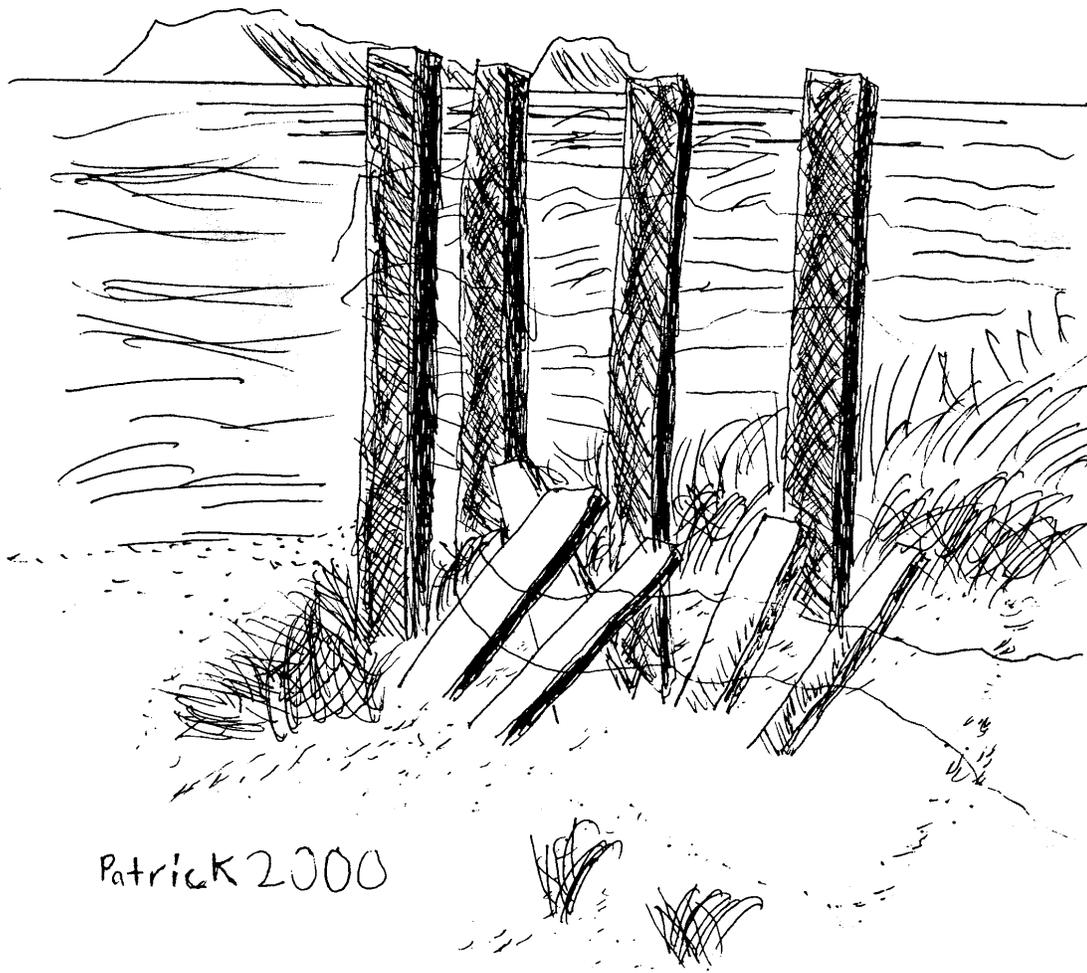


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Dolores Alvarado Hibbs
Deputy General Counsel
Texas Department of Agriculture
Filed: August 9, 2001



Texas Commission for the Blind

Title 40, Part 4

The Texas Commission for the Blind has completed its review of all rules in Chapter 167 of the Texas Administrative Code pursuant to the Texas Government Code, §2001.039 and the General Appropriations Act, Article IX, §9-10.13, 76th Legislature, 1999 (Section 9-10.13).

The Board received no public comments in response to its notice of the rule review filed in the August 25, 2000, issue of the *Texas Register* (25 TexReg 8451). The public was invited to make comments on the rules as they existed in Title 40 TAC, Part 4, Chapter 167. The Commission hereby adopts the chapter review and, as a part of the review process, has simultaneously adopted the repeal of Chapter 167, entitled Business Enterprises Program, and new Chapter 167, entitled Business Enterprises of Texas.

TRD-200104596
Terrell I. Murphy
Executive Director
Texas Commission for the Blind
Filed: August 9, 2001



Executive Council of Physical Therapy and Occupational
Therapy Examiners

Title 22, Part 28

The Executive Council of Physical Therapy and Occupational Therapy Examiners has completed the review of the rules in the chapters listed below. Pursuant to the General Appropriations Act, House Bill 1, Article IX, §167, passed by the 75th Legislature (1997), the Council readopts all of the rules in the chapters listed below.

The notice of intent to review was published in the June 23, 2000 issue of the *Texas Register* (25 TexReg 6174).

The Council received no comments regarding the readoption of these rules. The Council determined at the August 4, 2000 meeting that the reason for adopting these rules continue to exist. §651.1, Occupational Therapy Fees. §651.2, Physical Therapy Fees. §651.3, Administrative Services Fees.

TRD-200104634
John Maline
Executive Assistant
Executive Council of Physical Therapy and Occupational Therapy
Examiners
Filed: August 10, 2001



Texas Historical Commission

Title 13, Part 2

The Texas Historical Commission readopts without changes the review to Chapters 19 (§§19.1 - 19.8), concerning the Texas Main Street Project and Chapter 21 (§§21.1 - 21.31), concerning Local History Program. This action is taken pursuant to the Appropriations Act of 1997, HB 1, Article IX, §16, as proposed in the June 8, 2001, issue of the

Texas Register (26 TexReg 4223). No comments were received regarding adoption of these sections.

TRD-200104550
F. Lawrence Oaks
Executive Director
Texas Historical Commission
Filed: August 8, 2001



Texas Lottery Commission

Title 16, Part 9

The Texas Lottery Commission (Commission) has completed its rule review of Title 16 Chapter 402 (relating to Bingo Regulation and Tax), except 16 TAC §402.572, relating to license fee increase pursuant to the General Appropriations Act, Article IX, §9-10.13, 76th Legislature (1999); Texas Government Code, Section 2001.039; and, the Review Plan previously filed by the Commission. The notice of the proposed rule review was published in the February 11, 2000 issue of the *Texas Register* (25 TexReg 1156). No comments were received regarding this rule review. The Commission readopts 16 TAC Chapter 402, except 16 TAC §402.572.

The agency's reason for adopting the Title 16 Chapter 402, except 16 TAC §402.572 continues to exist. However, many of the sections that are being readopted will be the subject of future rulemaking because, while the reason continues to exist for readopting the sections, the Commission recognizes that consideration of amendments to many of the rules is appropriate.

TRD-200104587
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: August 9, 2001



Texas Natural Resource Conservation Commission

Title 30, Part 1

The Texas Natural Resource Conservation Commission (commission) adopts the rules review and readopts Chapter 111, Control of Air Pollution from Visible Emissions and Particulate Matter, 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. The proposed notice of intention to review was published in the May 25, 2001 issue of the *Texas Register* (26 TexReg 3833).

CHAPTER SUMMARY

Chapter 111 regulates air pollution from visible emissions and particulate matter and establishes emission limits and requirements, prescribes monitoring and sampling methods, and provides for exemptions. These emissions are associated with outdoor burning, incineration, abrasive blasting, materials handling, construction and demolition, and nonagricultural and agricultural processes. This chapter has been revised 17 times since its original adoption and contains two subchapters: Subchapter A, Visible Emissions and Particulate Matter, and Subchapter B, Outdoor Burning. Subchapter A contains seven divisions.

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

The commission conducted a preliminary review of the rules in Chapter 111 and determined that the reasons for adopting these rules continue to exist. These rules are needed to accomplish the purposes and implement provisions of the Federal Clean Air Act as codified in 42 United States Code (USC) and the Texas Clean Air Act (TCAA). Generally, the Chapter 111 rules implement Texas Health and Safety Code, TCAA, §382.011, which requires the commission to control the quality of the state's air, and §382.012, State Air Control Plan, which requires the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air.

Title 42 USC, §7409, requires the United States Environmental Protection Agency (EPA) to prescribe national primary ambient air quality standards (NAAQS), and §7410 requires each state to adopt and submit a plan which provides for implementation, maintenance, and enforcement of such primary air quality standards. States are primarily responsible for ensuring attainment and maintenance of NAAQS once the EPA has established those standards. Under 42 USC, §7410 and related provisions, the states must submit a state implementation plan (SIP) for EPA approval that provides for the attainment and maintenance of NAAQS through control programs directed to sources of the pollution involved. The rules in Chapter 111 meet this federal requirement. The rules in Chapter 111 are part of the plans required in 42 USC, §7410, and TCAA, §382.012. Divisions are discussed more specifically in the following paragraphs.

Subchapter A, Division 1, Visible Emissions, establishes standards, test methods, and alternate opacity limitations for stationary vents, gas flares, motor vehicles, railroad locomotives or ships, structures, and other sources. Division 1 requires continuous emissions monitoring for certain steam generators and catalyst regenerators for fluid bed catalytic cracking units. Initially developed under TCAA, §382.012, these provisions were added to the SIP (42 USC, §7409 and §7410) in 1972. Division 1 also contains operating restrictions for solid fuel heating devices (wood burning stoves) in the City of El Paso. These requirements were developed specifically as part of the SIP (42 USC, §7409 and §7410) to control particulate emissions.

Division 2, Incineration, establishes requirements for single-, dual-, and multiple chamber incinerators and commercial facilities burning hazardous waste fuels and includes testing, monitoring, record keeping, and operating requirements. These rules were developed under TCAA, §382.012, to control emissions from incinerators. Requirements for medical waste incinerators were moved from Chapter 111 to Chapter 113, Subchapter D (§§113.2070 - 113.2079) in 2000 as part of a federal requirement, 42 USC, §7411(d), that supercedes the state requirement. All of the incinerator rules in this division will be moved to Chapter 113 as EPA adopts other rules under 42 USC, §7411(d).

Division 3, Abrasive Blasting of Water Storage Tanks Performed by Portable Operations, was developed under TCAA, §382.012 to control airborne lead and particulate matter, establishes definitions, testing, and control requirements for surfaces with coatings containing lead, and exemptions.

Division 4, Materials Handling, Construction, Roads, Streets, Alleys and Parking Lots, was developed specifically as part of the SIP (42 USC, §7409 and §7410) to control total suspended particulate and inhalable particulate matter in specified geographic areas.

Division 5, Emissions Limits on Nonagricultural Processes, was developed under TCAA, §382.012 to control particulate emissions and established allowable emissions limits for nonagricultural processes, establishes allowable emissions limits for steam generators, and establishes limits for ground level concentrations from nonagricultural processes.

Division 6, Emissions Limits on Agricultural Processes, was developed under TCAA, §382.012 to control emissions of particulate matter, establishes emission limits for persons affected by TCAA, §382.020, based on the process weight method or, if requested, an alternate method with equivalent emission control efficiency, and exemptions.

Division 7, Exemptions for Portable or Transient Operations, was developed under TCAA, §382.012 and establishes an exemption policy and requirements for exemptions.

Subchapter B, Outdoor Burning, was developed under TCAA, §382.018, Outdoor Burning of Waste and Other Combustible Material, to control emissions of particulate matter. It contains a general prohibition against outdoor burning and prohibits disposal of material capable of igniting spontaneously, except as provided in the subchapter. It also includes definitions and exemptions.

The commission's review of Chapter 111 also revealed a need for corrections. For example, compliance provisions contain deadlines that have passed, the EPA determined some of the monitoring requirements to be insufficient, and there are out-of-date references which need to be deleted or corrected. The commission intends to consider correction of these items during future rulemaking actions.

PUBLIC COMMENT

The public comment period closed on June 25, 2001. Comments were received from Texas A & M University, Department of Rangeland Ecology and Management (A & M) and the Texas Department of Agriculture, Pesticide Program (TDA) supporting the rules in Chapter 111 and eight individuals requesting changes to the rules in Chapter 111, Subchapter B. Although not in direct response to this notice, a petition for rulemaking was received requesting additional restrictions on the authorization to burn domestic waste.

A & M supported the rules as they now stand.

The commission appreciates support for these rules.

TDA supported the rules as they now stand but also requested that if the rules are opened in the future that consideration be given to allowing paper pesticide and seed bags to be burned.

The purpose of this rules review was only to assess whether the reasons for the rules continue to exist. Therefore, this comment is beyond the scope of this review. Also, the commission cannot adopt rule changes that have not been proposed for public comment, but will consider this item during future rulemaking actions.

Eight individuals requested that Subchapter B be changed to ban burning of household waste in areas where private collection is available. The previously mentioned petition made a similar request. The existing rule authorizes burning of domestic waste when collection is not provided or authorized by the local government entity having jurisdiction. The petition requested that, in addition, burning be authorized when collection is not available or provided by a private commercial collection service.

The purpose of this rules review was only to assess whether the reasons for the rules continue to exist. Therefore, this comment is beyond the scope of this review. The commission denied the related petition at the July 25, 2001 agenda, but directed staff to study the issue.

TRD-200104574

Ramon Dasch

Acting Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Filed: August 9, 2001