

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

EXPLANATION OF THE PROPOSED RULE

The commission recently recodified exemptions from permitting into a new Chapter 106. Standard Exemption 7 for boilers, heaters, and other combustion devices was inadvertently omitted. This proposal would reinstate the provisions of Standard Exemption 7 as a new §106.183, concerning Boilers, Heaters, and Other Combustion Devices. The new section is an administrative transfer, without substantial changes.

FISCAL NOTE

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

PUBLIC BENEFIT

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 more timely responsiveness of the commission to any necessary amendments to the exemption. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section that are not already in effect through standard exemptions.

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 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 Resource Code, §§33.201 et. seq.), and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning 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 is consistent with the applicable CMP goals and policies. Interested persons may submit comments on the consistency of the proposed rule with the CMP during the public comment period.

PUBLIC HEARING

A public hearing on this proposal will be held May 1, 1997, at 3:30 p.m. in Room 2210 of Texas Natural Resource Conservation Commission 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 each hearing and will answer questions before and after the hearing.

SUBMITTAL OF COMMENTS

Written comments may be mailed to Lisa Martin, Texas Natural Resource Conservation Commission 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 Rules Tracking Log Number 97122-106-AI. Comments must be received by 5:00 p.m., May 1, 1997. For further information, please contact Susan Blevins, Office of Air Quality, (512) 239-1296, or Beecher Cameron, Office of Policy and Regulatory Development, (512) 239-1495.

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.

STATUTORY AUTHORITY

The new section 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 new section implements Health and Safety Code, §382.017 and §382.057.

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 lb 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 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.

The commission proposes the repeal of §116.213, concerning Registration of Emissions.

EXPLANATION OF PROPOSED RULES

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 required.

FISCAL NOTE

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

PUBLIC BENEFIT

Mr. Minick also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be the removal of duplicate requirements from the rules of the commission. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

TAKINGS IMPACT STATEMENT

The commission has prepared a takings impact assessment for this proposal 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 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 Resource Code, §§33.201 et. seq.), and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning 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 is consistent with the applicable CMP goals and policies. Interested persons may submit comments on the consistency of the proposed rule with the CMP during the public comment period.

PUBLIC HEARING

A public hearing on this proposal will be held May 1, 1997, at 3:30 p.m. in Room 2210 of Texas Natural Resource Conservation Commission 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

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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.

STATUTORY AUTHORITY

The repeal 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 repeal implements Health and Safety Code, §382.017 and §382.057.

SUBCHAPTER C : PERMIT EXEMPTIONS

§116.213

§116.213. Registration of Emissions.

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.