

The commission proposes new §106.102, concerning Comfort Heating. The new section is proposed to exempt combustion units used exclusively for comfort heating from the preconstruction permitting requirements of the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.057 and §382.0518.

This rulemaking action is part of the commission's plan to recodify standard exemptions in a new Chapter 106, concerning Exemptions from Permitting.

This action in the recodification process will create a new §106.102, which is a recodification of current Standard Exemption (SE) 3 in §116.211, with changes to allow for burning distillate fuel oil (containing less than 0.3% sulfur) and to allow for the burning of used oil in comfort space heaters. Space heaters constructed or modified after the effective date of this section (anticipated to be October 28, 1996), will be subject to the requirements of this new chapter; however, current SE 3 may continue to be used until this rulemaking action is complete.

The rule addresses the following problem: the current standard exemption for comfort heating, SE 3, does not allow for the burning of distillate fuel oil or used oil in space heaters. Thus, the owner/operator of a space heater who wants to burn distillate fuel oil or used oil would be required to obtain a new construction permit. The rule solves this problem by creating §106.102, relating to Comfort Heating.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the section is in effect there should be no significant cost to state or local government as a result of enforcing or implementing the section.

Mr. Minick also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a more efficient use of commission resources and a clearer understanding of exemptions from permitting. The fiscal implications for facilities and small businesses affected by the section should be a reduction in fees by qualifying for a standard exemption rather than a permit. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

A public hearing on the proposal will be held August 8, 1996, at 10:00 a.m. in Room 5108 of Texas Natural Resource Conservation Commission (TNRCC) Building F, located at 12100 North IH-35, Park 35 Technology Center, Austin. 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.

Written comments may be mailed to Lisa Martin, TNRCC 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 96121-106-AI. Comments must be received by

5:00 p.m., August 12, 1996. For further information, please contact Jim Dodds, (512) 239-1119 or Phil Harwell, (512) 239-1517.

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

The new section is proposed under the Texas Health and Safety Code, the TCAA, §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA.

The proposed new section implements Texas Health and Safety Code, §382.057.

SUBCHAPTER C : DOMESTIC AND COMFORT HEATING AND COOLING

§106.102

§106.102. Comfort Heating.

This section exempts combustion units designed and used exclusively for comfort heating purposes employing liquid petroleum gas, natural gas, distillate fuel oil containing less than 0.3% sulfur, or solid wood as fuel. Combustion of bark chips, sawdust, wood chips, treated wood, or wood contaminated with chemicals is not included. Used oil that has not been mixed with hazardous waste may be used as fuel in space heaters provided that:

(1) the space heater or combination of space heaters at the same account have a maximum capacity of 1.0 Million Btu per hour (MMBtu/hr) provided each individual heater is not greater than 0.5 MMBtu/hr;

(2) the combustion gases from the heater(s) are vented to the ambient air through an unobstructed vertical vent; and

(3) the heater(s) burns only used oil that the owner or operator generates on-site or used oil received from household do-it-yourself used oil generators.

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

Issued in Austin, Texas, on June 26, 1996.