

The Texas Natural Resource Conservation Commission (commission) proposes the repeal of §§113.1-113.3 and 113.7-113.13, regarding Purpose, Definitions, and Specific Toxic Materials, regarding Calculations of Fluoride Concentration from Stack Samples and Measurements, Coordination of Emissions from Several Properties, Measuring and Monitoring, Use of Air Pollution Control Facilities, Exclusion from Application, Exceptions, and Effective Date and Time for Compliance; and new §113.21, concerning Beryllium. Proposed new §113.21 will be placed in a new undesignated head, Beryllium, under new Subchapter A, Hazardous Air Pollutants.

This proposal is part of the regulatory reform effort. The regulatory reform project identifies rules and regulations which need clarification for the benefit of the public, are outdated, impose regulatory requirements in excess of their contribution to the commission's mission, or are duplicated, unnecessary, or inconsistent.

Most inorganic fluoride emissions are regulated by permit instead of by rule, and repealing these provisions will have little impact on fluoride levels in Texas. Further, the original 1969 rule imposed monitoring and stack emission calculations which are now performed at the time of permitting. The agency will still be able to examine fluoride emissions during permit reviews, which may entail computer dispersion modeling and impacts analysis. It is also proposed, however, that the provisions for beryllium in §113.3(b) not be repealed which will require renumbering; this will require revising the words "the Board" to "the commission," and certain other minor administrative changes.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Minick also has determined that for each year of the first five years the public benefit anticipated as a result of enforcing the repeals will be the elimination of rules that are redundant or no longer apply. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

A public hearing on the proposal will be held in Austin on October 10, 1996, at 10:00 a.m. in Building F, Room 2210 of Texas Natural Resource Conservation Commission complex, 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 answer questions before and after the hearing.

Written comments may be submitted 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 No. 96101-113-AI. Comments must be received by 5:00 p.m. October 10, 1996. For further information, please contact Sam Wells at (512) 239-1441.

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 repeals are proposed under the Texas Health and Safety Code, Texas Clean Air Act (TCAA), §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purpose of the TCAA.

The proposed repeals implement the Texas Health and Safety Code, §382.017.

SUBCHAPTER A : INORGANIC FLUORIDE COMPOUNDS AND BERYLLIUM

§§113.1-113.3, 113.7-113.13

§113.1. Purpose.

§113.2. Definitions.

§113.3. Specific Toxic Materials.

§113.7. Calculation of Fluoride Concentration from Stack Samples and Measurements.

§113.8. Coordination of Emissions from Several Properties.

§113.9. Measuring and Monitoring.

§113.10. Use of Air Pollution Control Facilities.

§113.11. Exclusions from Application.

§113.12. Exceptions.

§113.13. Effective Date and Time for Compliance.

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 August 28, 1996.

SUBCHAPTER A : HAZARDOUS AIR POLLUTANTS

BERYLLIUM

§113.21

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

The proposed new section implements the Texas Health and Safety Code, §382.017.

§113.21. Beryllium.

(a) Emissions specifications. The maximum allowable, off-property net ground level concentration of beryllium from a source is 0.01 micrograms per cubic meter of ambient air in any 24-hour period.

(b) Compliance determination. Compliance with subsection (a) of this section may be determined by either the use of net ground level sampling procedures or stack sampling, calculated to a downwind concentration, as approved by the executive director.

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 August 28, 1996.