

TAC Titles Affected

TAC Titles Affected—October

The following is a list of the administrative rules that have been published this month.

TITLE 1. ADMINISTRATION

Part V. State Purchasing and General Services Commission

1 TAC §111.37	3513
1 TAC §113.5	3513
1 TAC §113.10	3540
1 TAC §113.73	3540
1 TAC §§115.31-115.33, 115.36	3514

TITLE 4. AGRICULTURE

Part II. Texas Animal Health Commission

4 TAC §§32.1-32.12	3540
4 TAC §§32.1-32.8	3540
4 TAC §§35.1, 35.2, 35.4	3514
4 TAC §§35.2, 35.4, 35.5	3541
4 TAC §37.2	3547
4 TAC §§39.1, 39.3, 39.4	3547
4 TAC §41.1	3548
4 TAC §43.2	3548
4 TAC §47.1, §47.2	3515
4 TAC §§47.1-47.6	3516
4 TAC §51.1, §51.2	3549
4 TAC §§51.1-51.3	3548
4 TAC §55.6, §55.7	3549

TITLE 16. ECONOMIC REGULATION

Part IV. Texas Department of Labor and Standards

16 TAC §69.67	3549
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TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

19 TAC §25.33	3518, 3550
19 TAC §25.72	3550

Part II. Texas Education Agency

19 TAC §§149.41, 149.43, 149.44	3506
19 TAC §§149.41, 149.43, 149.44	3519

TITLE 22. EXAMINING BOARDS

Part XI. Board of Nurse Examiners

22 TAC §§218.1, 281.5-218.12	3519
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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

25 TAC §§13.11-13.15	3521
25 TAC §§13.11-13.17	3521
25 TAC §§89.4-89.8	3550
25 TAC §§157.63, 157.77, 157.82	3507, 3523
25 TAC §295.2, §295.9	3551

TITLE 28. INSURANCE

Part I. State Board of Insurance

28 TAC §9.1	3524
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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office

31 TAC §13.19	3508, 3524
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Part III. Texas Air Control Board

31 TAC §101.1	3525
31 TAC §§115.131-115.135	3526
31 TAC §§115.163, §115.164	3528
31 TAC §§115.171, §115.176	3529
31 TAC §§115.191, 115.193, 115.194	3529
31 TAC §§115.201-115.203	3531
31 TAC §§115.291, 115.293, 115.294	3532
31 TAC §§116.5, 116.7, 116.10	3533
31 TAC §116.13	3535

Part X. Texas Water Development Board

31 TAC §355.1	3508
31 TAC §§355.10-355.19	3509
31 TAC §§355.101-355.110	3512

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

37 TAC §3.59	3536
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Part IX. Texas Commission on Jail Standards

37 TAC §253.1	3538
37 TAC §259.345	3538
37 TAC §259.346	3538

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

40 TAC §§35.1-35.6	3553
40 TAC §§35.101, §35.102	3553
40 TAC §§35.201-35.203, 35.205-35.210	3553
40 TAC §§35.201-35.205	3554
40 TAC §§35.301, §35.302	3554
40 TAC §§35.301-35.303	3554
40 TAC §§35.401-35.404	3554
40 TAC §§35.401-35.408	3554
40 TAC §§35.501-35.504	3554
40 TAC §35.501, §35.502	3554
40 TAC §§35.601-35.610	3554, 3555
40 TAC §§35.701-35.710	3555
40 TAC §§35.701-35.709	3555
40 TAC §§35.801-35.804	3556
40 TAC §§35.801-35.808	3556
40 TAC §§35.901-35.904	3556
40 TAC §35.9001	3556
40 TAC §§35.9801, 35.9803, 35.9804	3556
40 TAC §85.7005	3539
40 TAC §§85.7005-85.7007	3539

Cleburne; October 28, 1987, 7 p.m., District Court Room, Rockwall County Courthouse, Rockwall; October 29, 1987, 2 p.m., City Council Chambers, Municipal Building, 101 West Abrams Street, Arlington; October 29, 1987, 7 p.m., City Council Chambers, Municipal Building, 101 West Abrams Street, Arlington.

Copies of the amendments are available at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723, and at all TACB regional offices. Public comment, both oral and written on the amendments is invited at the hearings. The TACB would appreciate receiving five copies of testimony prior to or at the hearings. Written testimony received by 4 p.m., November 2, 1987, at the TACB central office will be included in the hearing record. Written comments should be sent to the Regulation Development Section, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

The amendments are proposed under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the TACB 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 TACB makes.

§115.201. Control Requirements.

(a) No person shall operate or allow the operation of a packaging rotogravure, publication rotogravure, or flexographic printing facility that uses solvent-containing ink, unless volatile organic compound emissions are limited by one of the following:

(1)-(3) (No change.)

(b) No person shall operate or allow the operation of a packaging rotogravure, publication rotogravure, or flexographic printing facility in Dallas or Tarrant Counties that uses solvent-containing ink, unless volatile organic compound emissions are limited by one of the following.

(1) The volatile fraction of ink, as it is applied to the substrate, contains 25% by volume or less of volatile organic compound solvent and 75% by volume or more of water.

(2) The ink, as it is applied to the substrate, less water, contains 60% by volume or more of nonvolatile material.

(3) Volatile organic compound emissions are effectively captured and controlled by carbon adsorption or incineration to provide for an overall reduction in volatile organic compound emissions of at least 80% by weight.

§115.202. Exemptions.

(a) Any rotogravure or flexographic facility which when uncontrolled emits a combined weight of volatile organic compounds (VOC) less than 100 tons (91 metric tons) in one year (based on historical ink and VOC solvent usage) is exempt from the requirements of §115.201(a) of this title (relating to Control Requirements).

(b) In Dallas and Tarrant Counties after December 31, 1990, only those rotogravure and flexographic printing facilities which when uncontrolled emit a combined weight of VOCs less than 100 pounds in any consecutive 24-hour period (based on historical ink and solvent usage) are exempt from the requirements of §115.201(b) of this title (relating to Control Requirements).

§115.203. Compliance Schedule and Counties.

(a) The provisions of §115.201(a) of this title (relating to Control Requirements) shall apply within Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties. All affected persons shall submit a final control plan for compliance to the Texas Air Control Board no later than December 31, 1980, and shall be in compliance as soon as practicable, but no later than December 31, 1982.

(b) The provisions of §115.201(b) of this title (relating to Control Requirements) shall apply in Dallas and Tarrant Counties. All affected persons shall be in compliance as soon as practicable, but no later than December 31, 1990, and shall remain in compliance with §115.201(a) of this title (relating to Control Requirements) until compliance is achieved.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 23, 1987.

TRD-8708188

Allen, Eli Bell
Executive Director
Texas Air Control Board

Proposed date of adoption:
December 18, 1987

For further information, please call
(512) 461-5711, ext. 354.

Specified Consumer-Solvent Products

★ 31 TAC §§115.291, 115.293, 115.294

The Texas Air Control Board (TACB) proposes new §§115.291, 115.293, and 115.294, concerning specified consumer-solvent products in Dallas and Tarrant Counties. New §115.291 prohibits the sale or offer for sale in Dallas and Tarrant Counties of automobile windshield washer fluids or space deodorants (room fresheners) which contain volatile organic compounds (VOC) as an active ingredient, solvent, or any other component, and aerosol spray products which contain VOC in the propellant. New §115.293 exempts products purchased by and delivered to a

retail outlet prior to December 31, 1989, products sold or offered for sale to wholesale outlets for distribution or sale to consumers outside of Dallas and Tarrant Counties, and products sold or offered for sale to retail outlets located outside of Dallas and Tarrant Counties from the requirements of §115.291. New §115.294 requires all persons in Dallas and Tarrant Counties affected by the changes to §§115.291-115.293 to be in final compliance no later than December 31, 1990.

These new sections are part of a series of proposed revisions to Chapter 115 to provide the additional VOC emission reductions needed to provide for a demonstration of attainment in the state implementation plan (SIP) revisions for ozone in Dallas and Tarrant Counties required by the United States Environmental Protection Agency (EPA). These revisions will only be adopted as necessary to ensure demonstration of attainment after analysis of testimony regarding all the proposed revisions to Chapter 115 has been completed.

Bennie L. Engelke, director of management and staff services, has determined that for the first five-year period the sections as proposed are in effect there will be fiscal implications for the state and local units of government resulting from activities to adequately enforce the proposed sections. The effect on state and local government will be an estimated additional cost of \$0.00 in 1988 and 1989, \$300,000 in 1990, \$150,000 in 1991, and \$50,000 in 1992. There are no fiscal implications to small businesses.

Les Montgomery, P.E., director, Technical Support and Regulation Development Program, has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be improved air quality as a result of a reduction of VOC emissions in Dallas and Tarrant Counties after December 31, 1990. In addition, these controls may be necessary to satisfy the EPA requirements for approval of the SIP revisions for Dallas and Tarrant Counties to avoid the imposition of growth sanctions in those counties. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Public hearings on this proposal are scheduled for the following times and places: October 28, 1987, 7 p.m., Cleburne Civic Center, 1601 West Henderson Street, Cleburne; October 28, 1987, 7 p.m., District Court Room, Rockwall County Courthouse, Rockwall; October 29, 1987, 2 p.m., City Council Chambers, Municipal Building, 101 West Abrams Street, Arlington; October 29, 1987, 7 p.m., City Council Chambers, Municipal Building, 101 West Abrams Street, Arlington.

Copies of the new sections are available at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin,

Texas 78723, and at all TACB regional offices. Public comment, both oral and written, on the new sections is invited at the hearings. The TACB would appreciate receiving five copies of testimony prior to or at the hearings. Written testimony received by 4 p.m. on November 2, 1987, at the TACB central office will be included in the hearing record. Written comments should be sent to the Regulation Development Section, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

The new sections are proposed under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the TACB 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 TACB makes.

§115.291. Control Requirements.

(a) No person may sell or offer for sale in Dallas and Tarrant Counties any of the following consumer-solvent products, as defined in §101.1 of this title (relating to Definitions), which contain volatile organic compounds as an active ingredient, solvent, or any other component:

- (1) automobile windshield washer fluids;
- (2) space deodorants (room fresheners).

(b) No person may sell or offer for sale in Dallas and Tarrant Counties any aerosol spray products which contain volatile organic compounds in the propellant used to discharge the product from the aerosol spray can or container.

§115.293. Exemptions. The following products are exempt from the provisions of §115.291 of this title (relating to Control Requirements):

- (1) products purchased by and delivered to a retail outlet in Dallas and Tarrant Counties prior to December 31, 1989;
- (2) products sold or offered for sale to wholesale outlets for distribution and sale to consumers outside of Dallas and Tarrant Counties; and
- (3) products sold or offered for sale to retail outlets outside of Dallas and Tarrant Counties.

§115.294. Compliance Schedule and Counties. All affected persons in Dallas and Tarrant Counties shall be in compliance with the provisions of §115.291 of this title (relating to Control Requirements) as soon as practicable, but no later than December 31, 1990.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on September 23, 1987.

TRD-8708182

Allen Eil Bell
Executive Director
Texas Air Control Board

Proposed date of adoption:
December 18, 1987
For further information, please call
(512) 451-5711, ext. 354.

Chapter 116. Permits

*31 TAC §§116.5, 116.7, 116.10

The Texas Air Control Board (TACB) proposes amendments to §§116.5, 116.7, and 116.10, concerning representation in application for permit and exemption; special permits; and public notification and comment procedure, respectively. The amendments responded to new requirements of House Bill 5, 70th Legislature, 1987 (Texas Civil Statutes, Article 6252-13(b).1), to require the TACB to establish time limits for staff review of permit applications and the issuance of permits. An additional amendment to §116.7 reflects recodification of the federal rules cited in the section.

The amendments add requirements for the executive director to notify a permit applicant within a specified period of time of receipt of a complete application and of any deficiencies in an application if it is incomplete. The amendments to §116.7 (e) and §116.10(c)(1) add provisions for the executive director to notify a permit applicant within a specified period of time of the decision to issue or deny a permit. Further amendments to §116.7(e) and §116.10(c)(1) provide that a public hearing or any delay in public notification could lengthen the specified period of time. The amendments to §§116.5, 116.7(h), and 116.10(f) provide for an appeal process relating to the time limits for issuance or denial of permits, special permits, and amendments.

The amendment to §§116.7(e)(3)(D) includes the replacement of the old federal section numbers with new numbers which were published by the United States Environmental Protection Agency in November, 1986, as a recodification of 40 Code of Federal Regulations, §51. The new section numbers replace the old in order to make accurate the citation in §116.7(e)(3)(D).

James C. Myers, P.E., director of the enforcement program, has determined that for the first five-year period the proposed sections will be in effect, there will be fiscal implications. The effect on state government during the first five years the sections will be in effect will be an estimated additional cost of \$50,000 per fiscal year from 1988-1992 for extra postage and handling, additional administrative forms for notification and record-keeping, additional data entry for computerized tracking, and additional staff to conduct the new notification activities. There will be no fiscal implications for local government or small businesses.

Mr. Myers also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be increased understanding by an applicant of the agency's scheduling and time constraints relating to the permit application review process. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

The following statement is published pursuant to Texas Civil Statutes, Article 6252-13(b).1, §3. This statement lists the minimum, maximum, and median times for processing TACB permits, special permits, and permit amendments, from the date an initial application was received to the date of final decision, based on the TACB's actual performance from September 1, 1986, to August 31, 1987. In addition, this statement justifies the time periods which appear in this proposal.

For projects issued from September 1, 1986-August 31, 1987, 364 amendments were issued with a minimum processing time of six days, a maximum time of 1079 days, and a median time of 77 days; 127 permits were issued with a minimum processing time of 15 days, a maximum time of 926 days, and a median time of 151 days; and 333 special permits were issued with a minimum processing time of eight days a maximum time of 1070 days, and a median time of 113 days.

The times for completion of the review of applications for permits, special permits, and amendments are dependent upon several factors, some of which are beyond the control of the TACB staff. Factors which influence completion times are: the time used by an applicant to provide all information to demonstrate that the requirements of TACB Regulation VI will be met; the time used by an applicant to initiate and complete public notification requirements; the public interest in the proposed project since requests for public hearings or public meetings will extend the time required for completion due to the time required to satisfy public interest and/or public opposition; the project type and emission rate since the project type and total emission rate of air contaminants can result in a need to consider federal prevention of significant deterioration (PSD) permit requirements, which add significantly to the TACB staff review required prior to permit issuance; the project size, since projects of large size require much more TACB staff review time than average or small projects and extremely complicated projects also require more staff review time; the level of staffing of TACB since the loss of staff and training of new staff result in extended project review because of a lack of staff time available; and the additional review and permit verification requirements, such as recordkeeping and reporting required by new legislation, which add significantly to project completion time.