

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

EXPLANATION OF PROPOSED 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 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 Dallas/Fort Worth. 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 Therefore, §112.8(c) has no further application and the commission has recommended that it be rescinded.

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 and to comply with a commission directive. The amendment poses no impact on private real property and will maintain the status quo regarding SO₂ emissions in the Dallas/Fort Worth area.

COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The commission has determined that the proposed rulemaking 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 proposed action will not have a direct and significant adverse effect on the coastal natural resource areas (CNRAs) identified in the applicable policies. This proposed amendment removes a requirement for a study, and does not change the emissions standard for sulfur dioxide, regarding the Dallas/Fort Worth 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). Interested persons may submit comments on the consistency of the proposed rule with the CMP during the public comment period.

FISCAL NOTE

Stephen Minick, Strategic Planning and Appropriations, has determined that for the first five-year period the proposal is in effect, there will be no significant fiscal implications for state or local government. There will be no significant fiscal implications to the commission. There will be no additional economic impact on owners and operators of affected sources.

PUBLIC BENEFIT

Mr. Minick also has determined that for each year of the first five-year period the proposed rule is in effect, there will be no significant public benefit or disbenefit. There will be no added affect on small business.

There are no anticipated additional economic costs to persons who are required to comply with the amendment as proposed.

PUBLIC HEARING

A public hearing on this proposal will be held in Austin on April 24, 1997 at 10:00 a.m. in Building F, Room 2210 of the commission's central office, located at 12100 North IH-35, Park 35 Technical Center, Austin, Texas 78753. 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.

SUBMITTAL OF COMMENTS

Written comments may be mailed 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 Number 96179-112-AI. Comments must be received by 5:00 p.m., May 5, 1997. For further information or questions concerning this proposal, contact Alan J. Henderson, P.E., Air Policy and Regulations Division, Office of Policy and Regulatory Development, (512) 239-1510.

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

STATUTORY AUTHORITY

The amendment is proposed 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.

The proposed amendment implements Texas Health and Safety Code, §382.017.

CONTROL OF SULFUR DIOXIDE

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

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

[(c) Units having a design heat input of greater than 1,500 MMBtu per hour and, which on January 1, 1991, were not subject to New Source Performance Standards, shall meet one of the following requirements:]

[(1) After July 31, 1996, no person may cause, suffer, allow, or permit emissions of SO₂ from any solid fossil fuel-fired steam generator to exceed 1.2 pounds per MMBtu heat input averaged over a three-hour period or an equivalent in total allowable annual site emissions, or]

[(2) The owner/operator of the unit(s) shall fund and support a research study of winter atmospheric haze, also known as "white haze," in the Dallas/Fort Worth (DFW) area, to be completed by July 31, 1996. Within 90 days from the effective date of this rule, the owner/operator shall submit a formal proposal for this study designed to allow successful completion of this study by the date specified previously. The proposal shall include milestone dates, the study's general approach and objectives, and shall include minimum and maximum financial responsibilities on the part of the owner/operator. The Texas Air Control Board (TACB) Executive Director shall approve or reject the study within 120 days from date of the proposal submittal. The TACB shall base its approval or rejection on the technical merits and adequacy of

approach to the research study. Should the proposal be rejected, an extension not to exceed 60 days for renegotiation may be granted at the discretion of the Executive Director. Should this extension expire without proposal approval, then paragraph (1) shall apply. Following such approval, the study shall be directed by a steering committee selected by the TACB in consultation with the owner/operator of the unit(s) and shall be controlled, comprehensive, state-of-the-art, and quality-assured. The steering committee shall define the scope of the study and establish appropriate milestones to assure completion of the study by July 31, 1996. The study shall be designed to demonstrate conclusively whether or not a reduction of SO₂ emissions from the affected unit(s) to 1.2 pounds per MMBtu will significantly improve winter visibility in the DFW area. No later than October 31, 1996, the TACB shall make a finding based on the study as follows, either:]

[(A) that reductions of SO₂ emissions from the affected unit(s), as defined in this subsection, will significantly improve winter visibility in the DFW area. If such finding is made, then the affected unit(s) shall achieve compliance with an SO₂ emission limit of 1.2 pounds per MMBtu or an equivalent in total allowable annual site emissions by July 31, 2000, or]

[(B) that reductions of SO₂ emissions from the affected unit(s), as defined in this subsection, will not significantly improve winter visibility in the DFW area. If such a finding is made or if the TACB can not make a finding on the basis of the study by October 31, 1996, then the affected unit(s) shall maintain compliance with subsection (a) of this section.]

(c) [(d)] Except as provided in subsection (d) [(e)] 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) [(e)] In lieu of the requirements of subsection (c) [(d)] 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 proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on March 19, 1997