

reveal the malfunction to the company, the public, and staff field investigators.

These rules are adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provides the Texas Air Control Board with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the Texas Air Control Board makes.

**§115.163. General Vent Gas Streams in Harris County.**

(a) Except for process vent gas streams affected by the provisions of §115.161 of this title (relating to Ethylene from Low-Density Polyethylene Production), no person may allow a vent gas stream to be emitted from any process vent located in Harris County containing volatile organic compounds unless the vent gas stream is burned properly at a temperature equal to or greater than 1300°F (704°C) in a smokeless flare or a direct-flame incinerator before it is allowed to enter the atmosphere; alternate means of control may be approved by the Executive Director in accordance with §115.401 of this title (relating to Procedure).

(b) The following vent gas streams are exempt from the requirements of this section:

(1) A vent gas stream having a combined weight of volatile organic compounds equal to or less than 100 pounds (45.4 kg) in any consecutive 24-hour period.

(2) A vent gas stream having a combined weight of volatile organic compounds greater than 100 pounds (45.4 kg) in any consecutive 24-hour period but less than 250 pounds (113.4 kg) per hour averaged over any consecutive 24-hour period and having a true vapor pressure of volatile organic compounds less than 0.44 psia (3.0 kPa).

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TRD-829299 Bill Stewart, P.E.  
Executive Director  
Texas Air Control Board

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

**31 TAC §115.191, §115.193**

The Texas Air Control Board (TACB) adopts amendments to §115.191, concerning emission limitations, without changes, and to §115.193, concerning exemptions, with changes to the proposed text published in the June 11, 1982, issue of the *Texas*

*Register* (7 TexReg 2238). The text of §115.191 will not be republished.

In §115.191, the amendment to §115.191(9)(A)(i) will allow pail and drum interior coatings to have an emission limit of 4.3 pounds of volatile organic compounds (VOC) per gallon of coating (minus water) even though such coatings are not a true clear coat. This change is necessary because the shipping container industry does not have a low-VOC interior coating to withstand the harsh and toxic nature of many chemicals shipped in pails and drums. In §115.193, amendments will exempt from emission limitation provisions of §115.191(9) coating operations for the exterior of fixed offshore structures and any surface coating process or processes at a specific property for which the executive director has approved requirements different from those in §115.191 (a) based upon his determination that such requirements will result in the lowest emission rate that is technologically and economically reasonable. The executive director will specify the date or dates by which such requirements shall be met and shall specify any requirements to be met in the interim. If the emissions resulting from such different requirements equal or exceed 25 tons a year for a property, the determinations for that property shall be reviewed every two years.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being "for" or "against" a proposal. A commentator who suggested any changes in the proposal is categorized as "against" the proposal while a commentator who agreed with the proposal in its entirety is categorized as "for."

Copies of the written comments and the transcript of the hearing are available for inspection at the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

The Berwind Railway Service Company commented on the proposal, stating that, in the railcar repair industry, low solvent coatings are not available to meet certain extremem performance requirements as well as requirements for the protection of food products. Since engineering controls are unreasonable, regulation change is needed to allow continued operation of custom coating facilities in this industry. Berwind has submitted information about availability/unavailability of low solvent coatings for various applications.

Custom Pipe Coatings, Inc. (CPC), commented that its business is custom coating pipe; 90% involves extreme performance coatings. CPC has no control over the coatings selected. Field contractors doing the same work are unregulated, and they have higher particulate emissions. Low solvent technology is unavailable. Control systems would have limited effectiveness and are economically unreasonable.

Blas-Kote, Inc., commented that controlling custom coating contractors while exempting field contractors is unacceptably unfair. The regulation as now writ-

ten would probably put the firm out of business while not reducing VOC emissions in Harris County, presuming the work would go to field contractors. Blas-Kote supports adoption of §115.193(c)(6) to exempt its operations.

The Houston Chamber of Commerce supported the exemption where extreme performance coatings are required, and the painting cannot reasonably be enclosed. The exemption should be applicable to many companies such as those involved in coating large storage tanks, oil derricks, and railcars. The Chamber supports expansion of the list of categorical exemptions.

The Protective Coatings Division of Ameron commented that, for some time into the future, extreme performance coatings for applications such as tank linings, offshore platforms, paper mills, and chemical plants will have to contain VOC at rates above the suggested BACT levels.

The O'Brien Corporation commented that certain extreme performance coatings cannot now be formulated except with high VOC content. Progress in developing low VOC formulations may occur, but it would require considerable time.

The U.S. Environmental Protection Agency, Region VI, said that "the state should provide additional information concerning the types of coating operations that would be considered for exemption. Will the exemptions be based on size of operations or other criteria?"

An individual commented that specific criteria for the determination should be written into §115.193(c)(6).

Union Carbide Corporation, Chemicals and Plastics, commented that extreme performance coatings are essential to maintaining the quality of many chemical products during rail shipment. Stainless steel cars are not an economically feasible alternative. No acceptable replacements are currently available for certain high VOC coatings. If inferior coatings were used, total VOC emissions might go up rather than down, because more frequent recoating would be required. Union Carbide suggested delayed compliance until low solvent coatings are developed and proven. The current requirement would cause unreasonable economic hardship to Union Carbide.

Derrick Service International requested the addition of "a category for masts and substructures of land based rotary drilling rigs used in oil well and gas drilling" to the list of specific exemptions in §115.193(c). Low VOC coatings that would meet customer requirements are unavailable and add-on control equipment, at twice the current capital cost of the plant, would be economically unreasonable.

Carboline commented that it is not technologically feasible to produce a complete line of extreme performance coatings that meet the 3.5 lbs/gal (less water) VOC restriction. Carboline recommended adoption of a permanent exemption on extreme performance coatings used on miscellaneous metal parts and products which will, after erection, be architec-

tural structures. (The Bay Area A.Q.M. District has done so.) It is uncertain whether the use of §115.422(b)(3), concerning delayed compliance, would be useful for some coatings, but complying zinc primers will not be available within that three-year period.

The amendment inserting §115.193(c)(5), the exemption of surface coating operations on the exterior of fixed off-shore structures, was proposed because of the understanding that control of emissions from such operations is unreasonable. This exemption would be analogous to the exemption for the exterior of marine vessels. No testimony was received suggesting any changes to this proposal.

The amendment adding §115.193(c)(6) was proposed to exempt the application of high performance surface coatings to miscellaneous metal parts and products (MMPP) if they were applied under conditions for which control had been determined by the executive director of the TACB to be unreasonable. Substantial, uncontradicted testimony indicated that the requirements of §115.191(9), relating to VOC emission limits for surface coating of miscellaneous metal parts and products, could not be met by some sources by the application of reasonably available control technology (RACT).

The EPA has defined RACT as "the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility" (44 FedReg 53761; September 17, 1979). In discussing the definition of RACT, EPA elaborated that "RACT for a particular source is determined on a case-by-case basis, considering the technological and economic circumstances of the individual source."

To have an approved State Implementation Plan (SIP) that meets the Federal Clean Air Act and EPA requirements, the state must require application of RACT to miscellaneous metal parts and products surface coating operations in nonattainment areas. It appears that there are four options for meeting this requirement:

- (1) adopt the control requirements recommended in the EPA's control techniques guidelines for this source category (i.e., surface coating of miscellaneous metal parts and products),
- (2) adopt control requirements that differ from those recommended by the EPA, but that would allow no more than 5.0% more VOC emissions than would be allowed under the requirements recommended by the EPA (the "5.0% rule"),
- (3) carry out case-by-case review to determine RACT requirements for each source in this source category, or
- (4) adopt the emission limits recommended by the EPA for this source category together with a provision for case-by-case determination of what constitutes RACT for sources that cannot meet the EPA recommended emission limits by application of RACT.

The regulation as it was written met EPA requirements by using option one. It appears that the exemption provision as it was proposed for hearing, § 115.193(c)(6), would have had to be justified as EPA-approvable under option two; however, since the sources in the MMPP source category are not identified or inventoried individually in the emissions inventory, it would probably have been difficult to demonstrate that the resulting allowable emissions met the EPA's 5.0% rule.

The regulation as it was written imposed emission limits that went beyond RACT for some sources. The testimony indicated that the existing provisions would have resulted in the closing of some businesses that operate in a fixed location but that VOC emissions would not have been reduced because competing field contractors, who were unaffected by the regulation, would then have done the same work in the same counties. The testimony indicated that the existing regulation would have caused unreasonable economic hardships for some other sources. The exemption as it was proposed for hearing, § 115.193(c)(6), would have remedied these inequities, but it appears that it might not have met EPA requirements for SIP approval, since it would have provided for exemption from the control requirements in § 115.191(9) rather than for case-by-case determination of what alternate requirements constitute RACT for a particular source.

It appears that allowing case-by-case determination of what control requirements constitute RACT (for sources for which the requirements of § 115.191(9) are unreasonable) will remedy the inequities in the current regulation while allowing less increase in the allowable emissions than the exemption in the proposed wording of § 115.193(c)(6) would have allowed. This intermediate requirement should also be approvable by the EPA as an SIP provision under option four, which was discussed previously.

The testimony showed that in many cases RACT is evolving toward the limits prescribed in § 115.191(9), so periodic review of the conditional exemptions to the requirements of § 115.191(9) is necessary to assure that the VOC emissions from miscellaneous metal parts and products surface coating operations are reduced to the amounts achievable by application of RACT. To reduce the administrative burden of the periodic reviews on this agency and on small businesses, a tonnage cutoff is useful. Twenty-five tons a year is the cutoff used in developing this agency's standard permit exemptions for criteria pollutants, and it appears to be a workable option for a cutoff on a periodic review.

The testimony supported additional specific exemptions, but it is not clear that they would be more workable or equitable than case-by-case RACT review. Also, outright exemptions might complicate or jeopardize SIP approvability because some sources may reasonably be able to reduce VOC emissions by some techniques, such as improving the fraction of paint that reaches the surface being painted, thereby reducing the amount of surface coatings used, even

though control of emissions by capture or incineration may be unreasonable. Another advantage of having a generalized exemption procedure available is that it provides the ability to deal readily with sources for which compliance with § 115.191(9) is technologically or economically unreasonable but that are not among the specifically listed exemption categories.

These amendments are adopted under Texas Civil Statutes, Article 4477-5, § 3.09(a), which provides the Texas Air Control Board with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the Texas Air Control Board makes.

§115.193. Exemptions.

(a)-(b) (No change.)

(c) The following coating operations are exempt from the application of § 115.191(9) of this title (relating to Emission Limitations):

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

(3) customized top coating of automobiles and trucks, if production is less than 35 vehicles per day;

(4) (No change.)

(5) exterior of fixed offshore structures; and

(6) any surface coating process or processes at a specific property for which the executive director has approved requirements different from those in § 115.191(9) of this title (relating to Emission Limitations) based upon his determination that such requirements will result in the lowest emission rate that is technologically and economically reasonable. When he makes such a determination, the executive director shall specify the date or dates by which such different requirements shall be met and shall specify any requirements to be met in the interim. If the emissions resulting from such different requirements equal or exceed 25 tons a year for a property, the determinations for that property shall be reviewed every two years.

(d) (No change.)

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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