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

## Chapter 115. Volatile Organic Compounds

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

#### • 31 TAC §115.171, §115.176

The Texas Air Control Board (TACB) adopts amendments to §115.171 and §115.176 with changes to the proposed text published in the October 2, 1987, issue of the *Texas Register* (12 TexReg 3529).

The amendments to §115.171 prohibit the use, application, sale, or offering for sale of cutback asphalt and establish limits on the solvent content of asphalt emulsions used in Dallas and Tarrant counties during the period from April 16 to September 15 of each year. These restrictions do not apply to cutback asphalt stored in long-term stockpiles or used as a penetrating prime coat. The amendment to §115.176 requires affected sources in Dallas and Tarrant counties to be in compliance no later than December 31, 1988. These amendments are part of a series of additions to Chapter 115 to satisfy requirements by the United States Environmental Protection Agency (EPA) to demonstrate attainment for ozone in the state implementation plan (SIP) revisions for Dallas and Tarrant counties.

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 commenter who suggested any changes in the proposal is categorized as against the proposal; a commenter who agreed with the proposal in its entirety is classified as being for the proposal.

Public hearings were held October 28, 1987, in Cleburne and Rockwall, and October 29, 1987, in Arlington to receive testimony regarding the proposed revisions. Testimony was received from four commenters during the comment period. The North Central Texas Council of Governments and the City of Arlington were in favor of the proposed ban on the summertime use of cutback asphalt as necessary to demonstrate attainment of the ozone standard. The City of Richardson opposed the measure, claiming it would eliminate effective road maintenance. EPA recommended extending the proposed ban to include asphalt emulsions and to require test methods and recordkeeping. EPA also requested that the TACB justify the period of time proposed for the ban on use of cutback asphalt, and specified that final compliance should be achieved by December 31, 1988, rather than December 31, 1990, as proposed.

Asphalt emulsions can readily replace cutback asphalt in most cases and, therefore, are considered to be a very cost-effective control measure. However, EPA's guidelines on cutback asphalt identify the maximum VOC solvent limits which should be allowed in these emulsions in order to ensure the expected emission reductions. These additional limits are included in §115.171 in order to ensure the availability of an acceptable alternative to cutback asphalt while maintaining the air quality benefits. An appropriate test method for determining the volatility content of asphalt emulsions is currently used by the Texas Department of Highways and Public Transportation and has been incorporated into §115.171. Recordkeeping of the use of exempted materials is impractical, considering the small quantities and the sporadic nature of their use. However, the specifications for road maintenance or construction can be determined and monitored through appropriate contracts, reports, and records of state and local agencies and private contractors. The period from April 16-September 15 was chosen to include the dates of all recorded violations of the ozone standard during 1981 through 1983. A compliance date of December 31, 1988, appears to be reasonable.

These amendments are adopted 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.

*§115.171. Cutback Asphalt (as defined under Specified Solvent-Using Processes in the General Rules).*

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

(c) After December 31, 1988, no person shall allow the use, application, sale, or offer for sale of cutback asphalt containing volatile organic compound solvents for the paving of roadways, driveways, or parking lots in Dallas and Tarrant Counties during the period from April 16-September 15 of any year, except:

(1) where long-life (longer than one month) stockpile storage is necessary; or

(2) where the asphalt is to be used solely as a penetrating prime coat.

(d) When emulsified asphalt is utilized to comply with subsection (c) of this section the maximum volatile organic compound content, as determined by ASTM Test Method D 244 or an equivalent method approved by the Executive Director, shall not exceed 12% by weight or the following limitations, whichever is more stringent:

(1) 0.5% by weight for seal coats;

(2) 3.0% by weight for chip seals when dusty or dirty aggregate is used;

(3) 8.0% by weight for mixing with open graded aggregate with less than 1.0% by weight of dust or clay-like materials adhering to the coarse aggregate fraction (1/4 inch in diameter or greater); and

Public hearings were held October 28, 1987, in Cleburne and Rockwall, and October 29, 1987, in Arlington to receive testimony regarding the proposed revisions. Testimony was received from Devoe and Reynolds Company, National Paint and Coatings Association (NPCA), and EPA. All three commenters may be categorized as against the proposal. Devoe and Reynolds and NPCA argued that the proposed definition of architectural coating was too broad and suggested that the term "specialty coatings" be separately identified or excluded. EPA suggested numerous additional definitions, primarily regarding surface coating, graphic arts, and gasoline marketing operations.

Information received as testimony suggested that architectural coatings should be categorized into several coating families and specific exclusions should be identified. The possibility of additional definitions to improve clarity or enforceability of the proposed Regulation V changes can be considered in detail with EPA during 1988. Proposed revisions to TACB Regulation V to control wood and plastics coating was withdrawn, making a definition for such coating unnecessary.

The amendment is adopted 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 intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the TACB makes.

*§101.1. Definitions.* Unless specifically defined in the Act or in the rules of the board, the terms used by the board have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by Texas Civil Statutes, Article 4477-5, the following terms, when used in this part (31 TAC Part III), shall have the following meanings, unless the context clearly indicates otherwise.

**Architectural coating**—Any protective or decorative coating applied to the interior or exterior of a building or structure, including latex paint, alkyd paints, stains, lacquers, varnishes, and urethanes. Excluded from this definition are paints sold in containers of one pint or less; paints used on roadways, pavement, swimming pools, and similar surfaces; and aerosol spray products.

**Automobile refinishing**—The recoating of individual automobiles and light-duty trucks by a commercial operation other than the manufacturer to repair, restore, or alter the exterior finish, including primer, primer surfacer, alkyd enamel, base coat, clear coat, and lacquer application.

**Consumer-solvent products**—Products sold or offered for sale by wholesale or retail outlets for individual, commercial, or industrial use which may contain volatile organic compounds, including household products, toiletries, aerosol products, rubbing compounds, windshield washer fluid, polishes and waxes, nonindustrial adhesives, space deodorants, moth control products, or laundry treatments.

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.

Issued in Austin, Texas, on March 24, 1988.

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Allen Eli Bell

(4) 12% by weight for mixing with dense graded aggregate when used to produce a mix designed to have 10% or less voids when fully compacted.

§115.176. Counties and Compliance Schedule.

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

(d) The provisions of §115.171(c)-(d) of this title (relating to Cutback Asphalt) shall apply only within Dallas and Tarrant Counties. All affected persons shall be in compliance with this section as soon as practicable, but not later than December 31, 1988.

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.

Issued in Austin, Texas, on March 24, 1988.

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Executive Director  
Texas Air Control Board

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

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

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**• 31 TAC §§115.191, 115.193, 115.194**

The Texas Air Control Board (TACB) adopts amendments to §§115.191, 115.193, and 115.194, are adopted with changes to the proposed text published in the October 2, 1987 issue of the *Texas Register* (12 TexReg 3529-3531).

The amendments to §115.191, concerning Emission Limitations, establish limits on the VOC content of coatings and wipe-down solvents used in automobile refinishing and coatings sold or offered for sale as architectural coatings in Dallas and Tarrant Counties. Specified cleanup equipment and procedures for automobile refinishing and test methods for determining compliance with the automobile refinishing and architectural coating limitations were also adopted. Proposed requirements for the capture and control of fugitive emissions from industrial surface coating operations and additional limitations on wood and plastics coating operations were withdrawn. Amendments to §115.193, revised applicable references to ensure consistency with adopted changes to §115.191. Amendments to §115.194, concerning Compliance Schedule and Counties, requires final compliance with automobile refinishing and architectural coating requirements by no later than December 31, 1989. These amendments are part of a series of additions to Chapter 115 to satisfy requirements by the United States Environmental Protection Agency (EPA) to demonstrate attainment for ozone in the state

implementation plan (SIP) revisions for Dallas and Tarrant Counties.

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 commenter who suggested any changes in the proposal is categorized as against the proposal; a commenter who agreed with the proposal in its entirety is classified as being for the proposal.

Public hearings were held October 28, 1987, in Cleburne and Rockwall, and October 29, 1987, in Arlington to receive testimony regarding the proposed revisions. Testimony was received from 49 commenters representing local governments, affected industries, the United States Air Force, and EPA. All of the commenters may be categorized as against the proposal.

Thirty-one commenters addressed the proposed surface coating fugitive control requirements. Local officials, while supporting any control measure necessary to demonstrate attainment of the ozone standard, considered the surface coating fugitive rule among the least favorable options. One individual and EPA supported the proposed controls but recommended additional requirements. Industry officials opposed the proposed controls because the requirements were not cost effective, in many cases were technologically infeasible, would damage the economic competitiveness of small businesses in Dallas and Tarrant Counties, would discourage the use of low-solvent technologies, and could actually stimulate ozone formation by increasing nitrogen oxide emissions. The information provided as testimony documented the technical, economic, and administrative difficulties of imposing these requirements on surface coating operations which have already complied with existing regulations. The emission reductions from the proposed controls were not required for a demonstration of attainment.

Fifteen commenters addressed the proposed automobile refinishing control requirements. Local officials supported this control measure as necessary to demonstrate attainment. EPA questioned the enforceability of the requirements and recommended changes to characterize the affected coatings based on specific formulation criteria and as delivered to the spray equipment. EPA also specified that final compliance by December 31, 1989, was required. Industry officials opposed the proposed controls because no existing low-solvent technology for several coatings currently used in automobile refinishing was available which could provide acceptable results. However, several commenters recommended alternative control techniques and requirements. These included VOC limitations on various types of coatings currently used in automobile refinishing; VOC limitations on preparation and cleanup solvents; improved application equipment, techniques, and training; and controlled waste management programs. Information was provided indicating that a single blanket emission limitation on all coatings used in automobile refinishing was inappropriate. However, significant emission reductions can be achieved through the adoption of separate emission limitations on various coating families and other solvents used in the industry and the

enforcement of specific equipment and operation requirements. Suggested changes to describe compliant coatings as delivered to the spray equipment and to adopt approved test methods for determining coating characteristics should improve the enforceability of these control requirements. Compliance by December 31, 1989, may be reasonably expected.

Seventeen commenters addressed the proposed architectural coating control requirements. Local officials supported the proposed controls as necessary to demonstrate attainment. EPA recommended compliance strategies, including recordkeeping provisions, and specified that final compliance by December 31, 1989, was required. Industry officials opposed the proposed limitation because most products do not have low-VOC alternatives, reformulation is costly and time consuming, and controls would result in little actual emission reductions. However, they suggested that alternative limitations or exemptions should be provided for various families of coatings or specialty coatings. Information provided indicated that, while many commonly used specialty coatings can not be reasonably expected to comply with the proposed limitation, significant emission reductions can be achieved by establishing VOC limits for various families of coatings. While classification of coating families is expected to eliminate the need for specific exemptions, the definition of architectural coating should exclude paints sold in containers of one pint or less, and coatings used on roadways, pavement, and swimming pools. Aerosol products may also be excluded since they are inventoried separately from other coatings. The TACB staff is considering additional rulemaking to include a requirement for limited recordkeeping and an enforcement plan for annual investigations at a sampling of affected sales locations. Compliance by December 31, 1989, may be reasonably expected.

Seventeen commenters address the proposed wood and plastics coating control requirements. Local officials, while supporting any control measure necessary to demonstrate attainment, considered the proposed controls on wood and plastic coating to be among the least favorable of all options. EPA specified that final compliance by December 31, 1989, was required. Industry opposed the proposed limitations on wood and plastic coatings because many products require specialized coatings which could not satisfy the requirements. The information provided documented the technical, economic, and administrative difficulties of imposing controls on wood and plastic coatings without a detailed consideration of the many issues raised. The emission reductions from the proposed controls are not required for a demonstration of attainment.

These amendments are adopted 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.

*§115.191. Emission Limitations.*

(a) No person may cause, suffer, allow, or permit volatile organic compound emissions from the surface coating pro-