in a significant reduction in the winter haze. The TACB or its successor was to make a finding on the study by October 31, 1996. The study has been submitted and the finding of the commission was that SO₂ reductions from the affected units would not significantly affect visibility in Dallas/Fort Worth. Because of this finding, the units will not be required to meet the emission standard of 1.2 pounds of SO₂ per MMBtu heat input by July 31, 2000 contained in §112.8(c). Instead, the emission standard will remain at 3.0 pounds per MMBtu. Therefore, §112.8(c) has no further application and the commission has recommended that it be rescinded.

TAKINGS IMPACT ASSESSMENT. The commission has prepared a Takings Impact Assessment for this proposal pursuant to Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of this rule-making is to delete a subsection that is no longer required and to comply with a commission directive. The amendment poses no impact on private real property and will maintain the status quo regarding SO₂ emissions in the Dallas/Fort Worth area.

COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW. The commission has determined that the proposed rule-making relates to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code, §§33.201 et. seq.), and the commission's rules at 30 TAC Chapter 281, Subchapter B, Consistency with the Texas Coastal Management Program. As required by 31 TAC §505.11(b)(2) and 30 TAC §281.45(a)(3) relating to actions and rules subject to the CMP, agency rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission has reviewed this proposed action for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Council, and has determined that the proposed action will not have a direct and significant adverse effect on the coastal natural resource areas (CNRAs) identified in the applicable policies. This proposed amendment removes a requirement for a study, and does not change the emissions standard for sulfur dioxide, regarding the Dallas/Fort Worth area, an area of the state which is not located in a CNRA as that area is defined in Texas Natural Resources Code, §33.203(1). Interested persons may submit comments on the consistency of the proposed rule with the CMP during the public comment period.

FISCAL NOTE. Stephen Minick, Strategic Planning and Appropriations, has determined that for the first five-year period the proposal is in effect, there will be no significant fiscal implications for state or local government. There will be no significant fiscal implications to the commission. There will be no additional economic impact on owners and operators of affected sources.

PUBLIC BENEFIT. Mr. Minick also has determined that for each year of the first five-year period the proposed rule is in

effect, there will be no significant public benefit or disbenefit. There will be no added affect on small business. There are no anticipated additional economic costs to persons who are required to comply with the amendment as proposed.

PUBLIC HEARING. A public hearing on this proposal will be held in Austin on April 24, 1997 at 10:00 a.m. in Building F, Room 2210 of the commission's central office, located at 12100 North IH-35, Park 35 Technical Center, Austin, Texas 78753. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

SUBMITTAL OF COMMENTS. Written comments may be mailed to Heather Evans, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96179-112-AI. Comments must be received by 5:00 p.m., May 5, 1997. For further information or questions concerning this proposal, contact Alan J. Henderson, P.E., Air Policy and Regulations Division, Office of Policy and Regulatory Development, (512) 239-1510.

Persons with disabilities, who have special communication or other accommodation needs, and who are planning to attend the hearings should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

STATUTORY AUTHORITY. The amendment is proposed under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA.

The proposed amendment implements Texas Health and Safety Code, §382.017.

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

(a) - (b) (No change.)

[(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 SO₂ 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) shall apply. Following such approval, the study shall be directed by a steering committee selected by the 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 SO₂ 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, the TACB shall make a finding based on the study as follows, either:

[(A) that reductions of SO₂ emissions from the affected unit(s), as defined in this subsection, will significantly improve winter visibility in the DFW area. If such finding is made, then the affected unit(s) shall achieve compliance with an SO₂ 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 SO₂ emissions from the affected unit(s), as defined in this subsection, will not significantly improve winter visibility in the DFW area. If such a finding is made or if the TACB can not 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.]

(c)[(d)] Except as provided in subsection (d) [(e)] of this section, beginning September 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.

(d) [(e)] In lieu of the requirements of subsection (c) [(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 thereunder.

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

Issued in Austin, Texas, on March 19, 1997.

TRD-9704168

Kevin McCalla

Director

Texas Natural Resource Conservation Commission

Proposed date of adoption: June 25, 1997

For further information, please call: (512) 239-1970



Chapter 122. Federal Operating Permits

Subchapter D. Affected State Review, United States Environmental Protection Agency Review, and Citizen Petition

30 TAC §122.316

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Natural Resource Conservation Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The commission proposes the repeal of §122.316, concerning Hearing and Comment Procedures for Operating Permits.

EXPLANATION OF PROPOSED REPEAL. The purpose of the repeal is to allow the adoption of new §122.340, concerning Notice and Comment Hearing, and §122.345, concerning Notice of Proposed Final Action in concurrent rulemaking. The repeal of §122.316 was scheduled to be proposed in the May 1997 time frame. This major revision in May 1997 to 30 TAC Chapter 122 enables the agency to submit a revised program to the United States Environmental Protection Agency to obtain delegation of the Texas Title V Operating Permits Full Program. This major rulemaking would not be completed in time, however, to replace the agency's requirement of publishing hearing notice in the *Texas Register* with the newspaper publication option as allowed by 40 CFR 70.

FISCAL NOTE. Stephen Minick, Strategic Planning and Appropriations Division, has determined that for each year of the first five-year period the repeal as proposed is in effect, there will be no significant costs to state government or units of local government as a result of administration or enforcement of the repeal. The commission may realize some reduced demand on agency resources and a related cost savings as a result of replacing the requirement to publish hearing notices in the *Texas Register*. The actual fiscal implications to the commission are not anticipated to be significant. Units of local government operating major sources subject to the proposed rules will realize a cost saving equivalent to that for any similar private facility authorized to consolidate public notice requirements under these sections.

PUBLIC BENEFIT. Mr. Minick has also determined that for each year of the first five years the repeal as proposed is in effect, the public benefit anticipated as a result of the repeal will be more cost-effective regulation of sources of air emissions. There are no anticipated effects on small businesses. There is no anticipated economic cost for persons who are required to comply with the repeal as proposed.

TAKINGS IMPACT ASSESSMENT. The commission has prepared a Takings Impact Assessment for this proposal pursuant to Texas Government Code, §2007.043. The following is a summary of that assessment. The purpose of this repeal is to eliminate the requirement to publish notice of hearings in the *Texas Register* and to propose two new sections which will allow the combination of the public notice and the hearing notice into one notice, and this combined notice shall be published in a newspaper of general circulation. This repeal as proposed will substantially advance this specific purpose, since it will propose the option of allowing the combination of the two notices into