

The commission adopts new §106.183, concerning Boilers, Heaters, and Other Combustion Devices.

The new section is adopted without changes to the proposed text as published in the April 1, 1997, issue of the *Texas Register* (22 TexReg 3205) and will not be republished.

EXPLANATION OF THE ADOPTED RULE

The commission recently recodified exemptions from Chapter 116 into a new Chapter 106. Standard Exemption 7, concerning Boilers, Heaters, and Other Combustion Devices was inadvertently omitted.

This adoption reinstates the provisions of Standard Exemption 7 as a new §106.183. The new section is an administrative transfer of the requirements of Standard Exemption 7, without substantial changes.

TAKINGS IMPACT ASSESSMENT

The commission has prepared a takings impact assessment for this new section under Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of the new section is to reinstate the provisions of Standard Exemption 7 for boilers, heaters, and other combustion devices. The commission believes it is necessary to continue to authorize these facilities through exemption. Promulgation and enforcement of the new section will not affect private real property that is the subject of the new section.

COASTAL MANAGEMENT PLAN

The commission has reviewed this rulemaking for consistency with the Coastal Management Program (CMP) goals and policies in accordance with the regulations of the Coastal Coordination Council, and has determined that the rulemaking is consistent with the applicable CMP goals and policies.

PUBLIC HEARING AND COMMENTS

A public hearing on this proposal was held on May 1, 1997. No comments were received during the comment period, which closed on May 1, 1997.

STATUTORY AUTHORITY

The new section is adopted 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 purposes of the TCAA.

SUBCHAPTER G : COMBUSTION

§106.183. Boilers, Heaters, and Other Combustion Devices (Previously SE 7).

Boilers, heaters, drying or curing ovens, furnaces, or other combustion units, but not including stationary internal combustion engines or turbines are exempt, provided that the following conditions are met.

- (1) The only emissions shall be products of combustion of the fuel.
- (2) The maximum heat input shall be 40 million British thermal unit (Btu) per hour with the fuel being:
 - (A) sweet natural gas;
 - (B) liquid petroleum gas;
 - (C) fuel gas containing no more than 0.1 grain of total sulfur compounds, calculated as sulfur, per dry standard cubic foot; or
 - (D) combinations of the fuels in subparagraphs (A) - (C) of this paragraph.

(3) Distillate fuel oil shall be fired as a backup fuel only. Firing shall be limited to 720 hours per year. The fuel oil shall contain less than 0.3% sulfur by weight and shall not be blended with waste oils or solvents.

(4) All gas fired heaters and boilers with a heat input greater than ten million Btu per hour (higher heating value) shall be designed such that the emissions of nitrogen oxides shall not exceed 0.1 pounds per million Btu heat input.

(5) Records of hours of fuel oil firing and fuel oil purchases shall be maintained on-site on a two-year rolling retention period and made available upon request to the commission or any local air pollution control agency having jurisdiction.

This agency hereby certifies that the section as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on May 28, 1997.

The commission adopts the repeal of §116.213, concerning Registration of Emissions. The repeal is adopted without changes to the proposed text as published in the April 1, 1997, issue of the *Texas Register* (22 TexReg 3206) and will not be republished.

EXPLANATION OF THE ADOPTED RULE

The requirements of this section were recodified into 30 TAC §106.6 in November 1996. Section 116.213 is a duplicate section and is no longer needed.

TAKINGS IMPACT STATEMENT

The commission has prepared a takings impact assessment for this adoption under Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of the repeal is to remove, from Chapter 116, those sections dealing with standard exemptions. The relevant sections have already been adopted into Chapter 106 and are not needed as duplicate requirements in another chapter. Promulgation and enforcement of this repeal will not affect private real property.

COASTAL MANAGEMENT PLAN

The commission has reviewed this rulemaking for consistency with the Coastal Management Program (CMP) goals and policies in accordance with the regulations of the Coastal Coordination Council, and has determined that the rulemaking is consistent with the applicable CMP goals and policies.

PUBLIC HEARING AND COMMENTS

A public hearing on this proposal will be held May 1, 1997. No comments were received during the public comment period, which closed on May 1, 1997.

STATUTORY AUTHORITY

The repeal 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.

SUBCHAPTER C : PERMIT EXEMPTIONS

§116.213

§116.213. Registration of Emissions.

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

Issued in Austin, Texas, on May 28, 1997.