

Texas Register

Volume 13, Number 91, December 9, 1988

Pages 6045-6128

In This Issue...

Attorney General

Open Records Decisions

6053-ORD-511 (RQ-1411)

6053-ORD-512 (RQ-1519)

Opinions

6053-JM-984 (RQ-1469)

6053-JM-985 (RQ-1483)

Requests for Opinions

6053-(RQ-1591)-(RQ-1600)

Proposed Sections

Texas Department of Agriculture

6055-Seed Certification Standards

State Securities Board

6055-Terminology

6055-Transactions Exempt from Registration

6056-Administrative Guidelines for Registration of Equipment Programs

Public Utility Commission of Texas

6063-Substantive Rules

Texas State Board of Dental Examiners

6068-Conduct

Board of Vocational Nurse Examiners

6068-Administration

6069-Education

Texas State Board of Public Accountancy

6069-Professional Conduct

Texas Department of Human Services

6070-Child Protective Services

Texas Rehabilitation Commission

6072-Memoranda of Understanding with Other State Agencies

Withdrawn Sections

State Securities Board

6073-Dealers and Salesmen

Board of Nurse Examiners

6073-Licensure and Practice

State Property Tax Board

6073-Tax Record Requirement

Adopted Sections

State Securities Board

6075-Confidentiality of Information

6075-Exemptions by Rule or Order

State Board of Dental Examiners

6075-Extension of Duties of Auxiliary Personnel

Board of Nurse Examiners

6076-Bylaws

Statewide Health Coordinating Council

6077-Health Planning and Resource Development

General Land Office

6079-Energy Resources

Texas Parks and Wildlife Department

6080-Fisheries

Texas Air Control Board

6081-General Rules

6082-Control of Air Pollution from Volatile Organic Compounds

State Property Tax Board

6094-Tax Record Requirements

Texas Department of Public Safety

6094-Commercial Driver Training School Regulations

State Board of Insurance Exempt Filing

6100-Notifications Pursuant to the Insurance Code, Chapter 5, Subchapter L

Open Meetings

6103-Texas Department of Agriculture

6103-Automated Information and Telecommunication Council

CONTENTS CONTINUED INSIDE

organic compounds of less than 100 pounds in any consecutive 24-hour period shall be exempt from the provisions on §115.192 of this title (relating to Control Techniques).

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 November 30, 1988.

TRD-8812244

Allen Eil Bell
Executive Director
Texas Air Control Board

Effective date: December 21, 1988

Proposal publication date: June 7, 1988

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

Graphic Arts (Printing) by Rotogravure and Flexographic Processes

• 31 TAC §115.201, §115.203

The Texas Air Control Board (TACB) adopts amendments to §115.201 and §115.203. Section 115.201 is adopted with changes to the proposed text as published in the June 7, 1988, issue of the *Texas Register* (13 TexReg 2820). Section 115.203 is adopted without changes and will not be republished.

The amendments to §115.201, concerning control requirements, clarify that the emission limitations for low-solvent inks are to be calculated minus water and exempt solvents. The amendments also specify necessary test methods and recordkeeping requirements for affected facilities. The amendments to §115.203, concerning compliance schedule and counties, require final control plans submitted by affected facilities to include a commitment to conduct appropriate initial compliance testing no later than 90 days after the specified compliance deadline. Various additional proposed amendments to these sections clarify and simplify the enforcement of current requirements.

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, while a commenter who agreed with the proposal in its entirety is categorized as being for the proposal.

Two commenters, an individual commenter and the Environmental Protection Agency (EPA), testified against the proposed amendments to §115.201, while no comments were received in favor of this proposal. No comments were received regarding amendments to §115.203.

A summary of comments and a discussion of issues follows. Copies of the written testimony and of the hearing transcript are available for inspection at the TACB office, 6330 Highway 290 East, Austin, Texas 78723.

The individual commenter suggested that overall control effectiveness for add-on controls should be greater than 90%. The re-

quired effectiveness for various types of printing operations is established by CTGs published by the EPA to define RACT.

The EPA noted that §115.201(c), regarding recordkeeping, as written would apply to all counties as written. Since the current proposals were intended to include additional recordkeeping requirements for Dallas and Tarrant counties only, it is appropriate to limit this revision to these two counties.

The 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 purpose 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) application to the substrate of low solvent ink with a volatile fraction containing 25% by volume or less of volatile organic compound solvent and 75% by volume or more of water and exempt solvent;

(2) application to the substrate of high solids solvent-borne ink containing 60% by volume or more of nonvolatile material (minus water and exempt solvent); or

(3) operation of a carbon adsorption or incineration system to reduce the volatile organic compound emissions from an effective capture system by at least 90% by weight. The design and operation of the capture system must be consistent with good engineering practice and shall be required to provide for an overall reduction in volatile organic compound emissions, as demonstrated to the satisfaction of the executive director, upon request, of at least the following weight percentages: 75% for a publication rotogravure process; 65% for a packaging rotogravure process; and 60% for a flexographic printing process.

(b) Compliance with subsection (a) of this section in Dallas and Tarrant counties shall be determined upon request of the executive director by applying the following test methods, as appropriate:

(1) (No change.)

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

(3) Test Method 25 (40 Code of Federal Regulations 60, Appendix A) for determining total gaseous nonmethane organic emissions as carbon;

(4) Test Methods 25A or 25B (40 Code of Federal Regulations 60, Ap-

pendix A) for determining total gaseous organic concentrations using flame ionization or nondispersive infrared analysis;

(5) United States Environmental Protection Agency guidelines series document *Procedures for Certifying Quantity of Volatile Organic Compounds Emitted by Paint, Ink, and Other Coatings*, EPA-450/3-84-011, as in effect December, 1984; or

(6) equivalent test methods and procedures approved by the executive director.

(c) The owner or operator of any graphic arts facility in Dallas and Tarrant counties subject to the control requirements of this section shall:

(1) maintain records of the volatile organic compound content of all inks as applied to the substrate. The composition of inks may be determined by the methods referenced in subsection (b) of this section or by examining the manufacturer's formulation data and the amount of dilution solvent added to adjust the viscosity of inks prior to application to the substrate;

(2) maintain daily records of the quantity of each ink and solvent used at a facility subject to the requirements of an alternate means of control approved by the executive director in accordance with §115.401 of this title (relating to Alternate Means of Control) which allows the application of inks exceeding the applicable control limits. Such records must be sufficient to demonstrate compliance with the applicable emission limitation on a daily weighted average;

(3) install and maintain monitors to accurately measure and record operational parameters of any emission control device installed to meet applicable control requirements. Such records must be sufficient to demonstrate proper functioning of those devices to design specifications, including:

(A) the exhaust gas temperature of direct-flame incinerators and/or the gas temperature immediately upstream and downstream of any catalyst bed, in degrees Celsius;

(B) the total amount of volatile organic compounds recovered by a carbon adsorption or other solvent recovery system during a calendar month; and

(C) the dates and reasons for any maintenance and repair of the required control devices and the estimated quantity and duration of volatile organic compound emissions during such activities.

(4) maintain the results of any testing conducted at an affected facility in accordance with the provisions specified in subsection (b) of this section;

(5) maintain all records at the affected facility for at least two years and make such records available to representatives of the Texas Air Control Board or the local air pollution agency having jurisdiction in the area, upon request.

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 November 30, 1988.

TRD-8812243 Allen Ell Bell
Executive Director
Texas Air Control Board

Effective date: December 21, 1988

Proposal publication date: June 7, 1988

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

Perchloroethylene Dry Cleaning Systems

• 31 TAC §115.221

The Texas Air Control Board (TACB) adopts an amendment to §115.221, without changes to the proposed text as published in the June 7, 1988, issue of the *Texas Register* (13 TexReg 2821).

The amendment to §115.221, concerning testing requirements, require the storage of waste solvent material in vapor-tight containers and specify applicable test methods.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(C)(1), require 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, while a commenter who agreed with the proposal in its entirety is categorized as being for the proposal.

One individual commenter testified against the proposed amendment to §115.221, while no comments were received in favor of the proposal.

A summary of comments and a discussion of issues follows. Copies of the written testimony and of the hearing transcript are available for inspection at the TACB office, 6330 Highway 290 East, Austin, Texas 78723.

The individual commenter suggested that storage of waste in vaportight containers was not sufficient. Disposal of waste solvent is regulated by the Texas Water Commission (TWC). Control of vapor loss prior to the transfer of the material to a waste disposal company authorized by the TWC is sufficient to satisfy Environmental Protection Agency requirements.

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 general intent and purpose of the Texas Clean Air Act and to amend any rule or regulation the TACB makes.

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 November 30, 1988.

TRD-8812242 Allen Ell Bell
Executive Director
Texas Air Control Board

Effective date: December 21, 1988

Proposal publication date: June 7, 1988

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

Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks

• 31 TAC §115.262

The Texas Air Control Board (TACB) adopts an amendment to §115.262, without changes to the proposed text as published in the June 7, 1988, issue of the *Texas Register* (13 TexReg 2822).

The amendment to §115.262, concerning testing requirements, specify the test methods to be used to determine compliance with the applicable control requirements.

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, while a commenter who agreed with the proposal in its entirety is categorized as being for the proposal.

No comments were received regarding adoption of the amendment. Copies of the written testimony and of the hearing transcript are available for inspection at the TACB office, 6330 Highway 290 East, Austin, Texas 78723.

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 general intent and purpose of the Texas Clean Air Act and to amend any rule or regulation the TACB makes.

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 November 30, 1988.

TRD-8812241 Allen Ell Bell
Executive Director
Texas Air Control Board

Effective date: December 21, 1988

Proposal publication date: June 7, 1988

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

TITLE 34. PUBLIC FINANCE

Part VII. State Property Tax Board

Chapter 155. Tax Record Requirements

• 34 TAC §155.15

The State Property Tax Board adopts an amendment to §155.15, without changes to the proposed text as published in the June 3, 1988, issue of the *Texas Register* (13 TexReg 2735).

The amendment changes the agency's model report of decreased value forms to reflect changes in legislation.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Property Tax Code, §5.03, which provides the State Property Tax Board with the authority to prescribe all forms necessary for use in appraisal offices.

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 July 29, 1988.

TRD-8812309 Ron Patterson
Executive Director
State Property Tax Board

Effective date: December 22, 1988

Proposal publication date: June 3, 1988

For further information, please call: (512) 834-4802

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 17. Commercial Driver Training School Regulations

• 37 TAC §§17.1-17.4, 17.7-17.10, 17.12, 17.14-17.18, 17.20-17.25, 17.28-17.30

The Texas Department of Public Safety adopts amendments to §§17.1-17.4, 17.7-17.10, 17.12, 17.14-17.18, 17.20-17.25, and 17.28-17.30. Sections 17.2, 17.3, 17.7, 17.21, 17.25, and 17.30 are adopted with changes to the proposed text as published in the August 16, 1988, issue of the *Texas Register* (13 TexReg 4045). Sections 17.1, 17.4, 17.8-17.10, 17.12, 17.14-17.18, 17.20, 17.22-17.24, 17.28, and 17.29 are adopted without changes and will not be republished.

The adoption of the amendments will improve the program for commercial driver training schools providing driving safety courses, driver education for minors, and other traffic-related subjects. Administration of the program by this department will be simplified.