

The Texas Natural Resource Conservation Commission (commission) proposes the repeal of §§119.1-119.7, concerning Control of Air Pollution from Carbon Monoxide (CO).

#### EXPLANATION OF PROPOSED REPEAL

Chapter 119 requires the incineration of vent gas streams from blast furnaces, iron cupolas, and catalyst regeneration units for the purpose of controlling emissions of CO. The chapter applies only in Aransas, Bexar, Brazoria, Calhoun, Dallas, El Paso, Galveston, Harris, Jefferson, Matagorda, Montgomery, Nueces, Orange, San Patricio, Travis, Victoria, Hardin, and Tarrant Counties.

The commission has reviewed the rules in Chapter 119 and determined that a need for those rules no longer exists. Through a search of the emission inventory (EI) data base, the commission determined that, with one exception, sources that are the subject of this rule are either subject to more restrictive air pollution control conditions of new source review permits or, in the case of blast furnaces, no longer exist. The EI data indicates that there is a single iron cupola in Harris County emitting approximately 15 tons per year (tpy) of CO. Due to the small size of the source, the incineration is not required for the reduction of CO to protect public health from air pollution.

Additionally, the vent gas incineration method required by Chapter 119 is an ineffective method of CO control and produces nitrogen oxides (NO<sub>x</sub>). NO<sub>x</sub> is a precursor gas to ozone formation, and the commission is implementing a policy of NO<sub>x</sub> control in those areas of the state failing to meet the National Ambient Air Quality Standards for ozone. Sources under the air pollution control conditions of permits are required to use CO control technology which reduces CO while limiting the production

of NO<sub>x</sub>. Certain sources, such as catalyst regeneration units, remain subject to the CO emission limitations in 40 Code of Federal Regulations (CFR) §60.103.

The control method specified in Chapter 119 requires incineration of CO containing waste gas at 1,300 degrees Fahrenheit. This temperature is not high enough to convert the CO to CO<sub>2</sub>. The minimum temperature required to begin the combustion of CO is 1,400 degrees. Therefore, the requirements of Chapter 119 do not result in any significant decrease in CO, but do produce NO<sub>x</sub>.

The control requirements of Chapter 119 are not necessary to protect the air resources of the state; accordingly, the commission has determined that the chapter can be safely repealed without creating a threat to public health.

Certain sources, such as catalyst regeneration units, remain subject to the CO emission limitations in 40 CFR §60.103, but not to a specific and ineffective control method as required by Chapter 119. Any new source that would be a significant producer of CO will be subject to these limits as well as the air pollution control conditions of either new source review or prevention of significant deterioration permitting.

#### FISCAL NOTE

Jeff Grymkoski, Director of Strategic Planning and Appropriations, has determined that for the first five-year period the proposed repeals are in effect, there will be no significant fiscal implications for

state government or units of local government. This action removes relatively ineffective and little used control requirements and will not require any new expenditures for affected industries.

#### PUBLIC BENEFIT

Mr. Grymkoski has also determined that for each of the first five years the proposed repeals are in effect the public benefit will be removal of an ineffective regulation. Evaluation of affected sources, control technologies, and computer dispersion modeling demonstrates that Chapter 119 may be safely repealed without creating a threat to public health.

#### SMALL BUSINESS ANALYSIS

Because this action will not impose any new regulatory requirements, there will be no effect on small businesses.

#### DRAFT REGULATORY IMPACT ANALYSIS

This action does not impose any new regulatory requirements. The control method required by Chapter 119 is unnecessary and ineffective in reducing CO and has been replaced by more effective best available control technology (BACT) as applied through permits. Chapter 119 applies to only three types of sources: blast furnaces, iron cupolas, and catalyst regeneration units. There are no blast furnaces left in the state that are not under permit. There is only one iron cupola in the affected counties. This source emits less than 15 tpy of CO and is an insignificant source. The commission concludes that the repeal of Chapter 119 does not result in a significant increase in ambient levels of CO and is not a threat to public health. Therefore, this repeal will not adversely affect in a material way

the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. It does not meet the definition of a major environmental rule under Texas Government Code, §2001.0225(f)(3). The public may comment on this draft regulatory impact analysis under Texas Government Code, §2001.29.

#### TAKINGS IMPACT ASSESSMENT

This action does not add new regulatory requirements. It does not restrict or limit rights to an owner's private property that would otherwise exist in the absence of this proposed action. This proposal, therefore, does not meet the definition of a takings under Texas Government Code, §2007.002(5).

#### COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The commission has determined that this 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 in 30 TAC Chapter 281, Subchapter B, concerning Consistency with 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, commission rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission has reviewed this action for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Council. For the proposed repeal of Chapter 119, the commission has determined that the rule is consistent with the applicable CMP goal expressed in 31 TAC §501.12(1) of protecting and preserving the quality and values of coastal natural resource areas, and the policy in 31 TAC §501.14(q), which requires that the

commission protect air quality in coastal areas. This action is consistent with 40 CFR because it does not authorize an emission rate in excess of that specified by federal requirements. This action removes a regulation that is unnecessary and ineffective in controlling CO. Additionally, the control requirements of Chapter 119 would increase NO<sub>x</sub> emissions in areas where NO<sub>x</sub> contributes to ozone formation. Based on dispersion modeling, the commission concludes that the repeal will not result in a significant increase in ambient concentration of CO. Certain sources, such as catalyst regeneration units, remain subject to the CO emission limitations in 40 CFR §60.103.

#### PUBLIC HEARING

A public hearing on this proposal will be held July 26, 1999, at 2:00 p.m. in Room 5108 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 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

Comments may be submitted to Casey Vise, MC 205, Office of Environmental Policy, Analysis, and Assessment, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. All comments should reference Rule Log Number 98035-119-AI. Comments must be received by 5:00 p.m., August 2, 1999. For further information, please contact Beecher Cameron, of the Policy and Regulations Division, at (512) 239-1495.

#### STATUTORY AUTHORITY

The repeals are proposed under Texas Health and Safety Code, Texas Clean Air Act (TCAA), §382.012, which provides the commission the authority to develop a comprehensive plan for the state's air; and §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the TCAA.

The proposed repeals implement Texas Health and Safety Code, §382.012, concerning State Air Control Plan; and §382.017, concerning Rules.

**CHAPTER 119**

**CONTROL OF AIR POLLUTION FROM CARBON MONOXIDE**

**§§119.1-119.7**

**§119.1. Counties Affected.**

**§119.2. Control Requirements for Specified Processes.**

**§119.3. Control Requirements for Iron Cupolas.**

**§119.4. Control Requirements for Blast Furnaces.**

**§119.5. Exceptions.**

**§119.6. Alternative Methods of Control.**

**§119.7. Compliance.**