

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).

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## 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).

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## 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).

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## 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).

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## 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).

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## 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).

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## 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