

Section 13.22 (352.02.00.022) is proposed for amendment by the Texas Historical Commission under the authority of Article 6145, Vernon's Texas Civil Statutes. The commission would like to correct the wording of §13.22 (.022).

The commission has established that there are no fiscal implications to this correction.

Public comment is invited and may be sent to Anice Read, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711, within 30 days of publication of this *Register*.

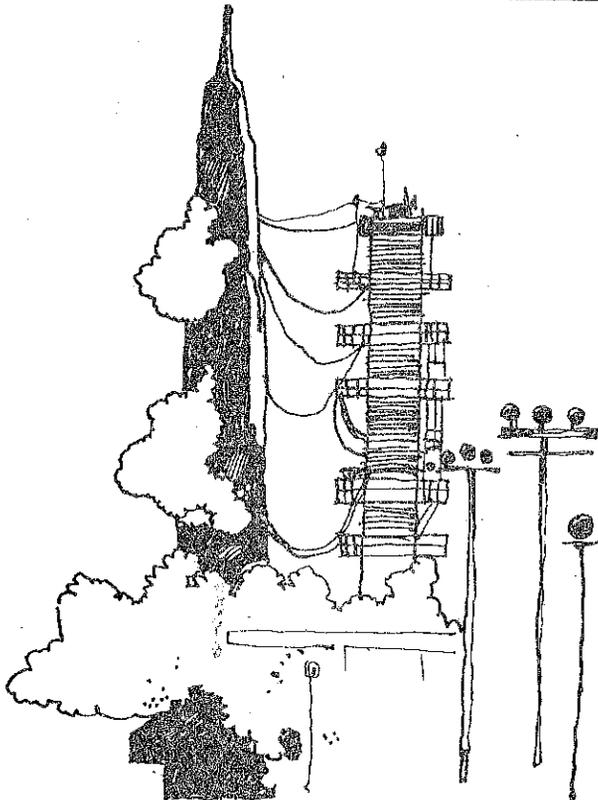
This amendment is proposed under the authority of Article 6145, Vernon's Texas Civil Statutes.

§13.22 (352.02.00.022). *Approval of Private Markers.* Privately installed markers may receive approval from the Texas Historical Commission and be listed in the Marker Guide of the said commission, but only when prescribed steps of application and compliance with [above-] stated policies of the commission are deemed acceptable by the commission.

Issued in Austin, Texas, on March 11, 1980.

Doc. No. 801987      Truett Latimer  
                                  Executive Director  
                                  Texas Historical Commission

Proposed Date of Adoption: April 25, 1980  
 For further information, please call (512) 475-3092.



## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part III. Texas Air Control Board

(Editor's note: Lengthy new sections and amendments and repeals to existing sections recently proposed by the Texas Air Control Board in its chapters of rules and regulations entitled General, Procedural, Particulates, Volatile Organic Compounds, and Permits are being published serially beginning in this issue. Listed below are the subchapter titles and section numbers within each of the above chapters affected by this action. The proposed date of adoption for the serialized proposals is after public hearing by the Texas Air Control Board. The two chapters concerning general and procedural regulations appear in this issue.)

#### General

§101.1 (131.01.00.001, .002)

#### Procedural

##### General

§§103.2, 103.6 (131.02.01.002, .006)

##### Rulemaking Hearings

§103.22 (131.02.03.002)

##### Initiation of Other Than Rulemaking Hearings

§103.34 (131.02.04.004)

##### Adjudicative Hearings

§§103.42-.49, 103.53, 103.54, 103.63-.65  
 (131.02.05.002-.009, 013, .014, .023-.025)

#### Particulates

##### Visible Emissions

§111.21 (131.03.03.001)

#### Volatile Organic Compounds

Storage of Volatile Organic Compounds in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.101-.105 (131.07.51.101-.105)

Facilities for Loading and Unloading of Volatile Organic Compounds in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§115.111 (131.07.52.101)

Gasoline Bulk Plants in Harris County

§115.121 (131.07.53.101)

Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities in Bexar, Brazoria, Dallas, Galveston, Harris, and Tarrant Counties

§115.132 (131.07.54.102)

Specified Solvent-Using Processes in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.172-.176 (131.07.59.102-.106)

Surface Coating Processes in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.191, .192, .194 (131.07.60.101, .102, .104)

Alternate Means of Control in Ozone Nonattainment Areas

§115.201 (131.07.61.101)

Graphic Arts by Rotogravure and Flexographic Processes in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.201-.203

Volatile Organic Compound Exemption Status in Ozone Nonattainment Areas

§§115.211-.213 (131.07.62.101-.103)

Pneumatic Rubber Tire Manufacturing Facilities in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.211-.213

Compliance in Ozone Nonattainment Areas

§§115.221-.224 (131.07.63.101-.104)

Perchloroethylene Dry Cleaning Systems in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.221-.223

Pharmaceutical Manufacturing Facilities in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.231-.237

Fugitive Emission Control in Petroleum Refineries in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.251-.255

Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.261-.265

Alternate Means of Control in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§115.401

Volatile Organic Compound Exemption Status in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.411-.413

Compliance in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

§§115.421-.424

Permits

§116.3 (131.08.00.003)

## Chapter 101. General

The Texas Air Control Board proposes to amend §101.1 (131.01.00.001, .002) of the general rules by adding and changing definitions in response to the U.S. Environmental Protection Agency's requirements for an approvable state implementation plan (SIP), as published in the *Federal Register* on August 1, 1979.

The proposal adds and modifies certain definitions to support the proposed new control requirements in Chapter 115. While five additional revisions and two deletions are minor clarifications, two revisions substantively affect the permit requirements of Regulation VI. These are proposed revisions to the definitions of "major source" and "major modification."

These proposed section changes involve no fiscal impact on either state or local agencies (source: agency staff).

The board has scheduled public hearings on this amendment (as well as on other rule and SIP changes published elsewhere) at the following times and places:

April 22, 1980, 7 p.m.  
Jefferson County Courthouse  
Criminal Courtroom, second floor  
1149 Pearl Street  
Beaumont

April 22, 1980, 7 p.m.  
City Council Chambers  
New City Hall  
2 Civic Center Plaza  
El Paso

April 23, 1980, 7 p.m.  
Albert Pick Motor Inn  
Ballroom  
3301 S.W. Freeway  
Houston

April 23, 1980, 6-8:45 p.m.  
Arlington Public Library  
101 East Abram  
Arlington

April 24, 1980, 7 p.m.  
Brownsville City Hall  
Market Square  
Brownsville

April 24, 1980, 7 p.m.  
Corpus Christi-Nueces County Health Department  
1702 Horne Road  
Corpus Christi

Copies of the proposed changes are available at the Central Office of the TACB, 6330 Highway 290 East, Austin, Texas 78723, and all TACB regional offices.

Public comments on the proposed changes are invited at the hearings, both oral and written. Written testimony submitted by May 2, 1980, will be included in the hearing record. The Texas Air Control Board would appreciate receiving 15 copies of testimony prior to the hearings where possible. Written comments should be sent to the hearing examiner, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

oral and written. It is requested that comments addressing this proposed amendment be submitted separately from comments on any other proposed regulation changes. Written testimony submitted by May 2, 1980, will be included in the hearing record. The Texas Air Control Board would appreciate receiving 15 copies of testimony prior to the hearings where possible. Written comments should be sent to the hearing examiner, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

This rule amendment is proposed under the authority of Article 4477-5, Vernon's Annotated Texas Civil Statutes.

*§111.21 (131.03.03.001). Opacity from Stationary Flues. [Prohibition.]*

(a) *Except as provided in subsection (b) of this rule, no person may cause, suffer, allow, or permit visible emissions from any stationary flue to exceed an opacity of 30% averaged over a five-minute period. No person may cause, suffer, allow, or permit visible emissions from any stationary flue beginning construction after January 31, 1972, to exceed an opacity of 20% averaged over a five-minute period. Visible emissions during the cleaning of a firebox or building of a new fire, soot blowing, equipment changes, ash removal, and rapping of precipitators may exceed the limits set forth in this section for a period aggregating not more than five minutes in any 60 consecutive minutes, nor more than six hours in any 10-day period.*

(b) *Any source owner or operator who receives an adjustment to NSPS opacity standards pursuant to 40 Code of Federal Regulations 60.11(e) for any stationary flue subject to this section shall comply with the provisions of such adjustment in lieu of §111.21(a) until December 31, 1981, or until such time as procedures may be adopted to provide for a permanent adjustment to this section, whichever is earlier. The executive director shall extend the applicable deadline for up to one year to allow final action on an application for permanent adjustment prior to such deadline where the application is submitted and pursued with due diligence.*

Doc. No. 802125

## Chapter 115. Volatile Organic Compounds

(Editor's note: Lengthy new sections and amendments and repeals to existing sections recently proposed by the Texas Air Control Board in its chapters of rules and regulations entitled General, Procedural, Particulates, Volatile Organic Compounds, and Permits are being published serially. The first group of rules appeared in the March 25 issue and continue consecutively in this issue. The Proposed Rule section of the March 25 issue listed the subchapter titles and section numbers within each of the above chapters affected by this action. The proposed date of adoption for the serialized proposals is after public hearing by the Texas Air Control Board. The chapter concerning particulates and the first three subchapters concerning volatile organic compounds appear in this issue.)

The Texas Air Control Board proposes to amend 14 sections and add one section within the existing subchapters of Regulation V (Chapter 115, Volatile Organic Compounds) and proposes to add six new subchapters to it. In addition to these substantive changes for the control of air pollution from volatile organic compounds (VOC), administrative repeal is proposed for three existing chapters having a general nature, so that they can be re-established (essentially as now worded) in a permanent position at the end of Regulation V (Chapter 115).

These changes, in addition to the revisions adopted March 30, 1979, are in support of the control strategy for ozone nonattainment areas and are required to secure federal approval of the state implementation plan (SIP) as prepared and submitted by the state in response to 1977 amendments to the Federal Clean Air Act. The proposals directly respond to the U.S. Environmental Protection Agency's (EPA's) comments and proposed action on SIP approval for Texas published in the *Federal Register* on August 1, 1979.

The ozone plan addresses six urban ozone nonattainment areas (Bexar, Dallas, El Paso, Harris, Nueces, and Tarrant Counties) and six rural ozone nonattainment areas (Brazoria, Galveston, Gregg, Jefferson, Orange, and Victoria Counties). Ector County previously was included in the plan, but ambient measurements indicate that the ozone standard has not been violated during the last three years; therefore, the TACB has acted to request that it officially be redesignated to "attainment" status.

The plan demonstrates that the national ambient air quality standard for ozone will be attained by December 31, 1982, in each of these 12 areas except Harris County, where EPA on December 18, 1979, granted an extension until December 31, 1987. Although demonstrations of attainment have previously been made for all areas except Harris County, EPA has indicated that its approval of the Texas ozone SIP for these areas will be conditioned on the TACB's adoption of additional rules for the control of volatile organic compounds in accordance with guidelines issued by that agency in 1978.

The proposed section changes in Regulation V (Chapter 115) are of three categories: changes to existing sections to comply with EPA's "5.0% rule," section additions required by EPA's control technique guidelines (CTGs) issued in 1978, and section relocations needed to maintain a consistent format using the new Texas Administrative Code (TAC) section numbers assigned by the secretary of state in 1979. Each of these categories are described in more detail below.

First, revisions to sections in the subchapter on specified solvent-using processes are proposed in order to conform to EPA's "5.0% rule" that requires a state's VOC regulations, when adopted in response to an EPA CTG, to produce emission reductions so that allowable emissions after control will be within 5.0% of an EPA presumptive norm. The TACB has been able to demonstrate compliance with the 5.0% requirement except for the sections pertaining to degreasing and use of cutback asphalt. Amendment to §§115.172-.174 and .176 (131.07.59.102-.104 and .106) will be required to impose more restrictive controls on degreasing (System B), to make plant-wide (rather than process-unit) emissions the basis for exemption from degreasing controls, and to lower the exemption cut-off in Harris County from the present 100 pounds/day level down to a much lower level of three pounds/day. Amendments to §115.175 (.105) are required to

extend the limitations on cutback asphalt usage in §115.171 (.101) to all ozone nonattainment counties in which combined VOC emissions from asphalt usage exceed 100 tons per year.

Second, as indicated above, new sections are proposed for nine 1978 CTGs. Six CTGs are being added as new subchapters: §§115.201-.203 for graphic arts processes, §§115.211-.213 for tire manufacturing, §§115.221-.223 for perchloroethylene dry cleaning, §§115.231-.237 for synthetic pharmaceutical manufacturing, §§115.251-.255 for refinery fugitive emissions, and §§115.261-.265 for gasoline tank trucks and vapor collection systems. In relation to the last topic, three section amendments are proposed for clarification elsewhere with regard to gasoline loading and unloading: §§115.111 (131.07.52.101), 115.121 (131.07.53.101), and 115.132 (131.07.54.102).

The requirements for the remaining three CTGs are being incorporated in existing subchapters because of their relationship to the subject matter there. The two new CTGs for surface-coating processes (flatwood paneling and miscellaneous metal parts and products) are included by revising §§115.191, .192, and .194 (131.07.60.101, .102, and .104). The new CTG for external floating roof tanks will be included by incorporating a new section on double seals, §115.103 (131.07.51.103), which will be assigned a new TAC section number, as discussed below; associated amendments to the subchapter's other four sections (131.07.51.101, .102, .104, and .105) are also required.

Third, an adequate consistency among the substantive content calls for some relocation of sections and subchapters, accomplished by reassigning several section numbers published in Title 31 of the *Texas Administrative Code* (October 1979). Two kinds of reassignment are proposed for insuring that general items (concerning exemptions and compliance) are maintained in a terminal position. Within the subchapter on floating roof tanks, the entire new section for double seals (above), if adopted, would be added prior to the subchapter's two terminal sections governing exemptions and compliance, §§115.103 and 115.104 (131.07.51.104 and .105). The board proposes to increase by one the TAC section numbers of these last two sections to match the existing section numbers and thereby release §115.103 for the new section. Sections 115.101-115.105 as revised would therefore correspond to the sequence of *Texas Register* Rules 131.07.51.101-.105, after the gap there is closed by the section addition.

Similarly, within Regulation V (Chapter 115) as a whole, the final three subchapters are general in type and would always remain in a terminal position during this and future section changes. To release §§115.201-.224 for the six new subchapters (above) and later additions, all of which follow the final existing subchapter (131.07.60) that deals with specific controls, the board proposes repealing §§115.201 (131.07.61.101), 115.211-115.213 (131.07.62.101-.103), and 115.221-115.224 (131.07.63.101-.104) and proposes re-establishing them as §§115.401, 115.411-115.413, and 115.421-115.424.

This repeal action is the necessary administrative procedure for changing the existing *Texas Register* numbers and insuring that the gap in TAC numbers will be maintained in the future. The only substantive proposed change in these relocated sections is the removal (in §115.411) of methyl chloroform from the compounds now exempted in §115.211

(131.07.62.101). Persons wishing to comment on exemption status of this compound as well as methylene chloride should refer to discussion of this issue in a notice published by TACB in the *Texas Register*, March 4, 1980.

Anticipated fiscal impacts of these proposed changes to Regulation V (Chapter 115) are shown in the table below. The TACB will enforce the proposed new sections within the current limits of expected availability of resources; however, local air pollution control agencies have indicated additional personnel needs. Additional resources required:

	1981	1982	1983	1984	1985
State Agency	0	0	0	0	0
Local Agencies	0	\$56,600	\$105,500	\$154,000	\$178,000

The estimates for local enforcement were obtained from air pollution control officials of the following local governments: Houston, El Paso (city-county), Dallas, Fort Worth, San Antonio, Galveston County, and Corpus Christi (city-county).

Copies of the proposed changes are available at the Central Office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723, and all Texas Air Control Board regional offices.

The Texas Air Control Board has scheduled public hearings on these amendments, additions, and administrative repeals (as well as on other SIP changes published elsewhere) at the following times and places:

April 22, 1980, 7 p.m.  
Jefferson County Courthouse  
Criminal Courtroom, second floor  
1149 Pearl Street  
Beaumont

April 22, 1980, 7 p.m.  
City Council Chambers  
New City Hall  
2 Civic Center Plaza  
El Paso

April 23, 1980, 7 p.m.  
Albert Pick Motor Inn  
Ballroom  
3301 Southwest Freeway  
Houston

April 23, 1980, 6-8:45 p.m.  
Arlington Public Library  
101 East Abram  
Arlington

April 24, 1980, 7 p.m.  
Brownsville City Hall  
Market Square  
Brownsville

April 24, 1980, 7 p.m.  
Corpus Christi-Nueces County Health Department  
1702 Horne Road  
Corpus Christi

Public comments on the proposed changes are invited at the hearings, both oral and written. Written testimony submitted by May 2, 1980, will be included in the hearing record. The Texas Air Control Board would appreciate receiving 15 copies of testimony prior to the hearings where possible.

Written comments should be sent to the hearing examiner, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

## Storage of Volatile Organic Compounds in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

These section changes are proposed under the authority of Article 4477-5, Vernon's Annotated Texas Civil Statutes.

**§115.101 (131.07.51.101). Required Control Devices.** No person shall place, store, or hold in any stationary tank, reservoir, or other container any volatile organic compound (VOC) with a true vapor pressure equal to or greater than 1.5 psia (10.3 kPa) unless such container is capable of maintaining working pressure sufficient at all times to prevent any vapor or gas loss to the atmosphere, or is equipped with one or more of the approved alternate control devices (defined in general rules) specified in Table I (for VOC other than crude oil and condensate) or Table II (for crude oil and condensate), or any other control device which will provide substantially equivalent control and is approved by the executive director.

(1)-(2) (No change.)

**§115.102 (131.07.51.102). Floating Roof Storage Tank Requirements.** For those storage tanks subject to the provisions of §§115.101 and 115.103 (131.07.51.101-103) provisions of §115.101 (131.07.51.101), the following requirements shall apply:

(1)-(5) (No change.)

(6) *The secondary-seal accumulated area of gaps that exceed 1/8 inch (0.32 cm) in the width between the secondary seal and tank wall shall not be greater than 1.0 in<sup>2</sup> per foot (21.2 cm<sup>2</sup>/meter) of tank diameter.*

(A) *An annual visual inspection of the secondary seal is acceptable when the primary seal meets the conditions in §115.103(1).*

(B) *If the primary seal is vapor mounted, actual gap measurements shall be conducted annually.*

(C) *All inspection records shall be available to the Texas Air Control Board for four years.*

**§115.103 (131.07.51.103). Double Seal Requirements.** Any tank, reservoir, or container with a nominal capacity greater than 42,000 gallons (158,987 liters) and equipped with an external floating roof (defined in the general rules) shall be retrofitted with a continuous secondary seal to extend from the floating roof to the tank wall (a rim-mounted secondary seal) if:

(1) The tank is a welded tank storing volatile organic compounds having a true vapor pressure equal to or greater than 4.0 psia (27.5 kPa) and the primary seal is:

(A) a metallic-type shoe seal,

(B) a liquid-mounted foam seal,

(C) a liquid-mounted liquid filled type seal, or

(D) any other closure device which can be demonstrated equivalent to the above primary seals.

(2) The tank is a riveted tank storing volatile organic compounds having a true vapor pressure equal to or greater than 1.5 psia (10.3 kPa) with one of the three primary seals or equivalent described in the preceding §115.103, paragraph (1).

(3) The tank is a welded or riveted tank storing volatile organic compounds having a true vapor pressure

equal to or greater than 1.5 psia (10.3 kPa) with a vapor-mounted primary seal.

**§115.104. (131.07.51.104). Exemptions.**

(a)-(c) (No change.)

(d) *A metallic-type shoe seal in a welded tank which has a secondary seal from the top of the shoe seal to the tank wall (a shoe-mounted secondary seal) is exempt from §115.103 (131.07.51.103) if installed or scheduled for installation before the effective date of this section.*

(e) *External floating roof tanks storing waxy, high pour-point crude oils are exempt from §115.103. (131.07.51.103).*

(f) *All affected persons in Ector County are exempt from the requirements of §§115.102(6), 115.103(1)-(3), and 115.104(d) and (e).*

**§115.105 (131.07.51.105). Compliance Schedule and Counties.** The provisions of this subchapter shall apply to Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties.

(1) *All persons affected [persons] by §115.101 (131.07.51.101) and §115.102(1)-(5) (131.07.51.102) shall submit a final control plan for compliance no later than December 31, 1979, and shall be in compliance as soon as practicable, but no later than December 31, 1982. [with the following exception. Tanks greater than 420,000 gallons (1,589,873 liters) nominal capacity containing crude oil or condensate with a true vapor pressure equal to or greater than 1.5 psia (10.3 kPa) in Brazoria, Dallas, El Paso, Galveston, Harris, Jefferson, Nueces, Orange, and Tarrant Counties shall be in compliance with requirements for external floating roofs, internal floating roofs, or vapor recovery systems by February 29, 1980.]*

(2) *All persons affected by §115.102(6) (131.07.51.102) and §115.103 (131.07.51.103) shall be in compliance as soon as practicable, but no later than December 31, 1983, and shall submit a final control plan for compliance to the Texas Air Control Board no later than December 31, 1980.*

Doc. No. 802126

## Facilities for Loading and Unloading of Volatile Organic Compounds in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

These section changes are proposed under the authority of Article 4477-5, Vernon's Annotated Texas Civil Statutes.

**§115.111 (131.07.52.101). Throughput and Control Requirements.** No person shall permit the loading or unloading to or from any facility having 20,000 gallons (75,708 liters) or more throughput per day (averaged over any consecutive 30-day period) of volatile organic compounds with a true vapor pressure equal to or greater than 1.5 psia (10.3 kPa) under actual conditions, unless the following emission control requirements are met by the dates specified in §115.113 (.104):

(1) (No change.)

(2) *Volatile organic compound vapors from gasoline terminals shall be reduced to a level not to exceed 0.67 pounds of volatile organic compounds per 1,000 gallons (80*

mg/liter) of gasoline transferred. Prior to December 31, 1982, affected gasoline terminals other than those located in Ector or Gregg Counties shall remain in compliance with paragraph (1) of this section. ***The gasoline tank truck must be kept vapor-tight at all times (except when gauging) until the captured vapors are discharged properly to a vapor recovery system. For the purposes of this section, vapor-tightness is defined by compliance with §§115.261-115.265 of this regulation.***

(3) (No change.)

Doc. No. 802127

### Gasoline Bulk Plants in Harris County.

These section changes are proposed under the authority of Article 4477-5, Vernon's Annotated Texas Civil Statutes.

*§115.121 (131.07.53.101). Control Requirements.*

(a) No person shall permit the transfer of gasoline from a transport vessel into a gasoline bulk plant storage tank unless a vapor return line is installed from the storage tank to the transport vessel. There shall be no leaks in the transfer system, which includes liquid lines, vapor lines, hatch covers, and pumps, or in the transport vessel's pressure-vacuum relief valves. The only atmospheric emission during gasoline transfer shall be through the storage tank's pressure-vacuum relieve valve. The maximum allowable loss of volatile organic compounds due to product transfer shall be 1.2 pounds per 1,000 gallons (140 mg/liter) of gasoline transferred. All gauging and sampling devices shall be vapor-tight except during necessary gauging and sampling. The transport vessel must be kept vapor-tight at all times (except when gauging) until the captured vapors are discharged properly during the transport vessel's next refill. ***For the purposes of this section, vapor-tightness is defined by compliance with §§115.261-115.265 of this regulation.***

(b)-(c) (No change.)

Issued in Austin, Texas, on March 14, 1980.

Doc. No. 802128 Bill Stewart, P.E.  
Executive Director  
Texas Air Control Board

Proposed Date of Adoption: After public hearing  
For further information, please call (512) 451-5711, ext. 354.

## Part VIII. Texas Energy and Natural Resources Advisory Council

### Chapter 255. Fuel Allocation

#### Procedure

The Texas Energy and Natural Resources Advisory Council proposes to adopt new rules of procedure for the Texas Office of Fuel Allocation. The Texas Office of Fuel Allocation, a division of the Texas Energy and Natural Resources Advisory Council, administers a state set-aside program in Texas, pursuant to the Emergency Petroleum Allocation Act of 1973, Public Law 93-159, and subsequent federal regulations. The state set-aside is available to the Texas Office of Fuel Allocation to meet hardship and emergency fuel requirements of all

wholesale purchasers and end-users within the state. The proposed new rules set forth eligibility criteria for the state set-aside, application filing requirements and processing procedures, priorities for assignment from the state set-aside, and appeals procedures for the Texas Office of Fuel Allocation.

The Texas Energy and Natural Resources Advisory Council proposes these new rules in part to comply with regulations of the U.S. Department of Energy. These regulations require the State Office of Fuel Allocation to have procedural rules governing the appeal of orders of assignment under the state set-aside system and the appeal of orders denying an application for assignment of a permanent supplier.

There are no fiscal implications to administering these rules either for the state or for units of local government in excess of funds appropriated to the agency.

Public comment on the proposed rules is invited. Comments may be submitted in writing to John Gooding, administrator, Texas Office of Fuel Allocation, 904 Executive Office Building, 411 West 13th Street, Austin, Texas 78701.

These new sections are proposed under the authority of Article 4412(47c), Section 10, Vernon's Texas Civil Statutes.

*§255.1 (161.02.01.001). Authority.* The Texas Office of Fuel Allocation, a division of the Texas Energy and Natural Resources Advisory Council, administers a state set-aside program in Texas pursuant to the Emergency Petroleum Allocation Act of 1973, Public Law 93-159, and subsequent federal regulations.

*§255.2 (161.02.01.002). Purpose.* The state set-aside shall be used by the Texas Office of Fuel Allocation to meet hardship and emergency fuel requirements of all wholesale purchaser-consumers and end-users within the state. To facilitate relief of the hardship and emergency requirements of wholesale purchaser-consumers and end-users, the Texas Office of Fuel Allocation may direct that a wholesale purchaser-reseller be supplied from the set-aside in order that the wholesale purchaser-reseller can supply the wholesale purchaser-consumer and end-users experiencing hardship or emergency.

*§255.3 (161.02.01.003). Definitions.*

(a) End-user—anyone that is an ultimate consumer of an allocated product other than a wholesale purchaser-consumer.

(b) Wholesale purchaser-consumer—any firm that is an ultimate consumer which, as part of its normal business practice, purchases or obtains an allocated product from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location and which either (1) purchased or obtained more than 20,000 gallons of that allocated product for its own use in agricultural production in any completed calendar year subsequent to 1971; (2) purchased or obtained more than 50,000 gallons of that allocated product in any completed calendar year subsequent to 1971 for use in one or more multifamily residences; or (3) purchased or obtained more than 84,000 gallons of that allocated product in any completed calendar year subsequent to 1971.

(c) Wholesale purchaser-reseller—any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form.