

These amendments are adopted under Texas Civil Statutes, Article 4477-5, §3. 099(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) Compliance with subsection (a) of this section in Dallas and Tarrant counties shall be determined by applying the following test methods, as appropriate:

(1) Test Methods 1-4 (40 CFR 60, Appendix A) for determining flow rates, as necessary;

(2) Test Method 24A (40 CFR 60, Appendix A) for determining the volatile organic compound content and density of printing inks and related coatings;

(3) Test Method 25 (40 CFR 60, Appendix A) for determining the volatile organic compound concentration in a vent gas stream from an incinerator;

(4) Test Methods 25A or 25B (40 CFR 60, Appendix A) for determining the volatile organic compound concentration in a vent gas stream from a carbon adsorption unit; or

(5) equivalent test methods approved by the executive director.

§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 of this title (relating to Control Requirements).

(b) In Dallas and Tarrant counties after December 31, 1989, only those rotogravure and flexographic printing facilities which when uncontrolled emit a combined weight of VOCs less than 50 tons in one year (based on historical ink and solvent usage) are exempt from the requirements of §115.201 of this title (relating to Control Requirements).

§115.203. Compliance Schedule and Counties.

(a) The provisions of §15.201 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) All persons affected by the provisions of §115.202(b) of this title (relating to Exemptions) shall submit to the Texas Air Control Board a final control plan for compliance with the provisions of §115.201 of this title (relating to Control Requirements) no later than December 31, 1988, and shall be in compliance as soon as practicable but no later than December 31, 1989.

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.

TRD-8802995

Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: April 14, 1988

Proposal publication date: October 2, 1987

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

◆ ◆ ◆
Specified Consumer-Solvent Products

• 31 TAC §§115.291, 115.293, 115.294

The Texas Air Control Board (TACB) adopts New §§115.291, 115.293, and 115.294, with changes to the proposed text published in the October 2, 1987, issue of the *Texas Register* (12 TexReg 3532). The sections concern specified consumer-solvent products in Dallas and Tarrant Counties.

New §115.291, concerning control requirements, prohibits the sale or offering for sale in Dallas and Tarrant counties of automobile windshield washer fluids containing VOC, and incorporates the appropriate test methods for determining compliance. New §115.293, concerning exemptions, excludes wholesale or retail transactions of products used outside of Dallas and Tarrant counties, products purchased and delivered prior to December 31, 1988, and products used exclusively in new vehicles prior to initial sale. New §115.294, concerning compliance schedule and counties, requires affected sources in Dallas and Tarrant counties to be in compliance 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 30 commenters representing local governments, affected industries, trade associations, and EPA. All of the commenters may be categorized as against the proposal.

Local officials and Brandt Mannchen, while supporting any control measure necessary to demonstrate attainment of the ozone standard, considered consumer-solvent product controls among the least favorable options. EPA specified that a compliance strategy, including recordkeeping requirements, should be adopted to ensure enforcement of the controls. Furthermore, EPA specified that compliance by December 31, 1989, was required.

Industry and trade organizations opposed the proposed ban on aerosol spray products, claiming small emission reduction benefits, severe cost to manufacturers attempting to reformulate products, lost sales, lost tax revenue, and difficulties associated with the administration and enforcement of the requirements. Many commenters also argued that no alternative to hydrocarbon propellants existed for many products and presented other potential problems, including loss of tamper-resistance, damage to interstate commerce, aggravated waste container disposal, and the potentially higher and more photochemically reactive VOC emissions from alternative technologies. Information received during the comment period indicated that more investigation into the technical and economic reasonableness of a ban on aerosol products and space deodorants is needed before any regulatory controls are implemented. The emission reductions from the proposed ban on these products are not required for a demonstration of attainment.

Delta Distributors, Inc. and Texas Committee on Natural Resources opposed the proposed ban on windshield washer fluids because of the increased driving hazard potential and because the methanol and isopropanol used in the fluids is only intermediately photochemically reactive. General Motors Corporation recommended the ban be limited to aftermarket sales only to allow vehicle manufacturers to use fluids in new car preparation. Significant emission reductions can be achieved through the ban on windshield washer fluids. While the hydrocarbons in the affected fluids may be only moderately photochemically reactive, they are still considered to be VOC's subject to the ozone control strategies required by EPA. The proposed ban may require motorists to adjust their vehicle maintenance habits to include more frequent manual washing of windshields and the draining of the washer reservoir and lines during the winter to prevent freezing but should not adversely affect driving safety. Water or non-VOC fluids may still be used. The TACB recognizes the requirements of new car manufacturers which transport vehicles to other parts of the nation not affected by these sections and concurs with the recommendation to limit the aftermarket sales of windshield washer fluids only. The TACB staff is also developing a detailed enforcement plan for determining compliance of affected outlets which will include annual investigation of a statistically valid sample of all locations in Dallas and Tarrant counties. Compliance by December 31, 1989, can be expected.

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.

§115.291. Control Requirements.

(a) No person may sell or offer for sale in Dallas and Tarrant counties automobile windshield washer fluids which contain volatile organic compounds as an active ingredient, solvent, or any other component.

(b) Compliance with subsection (a) of this section shall be determined by applying the following test methods, as appropriate:

(1) Test Method 24A (40 CFR 60, Appendix A); or

(2) equivalent test methods approved by the executive director.

§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, 1988;

(2) products sold or offered for sale to wholesale outlets for distribution and sale to consumers outside of Dallas and Tarrant counties;

(3) products sold or offered for sale to retail outlets located outside of Dallas and Tarrant counties; and

(4) windshield washer fluid used exclusively in new vehicles prior to initial sale.

§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, 1989.

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, 1988.

TRD-8802996 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: April 14, 1988

Proposal publication date: October 2, 1987

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

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter Q. Franchise Tax

• 34 TAC §3.391

The Comptroller of Public Accounts adopts the repeal of §3.391 without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4106).

This section is repealed in order that a substantially revised section, concerning accounting methods and dealing with the same subject matter, may be adopted.

No comments were received regarding adoption of the repeal.

This repeal is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the franchise tax.

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 23, 1988.

TRD-8803065 Bob Bullock
Comptroller of Public
Accounts

Effective date: April 15, 1988

Proposal publication date: November 6, 1987

For further information, please call: (512) 463-4004

• 34 TAC §3.403

The Comptroller of Public Accounts adopts the repeal of §3.403 without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4108).

This section was repealed in order that a substantially revised section dealing with the same subject matter may be adopted.

No comments were received regarding adoption of the repeal.

This repeal is adopted under Texas Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the franchise tax.

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 23, 1988.

TRD-8803066 Bob Bullock
Comptroller of Public
Accounts

Effective date: April 15, 1988

Proposal publication date: November 6, 1987

For further information, please call: (512) 463-4004

• 34 TAC §3.405

The Comptroller of Public Accounts adopts the repeal of §3.405 without changes to the proposed text published in the November 6, 1987, issue of the *Texas Register* (12 TexReg 4112).

This section was repealed in order that a substantially revised section dealing with the same subject matter may be adopted.

No comments were received regarding adoption of the repeal.

This repeal is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the franchise tax.

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 23, 1988.

TRD-8803067 Bob Bullock
Comptroller of Public
Accounts

Effective date: April 15, 1988

Proposal publication date: November 6, 1987

For further information, please call: (512) 463-4004

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 27. ICF-MR

The Texas Department of Human Services (DHS) adopts the repeal of §27. 1206 and new §27.3010. New §27.3010 is adopted with changes to the proposed text published in the October 16, 1987, issue of the *Texas Register* (12 TexReg 3829). The repeal of §27.1206 is adopted without changes, and will not be republished.

The repeal and new section are justified because they allow residents of intermediate-care facilities for the mentally retarded (ICF-MR), especially those residents whose families live far from the facilities, to spend longer periods of time with their families.

The repeal of §27.1206 will function by deleting ICF-MR policy that has been superceded by new §27.3010. New §27.3010 will function by specifying the conditions under which vendor payments may be made during residents' absences from facilities, and by allowing one 10-day extended therapeutic visit per year in addition to the unlimited number of three-day therapeutic visits previously allowed.

The department received 19 written com-