

The commission proposes new §106.181, concerning Boilers, Heaters, and Other Combustion Devices.

The new section is proposed to exempt boilers, heaters, and other combustion devices burning used oil 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 will create a new §106.181, which is a partial recodification of current Standard Exemption (SE) 7 in §116.211, and will allow for burning used oil in boilers, heaters, and other combustion devices. Boilers, heaters, and other combustion devices burning used oil constructed or modified after the effective date of this section (anticipated to be November 1996) will be subject to the requirements of this new chapter. The current SE 7 should continue to be used when burning other fuels allowed by exemption. The commission plans to recodify the remainder of SE 7 into §106.181 in a future rulemaking.

The rule addresses the following problem: the current standard exemption for boilers, heaters, and other combustion devices, SE 7, does not allow for the burning of used oil. Thus, in order to burn used oil in one of these devices, the owner/operator of combustion devices burning used oil would be required to obtain a new construction permit. The rule solves this problem by creating §106.181 to exempt the burning of used oil in boilers, heaters, and other combustion devices as long as certain conditions are met.

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 October 1, 1996, at 2:00 p.m. in Room 5108 of Texas Natural Resource Conservation Commission (TNRCC) Building F, located at 12100 Park 35 Circle, 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 96149-106-AI. Comments must be received by 5:00 p.m., October 3, 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.

**CHAPTER 106**  
**EXEMPTIONS FROM PERMITTING**  
**SUBCHAPTER G. COMBUSTION**

**§106.181**

**§106.181. Boilers, Heaters, and Other Combustion Devices.**

(a) Boilers, heaters, drying or curing ovens, furnaces, or other combustion units, but not including stationary internal combustion engines or turbines, are exempt provided that all the conditions of this section are met.

(b) Combustion units may burn used oil as a fuel as long as the used oil has not been mixed with hazardous waste and the combustion unit meets the following conditions:

(1) the combustion unit or combination of combustion units at the same account have a maximum capacity of 1.0 million Btu per hour (MMBtu/hr) and each individual combustion unit is not greater than 0.5 MMBtu/hr;

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

(3) the combustion unit(s) burns only used oil 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 August 21, 1996.