

ADOPTED RULES

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An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, except where a federal statute or regulation requires implementation of a rule on shorter notice.

An agency, on request, shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling considerations urged against the agency's decision.

Numbering System-- Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the category of rules to which the rule belongs. The third unit (two digits) indicates the subcategory of rules, if any, within the category. The fourth unit (three digits) indicates the individual rule.

Texas Air Control Board Regulation V-- Control of Air Pollution from Volatile Carbon Compounds Counties 131.07.01

Pursuant to the authority of Section 3.09 of Article 4477-5, Texas Civil Statutes, the Texas Air Control Board has amended Rule 131.07.01.001 to read as follows:

.001. Counties Affected. Except as otherwise provided in Rules 131.07.10.001-.004, Regulation V shall apply only in the following counties: Aransas, Bexar, Brazoria, Calhoun, Dallas, El Paso, Galveston, Harris, Jefferson, Matagorda, Montgomery, Nueces, Orange, San Patricio, Travis, and Victoria.

Issued in Austin, Texas, on December 13, 1976.

Doc. No. 766582 Charles R. Barden, P.E.
Executive Director
Texas Air Control Board

Effective Date: January 12, 1977

For further information, please call (512) 451-5711.

Storage of Volatile Carbon Compounds 131.07.02

Pursuant to the authority of Section 3.09 of Article 4477-5, Texas Civil Statutes, the Texas Air Control Board has amended Rule 131.07.02.003 to read as follows:

.003. Storage of Crude Oil or Condensate. Crude oil or condensate storage containers are exempt from Rules 131.07.02.001-.003. Such storage containers are controlled in accordance with the requirements of Rule 131.07.10.002.

Issued in Austin, Texas, on December 13, 1976.

Doc. No. 766583 Charles R. Barden, P.E.
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Texas Air Control Board

Effective Date: January 12, 1977

For further information, please call (512) 451-5711.

Additional Carbon Compound Emission Controls 131.07.10

On January 26, 1972, pursuant to the requirements of Section 3.09 of the Texas Clean Air Act, Article 4477-5, Texas Civil Statutes, the Texas Air Control Board adopted Regulation V, Control of Air Pollution from Volatile Organic Compounds and Carbon Monoxide. This regulation was later amended by the board on July 27, 1972, and again on April 10, 1973. Regulation V was adopted by the board in response to the Environmental Protection Agency's requirement that emissions of carbon compounds be reduced in areas where the photochemical oxidant standard is exceeded. The board recognized at that time that the control of carbon compound emissions may not reduce the photochemical oxidant level, but did expect that these reductions would reduce odors, reduce exposure of the population to toxic chemicals, and improve visibility.

There remains some disagreement concerning the exact relationship between volatile carbon compound emissions and photochemical oxidant concentrations. Our data have clearly shown that past carbon compound emission reductions have not resulted in local reductions in photochemical oxidant or ozone concentrations; nevertheless, there is ample evidence to support the position that in some areas, local carbon compound emissions contribute to high oxidant concentrations. In addition, odor, visibility, and toxicity continue to be a problem in many areas. Based on the data available, the board feels that the present oxidant standard is unattainable, but certain measures to reduce population exposure to ozone or other harmful effects associated with carbon compound emissions are reasonable.

The board has considered the effects of several proposed strategies and has concluded that the following

Rules 131.07.10.001-.004 will reduce emissions of carbon compounds to the atmosphere in areas where the photochemical oxidant standard is now being exceeded and where current research information suggests that oxidant concentrations should be sensitive to carbon compound emissions. While reduction from these regulations alone are not expected to result in any measurable reduction in photochemical oxidants, the board has concluded that the controls are reasonable and will tend to offset the increases in emissions which would otherwise result from growth of the various activities required to support an increasing population.

All available evidence points to control of carbon compound emissions as a necessary requirement and step toward a solution of one of the most serious air pollution problems in Texas today, namely urban air pollution as characterized by high oxidant concentrations, haze, and odors. The board concludes, therefore, that additional controls which significantly reduce emissions of carbon compounds without undue disruption to the economy or the mobility of the population will be required in those areas where high oxidant levels, odors, toxic exposure, or haze continue to be a problem.

The Texas Air Control Board hereby adopts Rules 131.07.10.001-.004 with several changes in the proposed text which was presented for public hearing on June 15, 1976. These changes are as follows:

The final compliance date in Rule 131.07.10.001(b) has been changed from December 31, 1977, to February 29, 1980, and the submittal date for the final control plan was changed from December 31, 1976, to November 30, 1977. In Rule 131.07.10.002(a), the exemption level has been changed from 100,000 gallons capacity to 10,000 barrels (420,000 gallons) capacity. In Rule 131.07.10.002(a)(2), the determination of the aggregate partial pressure of all volatile carbon compound vapors has been changed to the aggregate partial pressure of all volatile non-methane carbon compound vapors. The exemptions in Rule 131.07.10.002(b)(1) and (2) were deleted and Rule 131.07.10.002(b) has been modified to apply only in the following counties: Brazoria, Dallas, El Paso, Galveston, Harris, Jefferson, Matagorda, Montgomery, Nueces, Orange, San Patricio, Hardin, and Tarrant. The final compliance date in Rule 131.07.10.002(c) has been changed from December 31, 1977, to February 29, 1980. The submittal date for the final control plan has been changed from December 31, 1976, to November 30, 1977.

Rule 131.07.10.003, Degreasing Operations, has been deleted and Rule 131.07.10.004, Filling of Gasoline Storage Vessels, has been renumbered to 131.07.10.003. In Rule 131.07.10.003(a), the determination of the aggregate partial pressure of all volatile carbon compound vapors has been changed to the aggregate partial pressure of all volatile non-methane carbon compound

vapors. The exemption in Rule 131.07.10.003(c)(4) has been changed from 300,000 gallons of gasoline per year to 120,000 gallons of gasoline per year. Rule 131.07.10.003(d) has been modified to apply only to the following counties: Bexar, Galveston, Harris, Brazoria, Dallas, Tarrant, Denton, Travis, Nueces, Jefferson, Orange, and El Paso. In Rule 131.07.10.003(e), the final compliance date has been changed from December 31, 1977, to August 31, 1978, for those sources located in the following counties: Bexar, Harris, Galveston, and Brazoria. All persons within Dallas, Tarrant, Denton, Travis, Nueces, Orange, Jefferson, and El Paso counties shall be in final compliance no later than February 29, 1980. The submittal date for a final control plan has been changed from December 31, 1976, to August 31, 1977, for those sources located in Bexar, Harris, Galveston, and Brazoria counties. All persons within Dallas, Tarrant, Denton, Travis, Nueces, Orange, Jefferson, and El Paso counties shall submit a final control plan no later than November 30, 1977. Rule 131.07.10.005 has been renumbered to Rule 131.07.10.004.

Pursuant to Section 5(c) of the Administrative Procedure and Texas Register Act and Rule 131.02.03.003 of the Texas Air Control Board Procedural Rules, seven interested persons requested the board to issue a concise statement of the principal reasons for and against the adoption of these amendments to Regulation V, Control of Air Pollution from Volatile Carbon Compounds, and the reasons for overruling the considerations urged against their adoption.

Rule 131.07.10.001 extends the controls imposed by present Regulation V to sources in Tarrant and Hardin counties. It was urged that these controls would have a severe economic impact for a small reduction in emissions of volatile carbon compounds. The board has considered the reductions in emissions of volatile carbon compounds that would result from this amendment and the cost of these controls and considers them reasonable. It was urged that the executive director be given authority to grant extensions of time on a case-by-case basis. The board overrules this recommendation because the time specified for achieving compliance is adequate. It was suggested that a compliance schedule extend to five years. The board has concluded that the compliance schedule should be February 29, 1980, and that this time allowable is a reasonable time for compliance with Regulation V.

Rule 131.07.10.002 would require the control of emissions from storage tanks containing crude oil or condensate. It was recommended that the board not exempt the crude oil storage tanks prior to custody transfer. The board agrees with the recommendation because of problems in determining the status of the tanks with respect to custody transfer and modifies this

rule to control all crude oil tanks with a capacity greater than 10,000 barrels. It was stated that the compliance date in the proposed regulation was unreasonable and should be extended two to three years. The board agrees with this recommendation and modifies this rule to require a final compliance date of February 29, 1980. It was urged that this rule was economically unreasonable. The board considers the control of the emissions from these storage tanks to be economically reasonable in light of the reductions of volatile carbon compounds and overrules this recommendation. It was recommended that methane be excluded when determining partial pressure in the rule. The board agrees with this recommendation and feels that methane is not subject to control. Under these amendments the partial pressure is to be determined from volatile non-methane carbon compounds. It was urged that the board exempt oil production gathering storage tanks and tanks used for crude oil service less than three months per year. The board overrules this recommendation because the exemption would make the enforcement of this rule impracticable and considers the control of emissions from these storage tanks to be reasonable.

Proposed Rule 131.07.10.003 would have required the control of emissions from degreasing operations. It was recommended that the board reconsider adoption of this rule at this time based on the technical problems that exist in controlling degreasing operations. The board agrees with this recommendation and withdraws the proposed rule at this time.

Proposed Rule 131.07.10.004, Filling of Gasoline Storage Vessels, is adopted and renumbered Rule 131.07.10.003. This rule would require the control of emissions from the filling of gasoline storage vessels. It was recommended that the board remove the throughput exemption of 300,000 gallons per year and change the date of final compliance in the Houston and San Antonio areas to make this rule consistent with 40 Code of Federal Regulations 52.2285. The board, after considering the cost and the reduction of emissions of volatile carbon compounds which would be achieved, has determined that the exemption level should be 120,000 gallons per year. The board has determined that control of emissions from filling of gasoline storage vessels at stations with throughput of less than 120,000 gallons per year is not reasonable at this time. The final compliance deadline in the Houston and San Antonio areas specified in 40 CFR 52.2285 is August 31, 1976. On September 14, 1976, EPA issued an enforcement policy in 41 *Federal Register* 39069 which extended the final compliance date to January 1, 1977. The board has concluded that compliance with this rule by January 1, 1977, is impracticable and that a reasonable compliance deadline in the Houston and San

Antonio regions is August 31, 1978. It was recommended that this rule be modified to insure that the vapor-laden tank trucks are refilled only at loading facilities equipped with vapor recovery equipment. The board overrules this recommendation because the board has concluded that it is not reasonable at this time to control emissions from loading and unloading facilities having a throughput of less than 20,000 gallons per day averaged over any 30-day period. It was urged that the counties covered by this rule be consistent with EPA's proposed Phase II vapor recovery. The board overrules this recommendation and has concluded that limiting the application of this rule to these counties is reasonable at this time. It was urged that this rule be deleted on the grounds of economic unreasonableness. The board overrules this recommendation and considers this rule to be economically reasonable in light of the reductions of volatile carbon compound emissions. It was recommended that this rule be modified to provide for an interlock system that will prevent gasoline transfer without a return line being connected. The board overrules this recommendation and regards this rule to be enforceable without a mandatory interlock system. It was urged that methane be excluded when determining partial pressures in this rule. The board agrees with this recommendation. Under these amendments the partial pressure is to be determined from volatile non-methane carbon compounds. It was urged that the exemption be raised to 1,000,000 gallons per year. The board overrules this recommendation and has concluded the exemption of 120,000 gallons per year is reasonable.

Pursuant to the requirements of Sections 3.09 and 3.10 of the Texas Clean Air Act, Article 4477-5, Texas Civil Statutes, and Section 5 of the Administrative Procedure and Texas Register Act, Article 6252-13a, Texas Civil Statutes, the Texas Air Control Board hereby amends Regulation V by adding Rules 131.07.10.001-.004.

.001. Addition of Hardin and Tarrant Counties.

(a) All rules contained in the subcategories 131.07.02 through 131.07.07 hereof shall apply in Hardin and Tarrant counties.

(b) All persons in Tarrant and Hardin counties affected by all rules contained in the subcategories 131.07.02 through 131.07.07 hereof shall be in compliance as soon as practicable, but not later than February 29, 1980, and shall submit to the Texas Air Control Board not later than November 30, 1977, a final control plan for compliance detailing the method to be followed to achieve compliance and specifying the exact dates upon which the following steps shall be taken to achieve compliance:

(1) dates by which contracts for emission control systems or process modifications will be awarded;

or dates by which orders will be issued for the purchase of component parts to accomplish emission control or process modification;

(2) date of initiation of on-site construction or installation of emission control equipment or process change;

(3) date by which on-site construction or installation of emission control equipment or process modification is to be completed; and

(4) date by which final compliance is to be achieved.

.002. Storage of Crude Oil or Condensate.

(a) No person shall place, store, or hold in any stationary tank, reservoir, or other container of more than 10,000 barrels (420,000 gallons) capacity, crude oil or condensate unless such tank, reservoir, or other container is a pressure tank capable of maintaining working pressures sufficient at all times to prevent vapor or gas loss to the atmosphere or is designed and equipped with one of the following vapor loss control devices:

(1) a floating roof, consisting of a pontoon type, double-deck type roof, or internal floating cover, which will rest on the surface of the liquid contents and be equipped with a closure seal or seals to close the space between the roof edge and tank wall. This control equipment shall not be permitted if the volatile carbon compounds have a vapor pressure of 11 pounds per square inch absolute (psia) or greater under actual storage conditions. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place;

(2) a vapor recovery system which reduces the emissions such that the aggregate partial pressure of all volatile non-methane carbon compound vapors in vent gases or other material emitted to the atmosphere will not exceed a level of 1.5 psia.

(b) Rule 131.07.10.002 shall apply only in the following counties: Brazoria, Dallas, El Paso, Galveston, Harris, Jefferson, Matagorda, Montgomery, Nueces, Orange, San Patricio, Hardin, and Tarrant.

(c) All persons affected by Rule 131.07.10.002 shall be in compliance as soon as practicable, but not later than February 29, 1980, and shall submit to the Texas Air Control Board not later than November 30, 1977, a final control plan for compliance detailing the method to be followed to achieve compliance and specifying the exact dates upon which the following steps shall be taken to achieve compliance:

(1) dates by which contracts for emission control systems or process modifications will be awarded; or dates by which orders will be issued for the purchase of component parts to accomplish emission control or process modification;

(2) date of initiation of on-site construction or installation of emission control equipment or process change;

(3) date by which on-site construction or installation of emission control equipment or process modification is to be completed; and

(4) date by which final compliance is to be achieved.

.003. Filling of Gasoline Storage Vessels.

(a) No person shall transfer gasoline from any delivery vessel into any stationary storage container with a capacity greater than 1,000 gallons unless such container is equipped with a submerged fill-pipe and unless the displaced vapors from the storage container are processed by a vapor recovery system which reduces the emissions such that the aggregate partial pressure of all volatile non-methane carbon compound vapors emitted to the atmosphere will not exceed a level of 1.5 psia.

(b) When a vapor-tight return line from the storage container to the delivery vessel is used to comply with Rule 131.07.10.003(a), the following conditions must be met:

(1) the vapor return line must be connected before gasoline can be transferred into the storage container; and

(2) the delivery vessel must be kept vapor-tight until the captured vapors can be discharged to a loading facility.

(c) The following are exempt from the requirements of Rule 131.07.10.003:

(1) stationary containers used exclusively for the fueling of implements of agriculture;

(2) any stationary container having a capacity less than 2,000 gallons installed prior to adoption of Rule 131.07.10.003;

(3) transfers made to storage tanks equipped with floating roofs or their equivalent; and

(4) stationary storage tanks located at a facility which dispenses less than 120,000 gallons of gasoline per year.

(d) Rule 131.07.10.003 shall apply only in the following counties: Bexar, Harris, Galveston, Brazoria, Dallas, Tarrant, Denton, Travis, Nueces, Jefferson, Orange, and El Paso.

(e) All persons within Bexar, Harris, Galveston, and Brazoria counties affected by Rule 131.07.10.003 shall be in compliance as soon as practicable, but not later than August 31, 1978, and shall submit to the Texas Air Control Board not later than August 31, 1977, a final control plan for compliance. All persons within Dallas, Tarrant, Denton, Travis, Nueces, Jefferson, Orange, and El Paso counties affected by Rule 131.07.10.003 shall be in compliance as soon as practicable, but not later than February 29, 1980, and shall submit to the Texas Air Control Board not later than November 30, 1977, a final control plan for compliance. These final control plans shall detail the method to be

followed to achieve compliance and specify the exact dates upon which the following steps shall be taken to achieve compliance:

(1) dates by which contracts for emission control systems or process modifications will be awarded; or dates by which orders will be issued for the purchase of component parts to accomplish emission control or process modification;

(2) date of initiation of on-site construction or installation of emission control equipment or process change;

(3) date by which on-site construction or installation of emission control equipment or process modification is to be completed; and

(4) date by which final compliance is to be achieved.

.004. Final Control Plan. All persons required to submit a final control plan shall not deviate from the terms of the final control plan. The executive director may, upon application of any person affected, change the date for accomplishing the required steps in a plan, provided such change is not likely to affect the achievement of the final compliance date specified in such plan. Within five days after completion of each of the required steps in a plan, the person submitting the plan shall so notify the executive director in writing.

Issued in Austin, Texas, on December 13, 1976.

Doc. No. 766584 Charles R. Barden, P.E.
Executive Director
Texas Air Control Board

Effective Date: January 12, 1977

For further information, please call (512) 451-5711.

Finance Commission of Texas

Credit Disclosure Requirements 053.14.00

The Finance Commission of Texas is withdrawing Proposed Rules 053.14.00.001-016. A summary of the proposal was published in the October 1, 1976 (Volume 1, Number 76), issue of the *Texas Register*.

Filed: December 14, 1976, 3:19 p.m.

Doc. No. 766595

Texas Department of Health Resources

Milk and Dairy

Grade Specifications and Requirements for Milk 301.72.01

The Texas Department of Health Resources has adopted the proposed amendments to Rule 301.72.01.006 with the following changes:

(1) The first sentence of .006(d) was changed by adding the words, "the producer shall be notified immediately . . ." The department made this change because one of the comments received by the department requested the change, and the department considered the request a reasonable one.

(2) The third sentence of .006(d) has been deleted entirely because this action is actually covered by the remaining language of .006(d).

Thus, the department, by authority of Article 165-3, Texas Civil Statutes, has amended Rule 301.72.01.006 to read as follows:

.006. The Examination of Milk and Milk Products.

(a) During any consecutive six months, at least four samples of raw milk for pasteurization shall be taken from each producer and four samples of raw milk for pasteurization shall be taken from each milk plant after receipt of the milk by the milk plant and prior to pasteurization. In addition, during any consecutive six months, at least four samples of pasteurized milk and at least four samples of each milk product defined in these specifications and requirements shall be taken from every milk plant. Samples of milk and milk products shall be taken while in possession of the producer or distributor at any time prior to final delivery. Samples of milk and milk products from dairy retail stores, food service establishments, grocery stores, and other places where milk and milk products are sold shall be examined periodically as determined by the health authority; and the results of such examination shall be used to determine compliance with .002, .004, and .007(e)(27). Proprietors of such establishments shall furnish the health authority, upon request, with the names of all distributors from whom milk or milk products are obtained.

(b) Required bacterial counts and cooling temperature checks shall be performed on raw milk for pasteurization. In addition, antibiotic tests on each producer's milk or on commingled raw milk shall be conducted at least four times during any consecutive six months. When commingled milk is tested, all producers shall be represented in the sample. All individual sources of milk shall be tested when test results on the commingled milk are positive. Required bacterial