

Rule History

Title 30 Texas Administrative Code Chapter 115

Cutback Asphalt

Introduction

The official version of the rules in [Chapter 115, Subchapter F, Division 1](#) is available on the Secretary of State's website.

Each revision is identified by the date the commission adopted the changes. When available, the rule project number, which is the unique identification number from the rules tracking database for the specific rule project, is also provided for reference.

The *Texas Register* publications of the rule proposal and adoption are given for each revision. The proposed rules are approved by the commissioners to be published in the *Texas Register* for public comment. Once adopted by the commissioners, the rules are republished as final in the *Texas Register*.

These rules are submitted for United States Environmental Protection Agency (EPA) approval as part of the State Implementation Plan (SIP) control strategy to meet the National Ambient Air Quality Standard (NAAQS) for ozone. Links to the *Federal Register* publication of the EPA's approval of these rules and the associated SIP revisions are also included.

The summary information includes the affected sections of the rule, the counties affected, the compliance date, and a brief description of the rule revisions. If the adopted rule does not provide for additional time to comply with any new or revised requirements then compliance with any rule revisions is required by the effective date of the rulemaking.

Rule Project Adopted on 06/03/2015

Rule project number 2013-048-115-AI

Proposal: [39 TexReg 10246](#) (12/26/2014)

Adoption: [40 TexReg 3907](#) (06/19/2015)

Date submitted to EPA: 07/10/2015

EPA approval: Pending

Section affected:

- Amended: 115.519

Area affected:

- Dallas–Fort Worth (DFW) area (Wise County)

Compliance date: 01/01/2017 (Effective date: 06/25/2015)

Summary:

The rulemaking requires owners and operators using cutback asphalt in Wise County to comply with the same rule requirements that currently apply to sources located in the other nine DFW counties.

The rulemaking is necessary to satisfy federal reasonably available control technology (RACT) requirements for sources in Wise County as a result of the DFW nonattainment area's expansion under the 2008 eight-hour ozone NAAQS.

This rulemaking is part of the [DFW 2008 Eight-Hour Ozone Attainment Demonstration SIP Revision](#) (2013-015-SIP-NR) (06/03/2015).

Rule Project Adopted on 11/15/2006

Rule project number 2006-011-115-EN

Proposal: [31 TexReg 5558](#) (07/14/2006)

Adoption: [31 TexReg 9840](#) (12/08/2006)

Date submitted to EPA: 12/13/2006

EPA approval: [73 FR 40972](#) (07/17/2008)

Section affected:

- Amended: 115.519

Area affected:

- DFW area (Ellis, Johnson, Kaufman, Parker, and Rockwall Counties)

Compliance date: 03/01/2009 (Effective date: 12/07/2006)

Summary:

The rulemaking requires owners and operators using cutback asphalt in the newly designated nonattainment counties (Ellis, Johnson, Kaufman, Parker, and Rockwall Counties) to comply with the same rules that currently apply to sources located in the other DFW counties (Collin, Dallas, Denton, and Tarrant Counties).

The rulemaking is necessary to satisfy federal RACT requirements for the new nonattainment counties as a result of the DFW nonattainment area's expansion under the 1997 eight-hour ozone NAAQS.

This rulemaking is part of the [DFW Eight-Hour Ozone Attainment Demonstration SIP Revision \(2006-013-SIP-NR\)](#) (05/23/2007).

Rule Project Adopted on 11/17/2004

Rule project number 2004-073-115-AI

Proposal: [29 TexReg 7272](#) (07/30/2004)

Adoption: [29 TexReg 11360](#) (12/03/2004)

EPA approval:

- [70 FR 15769](#) (03/29/2005)
- [70 FR 40195](#) (07/13/2005) (Correction)

Sections affected:

- Amended: 115.512, 115.516, 115.517, and 115.519

Area affected:

- Austin–Round Rock area (Bastrop, Caldwell, Hays, Travis, and Williamson Counties)

Compliance date: 12/31/2005 (Effective date: 12/09/2004)

Summary:

The rulemaking requires sources in the affected area to comply with the control and recordkeeping requirements for cutback asphalt. Local governments in the Austin–Round Rock area requested the rulemaking to secure volatile organic compound (VOC) emission reductions as part of its early action compact attainment demonstration.

This rulemaking is part of the [Austin Early Action Compact SIP Revision \(2004-086-SIP-NR\)](#) (11/17/2004).

Rule Project Adopted on 08/08/2001

Rule project number 2001-005-115-AI

Proposal: [26 TexReg 4026](#) (06/08/2001)

Adoption: [26 TexReg 6303](#) (08/24/2001)

Date submitted to EPA: 09/07/2001

EPA approval: [70 FR 15769](#)  (03/29/2005)

Sections affected:

- Amended: 115.512, 115.517, and 115.519

Areas affected:

- Beaumont–Port Arthur (BPA) area (Hardin, Jefferson, and Orange Counties)
- Corpus Christi area (Nueces County)
- DFW area (Collin, Dallas, Denton, and Tarrant Counties)
- El Paso area (El Paso)
- Houston-Galveston-Brazoria (HGB) area (Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties)

Compliance date: Not applicable (Effective date: 08/29/2001)

Summary:

The rulemaking combines the control requirements for all counties affected into one paragraph; deletes obsolete language due to the passing of a compliance date; and updates rule language and references.

Rule Project Adopted on 07/28/1999

Rule project number 1998-082-115-AI

Proposal: [24 TexReg 3178](#) (04/23/1999)

Adoption: [24 TexReg 6301](#) (08/13/1999)

Date submitted to EPA: 08/31/1999

EPA approval: [64 FR 71666](#) (12/22/1999)

Sections affected:

- Amended: 115.512, 115-513, 115.515, and 115.516
- New: 115.510

Areas affected:

- BPA area (Hardin, Jefferson and Orange Counties)
- Corpus Christi area (Nueces County)
- DFW area (Collins, Dallas, Denton, and Tarrant Counties)
- El Paso area (El Paso County)
- HGB area (Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties)

Compliance date: Not applicable (Effective date: 08/18/1999)

Summary:

The rulemaking moves the definitions pertaining to cutback asphalt from Section 115.10 to new Section 115.510; increases the stringency of the average cutback asphalt use limit for Nueces County, which is in an attainment area; updates a reference; revises a phrase for rule clarification; and corrects grammatical errors.

Rule Project Adopted on 02/14/1996

Rule project number 1995-137-115-AI

Proposal: [20 TexReg 6907](#) (09/05/1995)

Adoption: [21 TexReg 1548](#) (02/27/1996)

Date submitted to EPA: 03/13/1996

EPA approval: [64 FR 3841](#)  (01/26/1999)

Sections affected:

- Amended: 115.512, 115.513, and 115.517

Areas affected:

- BPA area (Hardin, Jefferson and Orange Counties)
- Corpus Christi area (Nueces County)
- DFW area (Collins, Dallas, Denton, and Tarrant Counties)
- El Paso area (El Paso County)
- HGB area (Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties)

Compliance date: Not applicable (Effective date: 03/07/1996)

Summary:

The rulemaking deletes a compliance date that has already passed; updates a rule reference; and clarifies the intent of an existing exemption for pothole patching material made with cutback asphalt.

Rule Project Adopted on 05/08/1992

Proposal: [17 TexReg 664](#) (01/28/1992)

Adoption: [17 TexReg 4683](#) (06/30/1992)

Date submitted to EPA: 06/08/1992

EPA approval: [60 FR 12438](#) (03/07/1995)

Sections affected:

- Amended: 115.512–115.513, 115.515–115.517, and 115.519

Areas affected:

- BPA area (Hardin, Jefferson and Orange Counties)
- DFW area (Collins, Dallas, Denton, and Tarrant Counties)
- El Paso area (El Paso County)
- HGB area (Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties)

Compliance date:

- Effective date: 08/01/1992
- 04/16/1993 – Chambers, Collin, Denton, Fort Bend, Hardin, Liberty, Montgomery, and Waller Counties

Summary:

The rulemaking extends controls to owners and operators using cutback asphalt located in several counties recently designated as nonattainment (Chambers, Collin, Denton, Fort Bend, Hardin, Liberty, Montgomery, and Waller Counties).

The rulemaking reduces the maximum allowable annual usage of cutback asphalt from 8.0% to 7.0% in Brazoria, Galveston, Harris, Jefferson, and Orange Counties, consistent with existing requirements in Dallas, El Paso, and Tarrant Counties.

The rulemaking is necessary to ensure all nonattainment counties are subject to the same level of control to satisfy federal RACT requirements.

This rulemaking is part of the [15% Rate of Progress SIP Revision \(Phase I\)](#) (11/10/1993).

Rule Project Adopted on 05/10/1991

Proposal: [16 TexReg 853](#) (02/12/1991)

Adoption: [16 TexReg 3729](#) (07/02/1991)

Date submitted to EPA: 05/10/1991

EPA approval: [57 FR 44124](#) (09/24/1992)

Sections affected:

- Amended: 115.512 and 115.519

Areas affected:

- BPA area (Jefferson and Orange Counties)
- Corpus Christi area (Nueces County)
- DFW area (Dallas and Tarrant Counties)
- El Paso area (El Paso County)
- HGB area (Brazoria, Galveston, and Harris Counties)
- Victoria area (Victoria County)

Compliance date: 04/16/1992 (Effective date: 07/17/1991)

Summary:

The rulemaking prohibits the use, application, sale, or offering for sale of VOC-containing cutback asphalt between 04/16 and 09/15 of any year in Brazoria, El Paso, Galveston, Harris, Jefferson, and Orange Counties.

This rulemaking is necessary to correct rule deficiencies so that the rules meet federal RACT requirements.

This rulemaking is part of the [15% Rate of Progress SIP Revision \(Phase I\)](#) (11/10/1993).

Rule Project Adopted on 12/08/1989

Proposal: [14 TexReg 3671](#) (07/28/1989)

Adoption: [15 TexReg 584](#) (02/02/1990)

Date submitted to EPA: 03/05/1990

EPA approval: [57 FR 44124](#) (09/24/1992)

Associated SIP revision:

Sections affected:

- New: 115.512–115.513, 115.515–115.517, and 115.519

Areas affected:

- BPA area (Jefferson and Orange Counties)
- Corpus Christi area (Nueces County)
- DFW area (Dallas and Tarrant Counties)
- El Paso (El Paso County)
- HGB area (Brazoria, Galveston, and Harris Counties)
- Northeast Texas area (Gregg County)
- Victoria area (Victoria County)

Compliance date: Not applicable (Effective date: 02/19/1990)

Summary:

The rulemaking establishes cutback asphalt requirements in the new Chapter 115. The rulemaking is part of the reorganization and reformatting of the Chapter 115 rules, but no substantive changes are made to the rule requirements.

This rulemaking is concurrent with the repeal of Sections 115.171 and 115.176 (Rule Project Adopted on 12/08/1989).

Rule Project Adopted on 12/08/1989

Proposal: [14 TexReg 3519](#) (07/21/1989)

Adoption: [15 TexReg 353](#) (01/23/1990)

Date submitted to EPA: 03/05/1990

EPA approval: [57 FR 44124](#) (09/24/1992)

Sections affected:

- Repealed: 115.171 and 115.176

Areas affected:

- BPA area (Jefferson, and Orange Counties)
- Corpus Christi area (Nueces County)
- DFW area (Dallas and Tarrant Counties)
- El Paso area (El Paso County)
- HGB area (Brazoria, Galveston, and Harris Counties)
- Northeast Texas area (Gregg County)
- Victoria area (Victoria County)

Compliance date: Not applicable (Effective date: 02/15/1990)

Summary:

The rulemaking repeals the entire Chapter 115 rules, including the cutback asphalt rules.

This rulemaking is concurrent with the adoption the new Chapter 115 (Rule Project Adopted on 12/08/1989).

Rule Project Adopted on 10/14/1988

Proposal: [13 TexReg 2809](#) (06/07/1988)

Adoption: [13 TexReg 6086](#) (12/09/1988)

Date submitted to EPA: 12/13/1988

EPA approval: [56 FR 40253](#) (08/14/1991)

Sections affected:

- Amended: 115.171

Areas affected:

- BPA area (Jefferson and Orange Counties)
- Corpus Christi area (Nueces County)
- DFW area (Dallas and Tarrant Counties)
- El Paso area (El Paso County)
- HGB area (Brazoria, Galveston and Harris Counties)
- Northeast Texas area (Gregg County)
- Victoria area (Victoria County)

Compliance date: Not applicable (Effective date: 12/21/1988)

Summary:

The rulemaking requires any state, municipal, or county agency that uses or specifies the use of asphalt to maintain records sufficient to document compliance with applicable requirements.

Rule Project Adopted on 12/18/1987

Proposal: [12 TexReg 3529](#) (10/02/1987)

Adoption: [13 TexReg 1540](#) (04/01/1988)

Date submitted to EPA: 12/21/1987

EPA approval: [56 FR 40253](#) (08/14/1991)

Sections affected:

- Amended: 115.171 and 115.176

Areas affected:

- Dallas–Fort Worth area (Dallas and Tarrant Counties)

Compliance date: 12/31/1988 (Effective date: 04/14/1988)

Summary:

The rulemaking prohibits the use, application, sales, or offering for sale of cutback asphalt and establishes limits on the solvent content of asphalt emulsions used in Dallas and Tarrant Counties during the period from 04/16 to 09/15 of each year. These restrictions do not apply to cutback asphalt stored in long-term stockpiles or used as a penetrating prime coat.

This rulemaking is part of the [Dallas/Tarrant Post-1982 Ozone SIP Revision](#) (12/18/1987).

Rule Project Adopted on 07/26/1985

Proposal: [10 TexReg 733](#) (03/01/1985)

Adoption: [10 TexReg 3377](#) (09/06/1985)

Date submitted to EPA: 10/11/1985

EPA approval:

- [56 FR 40253](#) (08/14/1991) (Approval for the DFW area)
- [57 FR 44124](#) (09/24/1992) (Approval for the El Paso area)

Sections affected:

- Amended: 115.171 and 115.176

Areas affected:

- DFW area (Dallas and Tarrant Counties)
- El Paso area (El Paso County)

Compliance date: 12/31/1987 (Effective date: 09/17/1985)

Summary:

The rulemaking limits the use of cutback asphalt in Dallas, El Paso, and Tarrant Counties to no more than 7.0% of the total annual volume averaged over a two-year period.

This rulemaking is part of the [Dallas/El Paso/Tarrant Post-1982 Ozone SIP Revision](#) (08/1985).

Rule Project Adopted on 01/08/1982

Proposal: [6 TexReg 2871](#) (08/07/1981)

Adoption: [7 TexReg 911](#) (03/05/1982)

Date submitted to EPA: 08/09/1982 and 01/13/1983

EPA approval: [48 FR 8072](#) (02/25/1983)

Sections affected:

- Amended: 115.176

Areas affected:

- San Antonio area (Bexar County)

Compliance date: Not applicable (Effective date: 03/31/1982)

Summary:

The rulemaking deletes Bexar County from the rule applicability since Bexar County has been reclassified to attainment ([46 FR 56199](#), 11/16/1981).

Rule Project Adopted on 07/11/1980

Proposal: [5 TexReg 1239](#) (04/01/1980)

Adoption: [5 TexReg 3253](#) (08/12/1980)

Date submitted to EPA: 07/25/1980

EPA approval: [47 FR 18857](#) (05/03/1982)

Sections affected:

- Amended: 115.176

Areas affected:

- BPA area (Jefferson and Orange Counties)
- Corpus Christi area (Nueces County)
- DFW area (Dallas and Tarrant Counties)
- El Paso area (El Paso County)
- HGB area (Brazoria and Galveston Counties)

Compliance date: 12/31/1982 (Effective date: 08/22/1980)

Summary:

The rulemaking extends the cutback asphalt control requirements to Brazoria, Dallas, El Paso, Galveston, Jefferson, Nueces, Orange, and Tarrant Counties. The rulemaking is necessary to apply the control requirements to all nonattainment counties with VOC emissions of at least 100 tons per year.

This rulemaking is necessary to correct deficiencies in order to satisfy federal RACT requirements.

The rulemaking also re-numbers sections 131.07.59.101 to 115.171 and 131.07.59.105(a) to 115.176(a).

Rule Project Adopted on 03/30/1979

Proposal: [3 TexReg 3632](#) (10/17/1978)

Adoption: [4 TexReg 1363](#) (04/17/1979)

Date submitted to EPA: 04/13/1979

EPA approval:

- [45 FR 19231](#) (03/25/1980) (Partial approval)
- [46 FR 35642](#) (07/10/1981)

Sections affected:

- New: 131.07.59.101 and 131.07.59.105

Areas affected:

- HGB area (Harris County)

Compliance date: 12/31/1981 (Effective date: 05/07/1979)

Summary

The rulemaking establishes new control requirements for solvent-using cutback asphalt. The rules are based on the EPA's 1977 *Control of Volatile Organic Emissions from Use of Cutback Asphalt* control techniques guidelines document ([EPA-450/2-77-037](#)) and are adopted to satisfy federal RACT requirements.

This rulemaking is part of the [Ozone, Particulate, Carbon Monoxide SIP Revision](#) (03/30/1979) and [Harris Ozone SIP Revision](#) (12/03/1982).