

TEXAS REGISTER

Volume 26 Number 18 May 4, 2001

Pages 3301-3420





Texas Natural Resource Conservation Commission

Title 30, Part 1

The Texas Natural Resource Conservation Commission (commission) files this notice of intention to review and proposes the readoption of Chapter 112, Control of Air Pollution from Sulfur Compounds. This review of Chapter 112 is proposed in accordance with the requirements of Texas Government Code, §2001.039, and the General Appropriations Act, Article IX, §9-10.13, 76th Legislature, 1999, which require state agencies to review and consider for readoption each of their rules every four years. The review must include an assessment of whether the reasons for the rules continue to exist.

CHAPTER SUMMARY

Chapter 112 regulates, through state and federal air quality standards, the control of air pollution from sulfur compounds, which include sulfur dioxide (SO₂), sulfuric acid mist (H₂SO₄), hydrogen sulfide (H₂S), and total reduced sulfur (TRS). Chapter 112 was initially adopted in 1968 by the Texas Air Control Board (TACB) in accordance with the Texas Clean Air Act (TCAA) of the 60th Legislature, 1967. The standards adopted at that time were state air quality standards, because the Federal Clean Air Act of 1970, as codified in 42 United States Code (USC), had not been promulgated and there were no federal air quality standards. In 1972, the TACB submitted the SO₂ rules as part of the state implementation plan (SIP) for the SO₂ national ambient air quality standard (NAAQS) in accordance with 42 USC, §7409, National Primary and Secondary Ambient Air Quality Standards; and §7410, State Implementation Plans for National Primary and Secondary Ambient Air Quality Standards. In 1973, the TACB adopted rules concerning SO₂ emission limits from all processes, including sulfuric acid plants, in non-ferrous smelters. In 1989, the TACB adopted rules and a state plan concerning control of sulfuric acid mist and TRS from existing facilities in accordance with 42 USC, §7411(d), Standards of Performance for Existing Sources.

This chapter is organized in four parts called undesignated (does not have an outline designation) heads. The first undesignated head, Control of Sulfur Dioxide, contains the definitions; compliance, reporting, and recordkeeping requirements; air quality standards in the form of net ground level concentration limits; conditions for exemption from the net ground level concentration limits; allowable emission rate standards for various types of facilities that emit SO₂; plan requirements for temporary low-sulfur fuel shortages; area control plan requirements specifying conditions for exemption from net ground level concentration limits for all SO₂ emitting facilities inside a specified area of the state; and an allowable emission rate standard for facilities operating under an area control plan. The specific types of SO₂ emitting facilities covered by allowable emission rate standards include sulfuric acid plants burning elemental sulfur, sulfuric acid plants, sulfur recovery plants, solid fossil fuel-fired steam generators, plants combusting liquid fuel, and nonferrous smelters. The second undesignated head, Control of Hydrogen Sulfide, establishes an allowable net ground level concentration limit of 0.08 part per million (ppm) averaged over a 30-minute period for H₂S emission sources located near for property used for residential, business, or commercial purposes; a net ground level concentration limit of 0.12 ppm averaged over a 30-minute period for sources

located near property used for purposes other than residential, business, or commercial; and specifies the procedures by which the H₂S net ground level concentration may be determined. The third undesignated head, Control of Sulfuric Acid, establishes net ground level concentration limits for H₂SO₄ acid emission sources; allowable emission rate standards for specific types of H₂SO₄ mist emission sources (H₂SO₄ or oleum facilities burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides, mercaptans, or acid sludge); an exemption for H₂SO₄ plants or facilities used exclusively as SO₂ control systems, chamber process plants, acid concentrators, or oleum storage and transfer facilities; specifies the procedures by which the H₂SO₄ net ground level concentrations and maximum allowable emission rates may be determined; inspection and recordkeeping requirements; and compliance schedules. Finally, the fourth undesignated head, Control of Total Reduced Sulfur, establishes emission limits and alternate emission limits for TRS compounds from kraft pulp mills; inspection requirements; monitoring and recordkeeping requirements; and compliance schedules. The chapter has been revised a total of nine times since its initial adoption in January 1968.

PRELIMINARY ASSESSMENT OF WHETHER THE REASONS FOR THE RULES CONTINUE TO EXIST

The commission conducted a preliminary review and determined that the reasons for the rules in Chapter 112 continue to exist. These rules are needed to control emissions of SO₂, H₂S, H₂SO₄, and TRS throughout the state. Specifically, the rules controlling SO₂ were developed under the authority of TCAA, §382.011, General Powers and Duties, which authorizes the commission to control air contaminants; §382.013, Air Quality Control Regions, which authorizes the commission to designate air quality control regions; and §382.017, Rules, which authorizes the commission to adopt rules to implement TCAA. The rules controlling SO₂ are also needed to implement TCAA, §382.012, State Air Control Plan, which mandates the commission to develop a comprehensive plan for the proper control of the state's air; and 42 USC, §7409 and §7410 to control SO₂ from sources in specific counties to maintain attainment of the primary and secondary SO₂ NAAQS. The rules controlling H₂S were developed under the authority of TCAA, §§382.011, 382.013, and 382.017; needed to implement TCAA, §382.012. The rules controlling H₂SO₄ and TRS were developed under the authority of TCAA, §§382.011, 382.013, and §382.017. The rules controlling H₂SO₄ and TRS are also needed to implement TCAA, §382.012 and 42 USC, §7411(d) to control specifically designated pollutants from existing designated sources.

The commission's preliminary review of Chapter 112 revealed a number of inconsistencies, incorrect references, and outdated citations. In addition, Chapter 112 requires a method of calculating emission rates (Sutton's equation) that is potentially outdated, and possibly should be augmented or replaced by the dispersion modeling techniques. The commission specifically seeks public comment regarding which is the more acceptable and appropriate method, the use of Sutton's equation with data from stack samples and measurements, or dispersion modeling techniques.

PUBLIC COMMENT

This proposal is limited to the review in accordance with the requirements of Texas Government Code, §2001.039, and the General Appropriations Act, Article IX, §9-10.13, 76th Legislature, 1999. The commission invites public comment on whether the reasons for the rules in Chapter 112 continue to exist. Any identified updates, consistency issues, or other needed changes will be addressed in subsequent rule-making actions, after comments are received and evaluated. Comments may be submitted to Joyce Spencer, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas

78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 1999-011-112-AI. Comments must be received by 5:00 p.m., June 4, 2001. For further information or questions concerning this proposal, please contact Debra Barber, Policy and Regulations Division, at (512) 239-0412; or Alan J. Henderson, Policy and Regulations Division, at (512) 239-1510.

TRD-200102303
Margaret Hoffman
Director, Environmental Law Division
Texas Natural Resource Conservation Commission
Filed: April 23, 2001



The Texas Natural Resource Conservation Commission (commission) files this notice of intention to review and proposes the re adoption of Chapter 317, Design Criteria for Sewerage Systems. This review of Chapter 317 is proposed in accordance with the requirements of Texas Government Code, §2001.039, and the General Appropriations Act, Article IX, §9-10.13, 76th Legislature, 1999, which require state agencies to review and consider for re adoption each of their rules every four years. A review must include an assessment of whether the reasons for the rules continue to exist.

CHAPTER SUMMARY

Chapter 317 provides standards for the commission to use in its review and approval of plans and specifications for treatment facilities, sewer systems, and disposal systems that transport, treat, or dispose of primarily domestic wastes. These standards are intended to promote the design of facilities in accordance with effluent quality requirements necessary to meet state water quality standards, good public health, and water quality engineering practices. At a minimum, Chapter 317 includes requirements for a preliminary engineering report which provides the general engineering concepts underlying the proposed project as well as the final engineering report detailing the fully developed project along with related plans and specifications.

PRELIMINARY ASSESSMENT OF WHETHER THE REASONS FOR THE RULES CONTINUE TO EXIST

The commission conducted a preliminary review and determined that the reasons for the rules in Chapter 317 continue to exist. Chapter 317 is authorized under Texas Water Code (TWC), §5.103, which allows the commission to adopt any rules necessary to carry out its powers and duties; TWC, §26.011, which provides the commission the authority to adopt rules consistent with provisions in the TWC relating to waste discharges; and TWC, §26.023, which requires the commission to set water quality standards for all water in the state. Chapter 317 is also specifically authorized under TWC, §26.034, which requires the commission to adopt standards to determine which plans and specifications the commission will review for approval.

In a future rulemaking (Rule Log No. 1995-100-317-WT), the commission will propose to repeal Chapter 317 and move it to new Chapter 217 which will meet the commission's goal of having all water-related rules under the 200 series. New Chapter 217 will also bring the standards for wastewater treatment systems up-to-date with current engineering practices and technology; and update the rules to better reflect the commission's permitting practices.

PUBLIC COMMENT

This proposal is limited to the review in accordance with the requirements of Texas Government Code, §2001.039, and the General Appropriations Act, Article IX, §9-10.13, 76th Legislature, 1999. The commission invites public comment on whether the reasons for the rules

in Chapter 317 continue to exist. Comments may be submitted to Patricia Durón, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 2001-018-317-WT. Comments must be received in writing by 5:00 p.m., June 4, 2001. For further information or questions concerning this proposal, please contact Auburn Mitchell, Policy and Regulations Division, (512) 239-1873.

TRD-200102298
Margaret Hoffman
Director, Environmental Law Division
Texas Natural Resource Conservation Commission
Filed: April 23, 2001



The Texas Natural Resource Conservation Commission (TNRCC or commission) files this notice of intention to review and proposes the concurrent repeal of Chapter 322, Community Wastewater Planning, which is published in the Proposed Rules section of this issue of the *Texas Register*. This review of Chapter 322 is proposed in accordance with Texas Government Code, §2001.039, and the General Appropriations Act, Article IX, §9-10.13, 76th Legislature, 1999, which require state agencies to review and consider for re adoption each of their rules every four years. The review must include an assessment of whether the reasons for the rules continue to exist.

CHAPTER SUMMARY

Chapter 322 provides that in order to assist a municipality in implementing a regional wastewater plan, the commission will consider regional plans that have been previously approved by the commission and adopted by a municipality. The municipality must request, in writing, that the commission assist in implementing the regional plan.

PRELIMINARY ASSESSMENT OF WHETHER THE REASONS FOR THE RULES CONTINUE TO EXIST

The commission conducted a preliminary review and determined that the reasons for the rules in Chapter 322 no longer exist. The commission originally proposed to re adopt Chapter 322 in the rules review notice published in the October 20, 2000 issue of the *Texas Register* (25 TexReg 10572) because the chapter provides a mechanism for municipalities to implement a regional wastewater plan. The commission believed this mechanism would advance the policy of the state to encourage and promote the development and use of regional and area-wide wastewater systems (*see, e.g.,* Texas Water Code, §26.003 and §26.081). However, upon further reflection the commission concludes that the rules in this chapter have not proven to be an effective mechanism for promoting regionalization and also believes the rules are unnecessary because there are other more effective mechanisms for promoting regionalization already in place. Chapter 322 was originally adopted in response to a request from the City of Houston to assist in implementing its long-term wastewater regional plan. In the years since its adoption in 1992, neither the City of Houston, nor any other municipality has asked the TNRCC to use the authority under this chapter. During the comment period for the rules review that was published in the October 20, 2000 issue of the *Texas Register*, the commission received one comment. That comment, submitted on behalf of Travis County Water Control and Improvement District No. 17 (District 17), urged the TNRCC to expand the scope of the rules to require the TNRCC to follow regional plans adopted by districts, as well as those adopted by municipalities. Prior to this, in 1998, the commission denied District 17's petition for rulemaking that made the same request.