

The commission proposes the repeal of §115.521, concerning Emission Specifications; §115.522, concerning Control Requirements; §115.523, concerning Alternate Control Requirements; §115.524, concerning Inspection Requirements; §115.525, concerning Testing Requirements; §115.526, concerning Recordkeeping Requirements; §115.527, concerning Exemptions; and §115.529, concerning Counties and Compliance Schedules.

EXPLANATION OF PROPOSED RULE REPEALS

The commission proposes this rulemaking and revisions to the State Implementation Plan in order to repeal rules which are no longer necessary. Sections 115.521-115.527 and 115.529 are based upon a United States Environmental Protection Agency (EPA) Control Techniques Guideline (CTG) guidance document, "Control of Volatile Organic Emissions from Perchloroethylene Dry Cleaning Systems," issued in December 1978. The requirements of §§115.521-115.527 and 115.529 are being repealed subsequent to final action by EPA to exclude perchloroethylene (perc) from the federal definition of volatile organic compound on February 7, 1996 (61 Federal Register (FR) 4588) due to perc's negligible photochemical reactivity. EPA's action means that the perc dry cleaning CTG no longer has the legal status of a CTG for purposes of ozone control, and therefore states may repeal their CTG-based perc dry cleaning rules. However, perc will continue to be regulated as a hazardous air pollutant under §112 of the Federal Clean Air Act. Specifically, EPA issued a National Emissions Standards for Hazardous Air Pollutants (NESHAP) regulation limiting emissions from perc dry cleaners on September 22, 1993 (58 FR 49376), with a final compliance date of September 22, 1996. In concurrent rulemaking, the commission is proposing revisions to Chapter 113, concerning Control of Air Pollution from Toxic Materials, to adopt this perc dry cleaning NESHAP by reference.

FISCAL NOTE

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

PUBLIC BENEFIT

Mr. Minick has also determined that for each year of the first five years the proposed repeals are in effect, the public benefit anticipated as a result of implementing the repeals will be elimination of rules which are no longer necessary for control of ozone formation. There is no anticipated cost to small businesses, persons, or businesses as a result of the proposed repeals.

TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated, §2007.043. The following is a summary of that assessment. The specific purpose of the rulemaking is to repeal rules which are no longer necessary for control of ozone formation. Promulgation and enforcement of these rule repeals will not affect private real property which is the subject of the rule because the rule repeals do not impose new requirements, but repeal existing requirements.

COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The commission has determined that this rulemaking action is 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.), the rules of the Coastal Coordination Council (31 TAC Chapters 501-506), 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 action for consistency, and has determined that this rulemaking is consistent with the applicable CMP goals and policies. The primary CMP policy applicable to this rulemaking action is the policy that commission rules comply with regulations at Code of Federal Regulations, Title 40, to protect and enhance air quality in the coastal area. No new sources of air contaminants will be authorized by the rule repeals. Therefore, in compliance with 31 TAC §505.22(e), the commission affirms that this rulemaking is consistent with CMP goals and policies. Interested persons may submit comments on the consistency of the proposed rule repeals with the CMP during the public comment period.

PUBLIC HEARING

A public hearing on this proposal will be held in Austin on August 14, 1997 at 10:30 a.m. in Building F, Room 2210 at the Texas Natural Resource Conservation Commission Office Complex, 12100 Park 35 Circle, Austin. 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 before the hearing and will answer questions before and after the hearing.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the Office of Policy and Regulatory Development at (512) 239-4900. Requests should be made as far in advance as possible.

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 97136-115-AI. Comments must be received by 5:00 p.m., August 21, 1997. For further information, please contact Eddie Mack, Air Policy and Regulations Division, at (512) 239-1488.

STATUTORY AUTHORITY

The repeals are proposed under the Texas Health and Safety Code (Vernon 1992), 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 repeals implement the Health and Safety Code, §382.017.

SUBCHAPTER F : MISCELLANEOUS INDUSTRIAL SOURCES

PERCHLOROETHYLENE DRY CLEANING SYSTEMS (Repeal.)

§115.521. Emission Specifications. (Repeal.)

§115.522. Control Requirements. (Repeal.)

§115.523. Alternate Control Requirements. (Repeal.)

§115.524. Inspection Requirements. (Repeal.)

§115.525. Testing Requirements. (Repeal.)

§115.526. Recordkeeping Requirements. (Repeal.)

§115.527. Exemptions. (Repeal.)

§115.529. Counties and Compliance Schedules. (Repeal.)

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 July 9, 1997.