

The commission adopts an amendment to §112.8, concerning Allowable Emission Rates From Solid Fossil Fuel-Fired Steam Generators by deleting subsection (c).

Section 112.8, as published in the April 4, 1997, issue of the Texas Register (22 TexReg 3280), is adopted without changes and will not be republished.

EXPLANATION OF ADOPTED RULE

In September 1992, the Texas Air Control Board (TACB) amended §112.8 to require owners of solid fossil fuel-fired steam generators of greater than 1,500 million British thermal units (MMBtu) heat input per hour to conduct a study of the sulfur dioxide (SO₂) emissions from these units and the effect on winter haze in the Dallas/Fort Worth (DFW) area. The purpose of the study was to determine if reductions in SO₂ emissions from these units would result in a significant reduction in the winter haze. The TACB or its successor was to make a finding on the study by October 31, 1996. The study has been submitted and the finding of the commission was that SO₂ reductions from the affected units would not significantly affect visibility in DFW. Because of this finding, the units will not be required to meet the emission standard of 1.2 pounds of SO₂ per MMBtu heat input by July 31, 2000 contained in §112.8(c). Instead, the emission standard will remain at 3.0 pounds per MMBtu. Therefore, §112.8(c) has no further application and the commission rescinds subsection (c). Subsequently subsections §112.8(d) and (e) were renumbered as subsections (c) and (d).

TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for this proposal pursuant to Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of this rulemaking

is to delete a subsection that is no longer required. The amendment poses no impact on private real property and will maintain the status quo regarding SO₂ emissions in the DFW area.

COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The commission has determined that this adoption relates to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code §33.201 et. seq.), and the commission's rules at 30 TAC Chapter 281, Subchapter B, Consistency with the Texas Coastal Management Program. As required by 31 TAC §505.11(b)(2) and 30 TAC §281.45(a)(3) relating to actions and rules subject to the CMP, agency rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission has reviewed this proposed action for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Council, and has determined that the adopted action will not have a direct and significant adverse effect on the coastal natural resource areas (CNRAs) identified in the applicable policies. This adoption removes a requirement for a study, and does not change the emissions standard for sulfur dioxide, regarding the DFW area, an area of the state which is not located in a CNRA as that area is defined in Texas Natural Resources Code §33.203(1). Therefore, no new sources of air contaminants are authorized by the rule revision. In compliance with 31 TAC §505.22(e), the commission affirms that this rule is consistent with CMP goals and policies.

HEARING AND COMMENTERS

A public hearing was held in Austin on April 24, 1997. The comment period closed on May 5, 1997. Only one commenter, Texas Utilities Services, Inc. (TU), submitted oral and written comments which were in full agreement with the proposal.

GENERAL COMMENTS

TU stated that the study, which was conducted by the commission and funded by TU at a total cost of \$1.8 million, involved three years of data collection and analysis and was the most extensive monitoring of air quality to date in the DFW area. They also stated that the findings of the study concluded that a reduction of SO₂ emissions from these units would not affect visibility in the DFW area, therefore, §112.8(c) has no further application.

The commission agrees that the study was the most extensive monitoring of air quality in the DFW area, but with the caveat that the study applied only to wintertime haze. The commission would like to express its appreciation for the efforts of TU toward the collection and analysis of the tremendous amount of data regarding the haze problem in the DFW area. The commission also agrees that a reduction of SO₂ from the TU units would not significantly affect the visibility in the DFW area and that §112.8(c) has no further application.

STATUTORY AUTHORITY

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

CONTROL OF SULFUR DIOXIDE

§112.8. Allowable Emission Rates From Solid Fossil Fuel-Fired Steam Generators.

(a) - (b) (No change.)

(c) Except as provided in subsection (d) of this section, beginning September 30, 1994, solid fossil fuel-fired steam generators of greater than 250 MMBtu heat input per hour which are equipped with SO₂ control equipment shall be equipped with a continuous emissions monitoring system (CEMS) for SO₂. The CEMS shall be installed, calibrated, and operated as specified in 40 Code of Federal Regulations, Part 51, Appendix P, hereby incorporated by reference.

(d) In lieu of the requirements of subsection (c) of this section, beginning September 30, 1994, sources subject to the Federal Clean Air Act, §412(c) as amended in 1990 shall meet the requirements of §412(c) and the regulations promulgated thereunder.

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

Issued in Austin, Texas, on June 25, 1997.