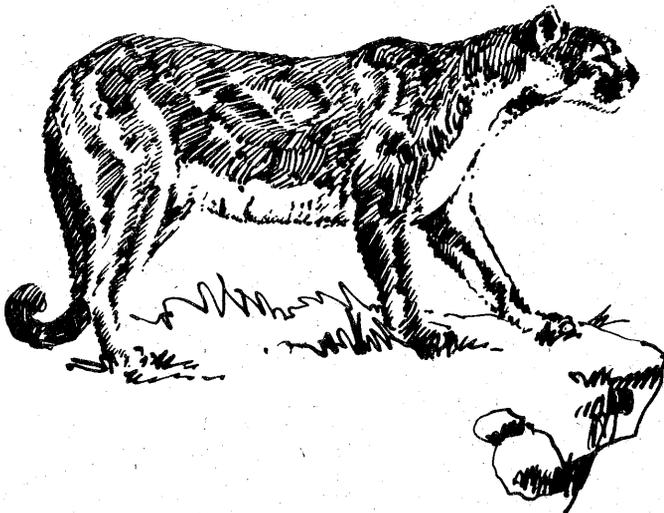


Pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, an agency may take final action on a rule 30 days after publication of the proposed action in the *Register*. Upon adoption of the action, "the agency, if requested to do so by an interested person either prior to adoption or within 30 days after adoption, shall issue a concise statement of the principal reasons for and against its adoption, incorporating in the statement its reasons for overruling the considerations urged against its adoption." The action is effective 20 days after filing of the notice of final action with the Texas Register Division unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice. The notice includes whether the action is promulgated with or without changes to the action proposed; a statement of the legal authority under which the final action is promulgated; and the text of the final action, in compliance with the rules of the Texas Register Division. If an agency takes final action on a rule with no changes made to the text as proposed, only the preamble of the notice and statement of legal authority will be published. The text, as appropriate, will be published only if final action is taken with changes made to the proposed action. The certification information, which includes the effective date of the final action, follows each published submission of final action. A telephone number for further information is also published.

An agency may withdraw proposed action or the remaining effectiveness of emergency action by filing a notice of withdrawal with the Texas Register Division. The notice will appear in this section of the *Register* and is generally effective immediately upon filing with the Texas Register Division.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."



CODIFIED

TITLE 25. HEALTH SERVICES

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 405. Client (Patient) Care

Subchapter N. Transfer of Court-Committed Patients to the Skyview Maximum Security Unit at the Rusk State Hospital

The Texas Department of Mental Health and Mental Retardation amends to §§405.321, 405.323-405.326, 405.328, 405.330, 405.347 (302.04.18.001, .003-.006, .008, .010, and .027) without changes to the proposed text published in the January 20, 1981, issue of the *Texas Register* (6 TexReg 239).

These amendments are adopted pursuant to the authority contained in Texas Civil Statutes, Article 5547-202, §211(b).

Issued in Austin, Texas, on March 25, 1981.

Doc. No. 811984 John J. Kavanagh, M.D.
 Commissioner
 Texas Department of Mental Health and
 Mental Retardation

Effective Date: April 15, 1981

Proposal Publication Date: January 20, 1981

For further information, please call (512) 465-4591.

The Texas Department of Mental Health and Mental Retardation adopts the repeal of §405.327 (302.04.18.007) without changes to the proposed notice of repeal published in the January 20, 1981, issue of the *Texas Register* (6 TexReg 241).

This repeal is adopted pursuant to the authority of Texas Civil Statutes, Article 5547-202, §2.11(b).

Issued in Austin, Texas, on March 25, 1981.

Doc. No. 811985 John J. Kavanagh, M.D.
 Commissioner
 Texas Department of Mental Health
 and Mental Retardation

Effective Date: April 15, 1981

Proposal Publication Date: January 20, 1981

For further information, please call (512) 465-4591.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

Chapter 101. General

The Texas Air Control Board amends §101.1 (131.01.00.001 and .002) to add a definition of "potential to emit" (as used in

"major facility/stationary source" and "major modification"); add a definition for "vapor-mounted seal" (as used in Regulation V); revise the definitions of "major facility/stationary source" and "major modification;" and revise §101.22 (131.01.00.023). The proposed amendments were published in the November 11, 1980, issue of the *Texas Register* (5 TexReg 4480).

The text as proposed was changed as a result of public hearings. The definition of "potential to emit" was modified to clarify and affirm its applicability only to its usage in the definitions for "major facility/stationary source" and for "major modification."

These amendments are adopted under the authority of Texas Civil Statutes, Article 4477-5.

§101.1 (131.01.00.001, .002). Definitions.

(a) In addition to the terms which are defined by Texas Civil Statutes, Article 4477-5, the following words and terms when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Major facility/stationary source—Any facility/stationary source which emits, or has the potential to emit, 100 tons per year or more of any air contaminant (including volatile organic compounds) for which a national ambient air quality standard has been issued.

Major modification—Any modification to an existing facility/stationary source which increases the facility/stationary source's potential to emit by 100 tons per year or more of any air contaminant (including volatile organic compounds) for which a national ambient air quality standard has been issued.

Potential to emit (as contained in the definitions of major facility/stationary source and major modification herein)—The maximum design or operational capacity of a facility/stationary source to emit a pollutant. Any physical or enforceable operational limitation on the capacity of the facility/stationary source to emit a pollutant may be treated as part of its design. Limitations may include but are not limited to special operating limitations, air pollution control equipment, and/or restrictions on hours of operation or on the type of material combusted, stored, or processed.

Vapor-mounted seal—A primary seal mounted so there is an annular space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the tank wall, the liquid surface, and the floating roof or cover.

(b) (No change.)

§101.22 (131.01.00.023). Effective Date. The general sections contained in this chapter shall be in force immediately and shall supersede all previous general rules of the Texas Air Control Board.

Issued in Austin, Texas, on March 20, 1981.

Doc. No. 811995 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective Date: April 16, 1981
Proposal Publication Date: November 11, 1980
For further information, please call (512) 451-5711, ext. 354.

Chapter 111. Particulates

Visible Emissions

The Texas Air Control Board amends TACB Regulation I by adding §111.28 (131.03.03.008) to establish alternate opacity limits for facilities which, because of unique conditions, are unable to meet the opacity limitations presently specified even though mass emissions are below the applicable mass emissions limitations. The new section specifies the conditions under which such an alternate opacity limitation will be granted. The text of the proposed section was published in the November 11, 1980, issue of the *Texas Register* (5 TexReg 4482).

The proposed section was changed before adoption by replacing the reference to technical and economic infeasibility of controlling opacity to the limits otherwise specified by that of technical practicality and economic reasonableness. The phrase "to the board's satisfaction" was replaced with "by a preponderance of evidence" in order to more accurately define the basis for review.

Paragraph (2) was changed to require that the affected facility as well as the air pollution control equipment be operating so as to minimize opacity emissions, since flexibility in process operation could affect opacity.

In paragraph (3), the words "technically or economically infeasible" were replaced with "technically impractical or economically unreasonable." The use of the word "infeasible" might be construed to set impossible limits, and the use of technical practicality and economic reasonableness more closely parallels the language of the Texas Clean Air Act.

This section is adopted under the authority of Texas Civil Statutes, Article 4477-5.

§111.28. (131.03.03.008). Alternate Opacity Limitations. Procedures. The owner or operator of any facility who is unable to meet the opacity limitations of §111.21 of this title (relating to Prohibition) with available and economically reasonable control technology may apply to the Texas Air Control Board for approval of an alternate limit. Within 90 days after receipt of such an application, an adjudicative public hearing will be conducted in accordance with the requirements of §§103.31-103.34 (131.02.04.001-.004) of this title (relating to Initiation of Other Than Rulemaking Hearings, and §103.41 (131.02.05.001) of this title (relating to Contested Cases); §103.42 (131.02.05.002) of this title (relating to Hearing Examiner); §103.43 (131.02.05.003) of this title (relating to Parties to the Hearing); §103.44 (131.02.05.004) of this title (relating to Announcements); §103.45 (131.02.05.005) of this title (relating to Rights of Parties); §103.46 (131.02.05.006) of this title (relating to Prehearing Conference); §103.47 (131.02.05.007) of this title (relating to Continuance of Hearing at Prehearing Conference); §103.48 (131.02.05.008) of this title (relating to Continuance at Hearing); §103.49 (131.02.05.009) of this title (relating to Testimony); §103.50 (131.02.05.010) of this title (relating to Limiting Oral Argument); §103.51 (131.02.05.011) of this title (relating to Return or Other Disposition of Exhibits); §103.52 (131.02.05.012) of this title (relating to The Record in a Contested Case); §103.53 (131.02.05.013) of this title (relating to Hearing Examiner's Report in Contested Cases); §103.54 (131.02.05.014) of this title (relating to Exceptions and Briefs); §103.55

(131.02.05.015) of this title (relating to Extension of Time for Exceptions or Briefs); §103.56 (131.02.05.016) of this title (relating to Waiver); §103.57 (131.02.05.017) of this title (relating to Notice of Board Consideration); §103.58 (131.02.05.018) of this title (relating to Evidence Before the Board); §103.59 (131.02.05.019) of this title (relating to Oral Argument Before Board); §103.60 (131.02.05.020) of this title (relating to Final Decisions); §103.61 (131.02.05.021) of this title (relating to When Final; Motion for Rehearing); §103.62 (131.02.05.022) of this title (relating to Time for Final Decision); §103.63 (131.02.05.023) of this title (relating to Ex Parte Consultations). The application will be approved if the applicant provides in the hearing record evidence which, when considered with other evidence presented, substantiates by a preponderance of evidence that emissions resulting from the alternate opacity limit will not result in an exceedance of any ambient air quality standard or other ambient air concentration limit prescribed by the TACB or exacerbate any existing exceedance or cause or contribute to a nuisance as defined in §101.4 (131.01.00.004) of this title (relating to Nuisance) and that:

(1) all applicable mass and concentration limitations are met; and

(2) the facility has failed to meet the applicable opacity limitation during performance tests which were conducted with both the affected facility and the air pollution control equipment needed to comply with TACB regulations operating in a manner consistent with good engineering practice for minimizing the opacity of the emissions; and

(3) it is technically impractical or economically unreasonable for the facility to comply with the established opacity limits.

Issued in Austin, Texas, on March 20, 1981.

Doc. No. 811996 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective Date: April 16, 1981
Proposal Publication Date: November 11, 1980
For further information, please call (512) 451-5711, ext. 354.

Chapter 114. Motor Vehicles

The Texas Air Control Board amends Regulation IV, §114.2 (131.06.00.002) to provide an exemption for vehicles of Department of Defense (DOD) members who are transferred to or from overseas. This change allows removal of catalytic converters and fuel filler inlet restrictors prior to shipment of vehicles overseas. Also, this change requires all systems or devices used to control vehicle emissions to be restored to good operable condition after return of vehicles to the United States. These proposed amendments were published in the November 11, 1980, issue of the *Texas Register* (5 TexReg 4482).

The proposed period of five days allowed for removal and reinstallation of the specified items was lengthened to 30 days and references to exportation and return of a vehicle were modified to indicate delivery to and pick up from a port of entry. These changes in the proposed exemption were suggested to clarify the section and to enhance its applicability and enforcement.

These amendments are adopted under the authority of Texas Civil Statutes, Article 4477-5.

§114.2 (131.06.00.002). Exclusions and Exemptions.

(a) This chapter does not apply to motor vehicles or motor vehicle engines which are intended solely or primarily for use on a farm or ranch; or for legally sanctioned motor competitions; for research and development uses; or for instruction in a bona fide vocational training program where the use of a system or device would be detrimental to the purpose for which the vehicle or engine is intended to be used.

(b) Vehicles belonging to members of the U.S. Department of Defense (DOD) participating in the DOD Privately Owned Vehicle Import Program are exempt from the provisions of §114.1 (131.06.00.001) of this title (relating to Maintenance and Operation of Air Pollution Control Systems or Devices Used To Control Emissions from Motor Vehicles) if the following conditions are met:

(1) only the catalytic converter and the fuel filler restrictor inlet are removed from the vehicle;

(2) the vehicle is delivered to the appropriate port for overseas shipment within 30 days after the emission control device(s) is removed;

(3) if the vehicle is returned to the United States, all systems or devices used to control emissions from the vehicle are restored to good operable condition within 30 days of pick-up of the vehicle from the appropriate port of importation.

Issued in Austin, Texas, on March 20, 1981.

Doc. No. 811998 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective Date: April 16, 1981
Proposal Publication Date: November 11, 1980
For further information, please call (512) 451-5711, ext. 354.

Chapter 115. Volatile Organic Compounds

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

Revisions to this subchapter are adopted as proposed in the November 21, 1980, issue of the *Texas Register* (5 TexReg 4483) except for the metric conversion round-off at the 1.5 psia vapor pressure level in Tables I and II of §115.101 (131.07.51.101) which was withdrawn. "Submerged fill" is changed to "submerged fill pipe" to be consistent with the definition in the general rules. The word "pipe" was deleted from the previous regulation by mistake and was not discovered in time to include in the proposed regulation revisions.

These amendments are adopted under the authority of Texas Civil Statutes, Article 4477-5.

§115.101 (131.07.51.101). *Control Requirements.* 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 at least the control device specified in Table I (for VOC other than crude oil and condensate), or Table II (for crude oil and condensate), a vapor recovery system, or any other control device which provides substantially equivalent control and is approved by the executive director.

Table I.

REQUIRED CONTROL DEVICES FOR STORAGE TANKS FOR
VOC OTHER THAN CRUDE OIL AND CONDENSATE

True Vapor Pressure of Compound at Storage Conditions	Nominal Storage Capacity	Tank Type	Emission Control Requirements
<1.5 psia (10.3 kPa)	Any	Any	None
	≤1,000 gal (3,800 l)	Any	None
≥1.5 psia (10.3 kPa) and <11 psia (76 kPa)	>1,000 gal (3,800 l)	Any	Submerged fill pipe
	≤25,000 gal (94,600 l)		
	>25,000 gal (94,600 l)	Any	Internal or external floating roof (any type) or vapor recovery system
	≤42,000 gal (159,000 l)		
>42,000 gal (159,000 l)	Any	Internal floating roof or External floating roof with primary seal (any type) <u>and</u> secondary seal or vapor recovery system	
≥11 psia (76 kPa)	≤1,000 gal (3,800 l)	Any	None
	>1,000 gal (3,800 l)	Any	Submerged fill pipe, or vapor recovery system
	≤25,000 gal (94,600 l)		
	>25,000 gal (94,600 l)	Any	Submerged fill pipe, and vapor recovery system

Table II.

REQUIRED CONTROL DEVICES FOR STORAGE TANKS
FOR CRUDE OIL AND CONDENSATE

True Vapor Pressure of Compound at Storage Conditions	Nominal Storage Capacity	Tank Type	Emission Control Requirements
<1.5 psia (10.3 kPa)	Any	Any	None
	≤ 1,000 gal (3,800 l)	Any	None
≥ 1.5 psia (10.3 kPa)	> 1,000 gal (3,800 l)	Any	Submerged fill pipe
	≤ 42,000 gal (159,000 l)		
and			Internal floating roof or
< 11 psia (76 kPa)	> 42,000 gal (159,000 l)	Any	External floating roof with primary seal (any type) <u>and</u> secondary seal or vapor recovery system
≥ 11 psia (76 kPa)	≤ 1,000 gal (3,800 l)	Any	None
	> 1,000 gal (3,800 l)	Any	Submerged fill pipe
	≤ 42,000 gal (159,000 l)		
	> 42,000 gal (159,000 l)	Any	Submerged fill pipe and vapor recovery system

§115.105 (131.07.51.104). Exemptions. The following are exemptions to the requirements of §§115.101 and 115.102 (131.07.51.101 and .102) of this title (relating to Control Requirements and Floating Roof Storage Tank Requirements):

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

(6) Any welded tank storing volatile organic compounds having a true vapor pressure less than four psia (28 kPa) is exempt from any external secondary seal requirement of §115.101 (131.07.51.101) of this title (relating to Control Requirements) if any of the following types of primary seals have been installed prior to August 22, 1980:

- (A) a metallic-type shoe seal,
- (B) a liquid-mounted foam seal, or
- (C) a liquid-mounted liquid filled-type seal.

§115.106 (131.07.51.105). Counties and Compliance Schedules.

(a) The provisions of §§115.101-115.104 (131.07.51.101-.104) of this title (relating to Control Requirements, Floating Roof Storage Tank Requirements, Inspection Requirements, and Record-keeping Requirements) shall apply to Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties.

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

Issued in Austin, Texas, on March 20, 1981.

Doc. No. 811999 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective Date: April 16, 1981

Proposal Publication Date: November 21, 1980

For further information, please call (512) 451-5711, ext. 354.

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

The Texas Air Control Board adopts amendments to §115.111 and §115.113 (131.07.52.101 and .104) without changes to the proposed text published in the December 9, 1980, issue of the *Texas Register* (5 TexReg 4877).

The proposed amendments are adopted under the authority of Texas Civil Statutes, Article 4477-5.

Issued in Austin, Texas, on March 20, 1981.

Doc. No. 812000 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective Date: April 16, 1981

Proposal Publication Date: December 9, 1980

For further information, please call (512) 451-5711, ext. 354.

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

The Texas Air Control Board adopts an amendment to §115.144 (131.07.55.106) without changes to the proposed text published in the November 11, 1980, issue of the *Texas Register* (5 TexReg 4483).

The proposed amendment is adopted under authority of Texas Civil Statutes, Article 4477-5.

Issued in Austin, Texas, on March 20, 1981.

Doc. No. 812001 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective Date: April 16, 1981

Proposal Publication Date: November 11, 1980

For further information, please call (512) 451-5711, ext. 354.

Process Unit Turnaround and Vacuum-Producing Systems in Petroleum Refineries in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

The Texas Air Control Board adopts an amendment to §115.153 (131.07.56.104) without any change to the proposed text published in the November 11, 1980, issue of the *Texas Register* (5 TexReg 4484).

The proposed amendment is adopted under the authority of Texas Civil Statutes, Article 4477-5.

Issued in Austin, Texas, on March 20, 1981.

Doc. No. 812002 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective Date: April 16, 1981

Proposal Publication Date: November 11, 1980

For further information, please call (512) 451-5711, ext. 354.

Vent Gas Control in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

The Texas Air Control Board adopts amendments to §115.162 (131.07.58.102) without changes to the proposed text published in the November 11, 1980, issue of the *Texas Register* (5 TexReg 4484).

The proposed amendments are adopted under the authority of Texas Civil Statutes, Article 4477-5.

Issued in Austin, Texas, on March 20, 1981.

Doc. No. 812003 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective Date: April 16, 1981

Proposal Publication Date: November 11, 1980

For further information, please call (512) 451-5711, ext. 354.

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

The Texas Air Control Board adopts amendments to §§115.173, 115.175, and 115.176 (131.07.59.103, .106, and .105) without changes to the proposed text published in the November 14, 1980, issue of the *Texas Register* (5 TexReg 4531).

The proposed amendments are adopted under the authority of Texas Civil Statutes, Article 4477-5.

Issued in Austin, Texas, on March 20, 1981.

Doc. No. 812004 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective Date: April 16, 1981
Proposal Publication Date: November 14, 1980
For further information, please call (512) 451-5711, ext. 354.

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

The Texas Air Control Board adopts amendments to §115.193 and §115.94 (131.07.60.102 and .104) without changes to the proposed text published in the November 11, 1980, issue of the *Texas Register* (5 TexReg 4485).

The proposed amendments are adopted under the authority of Texas Civil Statutes, Article 4477-5.

Issued in Austin, Texas, on March 20, 1981.

Doc. No. 812005 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective Date: April 16, 1981
Proposal Publication Date: November 11, 1980
For further information, please call (512) 451-5711, ext. 354.

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

The Texas Air Control Board adopts new §115.252 without changes to the proposed text published in the November 11, 1980, issue of the *Texas Register* (5 TexReg 4485).

The proposed section is adopted under the authority of Texas Civil Statutes, Article 4477-5.

Issued in Austin, Texas, on March 20, 1981.

Doc. No. 812006 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective Date: April 16, 1981
Proposal Publication Date: November 11, 1980
For further information, please call (512) 451-5711, ext. 354.

Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks in Harris County

The Texas Air Control Board adopts amendments to §115.262 without changes to the proposed text published in the November 11, 1980, issue of the *Texas Register* (5 TexReg 4485).

The proposed amendments are adopted under the authority of Texas Civil Statutes, Article 4477-5.

Issued in Austin, Texas, on March 20, 1981.

Doc. No. 812007 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective Date: April 16, 1981
Proposal Publication Date: November 11, 1980
For further information, please call (512) 451-5711, ext. 354.

Alternate Means of Control

The Texas Air Control Board adopts amendments to §115.401 without changes to the proposed text published in the November 11, 1980, issue of the *Texas Register* (5 TexReg 4486).

The proposed amendments are adopted under the authority of Texas Civil Statutes, Article 4477-5.

Issued in Austin, Texas, on March 20, 1981.

Doc. No. 812008 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective Date: April 16, 1981
Proposal Publication Date: November 11, 1980
For further information, please call (512) 451-5711, ext. 354.

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

The Texas Air Control Board adopts amendments to §115.411 without changes to the proposed text published in the November 11, 1980, issue of the *Texas Register* (5 TexReg 4486).

The proposed amendments are adopted under the authority of Texas Civil Statutes, Article 4477-5.

Issued in Austin, Texas, on March 20, 1981.

Doc. No. 812009 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective Date: April 16, 1981
Proposal Publication Date: November 11, 1980
For further information, please call (512) 451-5711, ext. 354.

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

The Texas Air Control Board has amended the subchapter title of §§115.421-115.424 without changes to the proposed text published in the November 11, 1980, issue of the *Texas Register* (5 TexReg 4487).

The proposed amendments are adopted under the authority of Texas Civil Statutes, Article 4477-5.

Issued in Austin, Texas, on March 20, 1981.

Doc. No. 812010 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective Date: April 16, 1981
Proposal Publication Date: November 11, 1980
For further information, please call (512) 451-5711, ext. 354.

Chapter 116. Permits

The Texas Air Control Board adopts amendments to Regulation VI as proposed in the November 14, 1980, issue of the *Texas Register* (5 TexReg 4532). The proposed amendment to §116.3(c)(1) (131.08.00.003(c)(1)) was changed before passage by adding the phrase "nor by any other federal regulation under the Federal Clean Air Act, as amended, such as new source performance standards" to more clearly identify emission reductions not creditable to offset calculations.

The words "since December 1976" proposed for addition to §116.3(a)(10) (131.08.00.003(a)(10)) and §116.3(a)(12)(C) (131.08.00.003(a)(12)(E)) are deleted from this amendment as superfluous and confusing. The proposed word "area" is replaced with the more specific term "county" in §116.10(a)(3) (131.08.00.010(a)(3)). Public notice procedures of §116.10(a) (131.08.00.010(a)) were modified to retain the dual entry newspaper requirement; however, the three-by-five inch block notice was modified as to required content. The text of §116.10(c)(2) (131.08.00.010(c)(2)) has been changed to make it clear that any person requesting, within the comment period specified in §116.10(b)(1) (131.08.00.010(b)(1)), to be notified of the final agency action will be so notified.

These amendments are adopted under the authority of Texas Civil Statutes, Article 4477-5.

§116.3 (131.08.00.003). Consideration for Granting Permits To Construct and Operate.

(a) Permit to construct. In order to be granted a permit to construct, the owner or operator of the proposed facility shall submit information to the Texas Air Control Board which will demonstrate that all of the following are met:

- (1) (No change.)
- (2) The proposed facility will have provisions for measuring the emission of significant air contaminants as determined by the executive director.
- (3) The proposed facility will utilize the best available control technology, with consideration given to the technical practicability and economic reasonableness of reducing or eliminating the emissions from the facility.
- (4) The emissions from the proposed facility will meet at least the requirements of any applicable new source performance standards promulgated by the Environmental Protection Agency pursuant to authority granted under the Federal Clean Air Act, §111, as amended.
- (5) The emissions from the proposed facility will meet at least the requirements of any applicable emission standard for hazardous air pollutants promulgated by the Environmental Protection Agency pursuant to authority granted under the Federal Clean Air Act, §112, as amended.

(6) The proposed facility will achieve the performance specified in the application for a permit to construct. The applicant may be required to submit additional engineering data after a permit to construct has been issued in order to demonstrate further that the proposed facility will achieve the performance specified in the application for a permit to construct.

(7) All requirements of §129(a)(1) of the Clean Air Act Amendments of 1977 (Public Law 95-95). This provision shall not apply to new or modified facilities for which construction permits are issued after June 30, 1979.

(8) After June 30, 1979, the owner or operator of a proposed new facility which is a major stationary source of volatile organic compound emissions or which is a facility that will undergo a major modification with respect to VOC emissions and which is to be located in any area designated as nonattainment for ozone in accordance with the Federal Clean Air Act, §107, shall demonstrate that the following additional requirements are met:

(A) The proposed facility will comply with the lowest achievable emissions rate (LAER) as defined in Chapter 101 (131.01) of this title (relating to General).

(B) All major stationary sources owned or operated by the applicant (or by any person controlling, controlled by, or under common control with the applicant) in the state are in compliance or on a schedule for compliance with all applicable state and federal emission limitations and standards.

(9) After June 30, 1979, the owner or operator of a proposed new facility which is a major stationary source of volatile organic compounds (VOC) or which is a facility that will undergo a major modification with respect to VOC emissions, and which is to be located in Bexar, Dallas, El Paso, Harris, Nueces, or Tarrant County will provide information concerning his expected emissions to enable the executive director to determine that by the time the facility is to commence operation, total allowable emissions from existing facilities, from the proposed facility, and from new or modified facilities which are not major sources in the area will be sufficiently less than the total emissions from existing sources allowed in the area under the applicable State Implementation Plan (SIP) as promulgated by the administrator of the U.S. Environmental Protection Agency in Code of Federal Regulations, Title 40, Part 52, Subpart SS, prior to the application for the construction permit so as to represent reasonable further progress as defined in Chapter 101 (131.01) of this title (relating to General).

(10) The owner or operator of a proposed facility which will be a major stationary source of VOC emissions or will undergo a major modification and is to be located in any area designated as nonattainment for ozone in accordance with the Federal Clean Air Act, §107, for which regulations and a control strategy providing for attainment of the standard have not been approved by the U.S. Environmental Protection Agency shall demonstrate that at the time that the facility is to commence operation, a net decrease in total allowable VOC emissions in the area has been provided, taking into account any increases in emissions resulting from operation of the proposed new facility or modification.

(11) After June 30, 1979, the owner or operator of a proposed new facility to be located anywhere within the state that is a major stationary source of emissions of any air contaminant (other than volatile organic compounds—VOC) for which a national ambient air quality standard has been issued, or is a facility that will undergo a major modification