

Two commenters, EPA and one individual, opposed the exemption for containers used exclusively for fueling of agricultural implements and suggested exempting only tanks with a 550 gallon capacity equipped with a submerged fill pipe. Containers used exclusively for fueling of agricultural implements represent an insignificant contribution to emissions from fuel dispensing facilities.

One individual opposed the exemption for floating roof tanks at fuel dispensing facilities. While floating roof tanks are rarely used at fuel dispensing facilities, the technology represents a more stringent level of control than the specified vapor balance systems. Consideration of such controls was beyond the scope of the current rulemaking effort.

Two commenters, EPCCHD and one individual, suggested removing or lowering the exemption based on a throughput of less than 120,000 gallons per year. The throughput exemption is included in EPA guidelines for Stage I vapor controls and represents a minimum level of significance. Potential reduction of the exemption level may be considered in subsequent rulemaking.

The new sections are adopted under the Texas Clean Air Act (TCAA) §382.017, which provides the TACB with the authority to make rules consistent with the policy and purposes of the TCAA.

§115.222. Control Requirements. For all affected persons in the counties referenced in §115.229 of this title (relating to Counties and Compliance Schedules), a vapor balance system will be assumed to comply with the specified emission limitation of §115.221 of this title (relating to Emission Specifications) if the following conditions are met:

- (1) the container is equipped with a submerged fill pipe;
- (2) a vapor-tight return line is connected before gasoline can be transferred into the storage container;
- (3) no avoidable gasoline leaks, as detected by sight, sound, or smell, exist anywhere in the liquid transfer or vapor balance systems;
- (4) the vapor return line's cross-sectional area is at least one-half of the product drop line's cross-sectional area;
- (5) the only atmospheric emission during gasoline transfer into the storage container is through a storage container vent line equipped either with an orifice no greater than 3/4 inch (1.9 cm) internal diameter or a pressure-vacuum relief valve set to open at a pressure of no less than eight ounces per square inch (3.4 kPa);
- (6) the delivery vessel is kept vapor-tight at all times (except when gauging) until the captured vapors are discharged to a loading facility with vapor recovery equipment, if the delivery vessel is refilled in one of the counties listed in

§115.229 of this title (relating to Counties and Compliance Schedules);

(7) in Dallas, El Paso, Harris, and Tarrant Counties, gauge pressure in the tank-truck tank does not exceed 18 inches of water (4.5 kPa) or vacuum exceed six inches of water (1.5 kPa); and

(8) in Dallas, El Paso, Harris, and Tarrant Counties, no leak, as defined in §115.010 of this title (relating to Definitions), exists from potential leak sources when measured with a combustible gas detector.

§115.225. Testing Requirements. For all affected persons in the counties referenced in §115.229 of this title (relating to Counties and Compliance Schedules) compliance with §115.221 of this title (relating to Emission Specifications) or §115.222 of this title (relating to Control Requirements) shall be determined by applying the following test methods, as appropriate:

(1) Test Methods 1-4 (40 Code of Federal Regulations 60, Appendix A) for determining flow rate, as necessary;

(2) Test Method 18 (40 Code of Federal Regulations 60, Appendix A) for determining gaseous organic compound emissions by gas chromatography;

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

(5) Test Method 21 (40 Code of Federal Regulations 60, Appendix A) for determining volatile organic compound leaks; or

(6) minor modification of these test methods approved by the executive director.

§115.229. Counties and Compliance Schedules. All affected persons in Brazoria, Dallas, El Paso, Galveston, Harris, and Tarrant Counties shall be in compliance with this undesignated head concerning filling of gasoline storage vessels (Stage I), for motor vehicle fuel dispensing facilities in accordance with the following schedules:

(1) all compliance schedules which have expired prior to February 1, 1990, in accordance with §115.930 of this title (relating to Compliance Dates); and

(2) all persons affected by the provisions of §115.226 of this title (relating to Recordkeeping Requirements) shall be in compliance;

(A) in Dallas and Tarrant Counties as soon as practicable but no later than August 31, 1990; and

(B) in Brazoria, El Paso, Galveston, and Harris Counties as soon as practicable but no later than December 31, 1990.

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 January 26, 1990.

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Allen Eli Bell
Executive Director
Texas Air Control Board

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

Control of Volatile Organic Compound Leaks from Gasoline Tank-Trucks

• 31 TAC §§115.234-115.236, 115.239

The Texas Air Control Board (TACB) adopts new §§115.234-115.236 and §115.239. Sections 115.235 and 115.239 are adopted with changes to the proposed text as published in the July 28, 1989, issue of the *Texas Register* (14 TexReg 3650). Sections 115.234 and 115.236 are adopted without changes and will not be republished.

The new §115.234, concerning inspection requirements, identifies the components needing inspection and the frequency they are to be inspected. The new §115.235, concerning testing requirements, identifies the test methods which must be used to determine compliance and enables the TACB executive director to approve minor modifications to the methods. The new §115.236, concerning recordkeeping requirements, describes the information which must be maintained by affected facilities in order to ensure continuous compliance and improve the effectiveness of enforcement. The new §115.239, concerning counties and compliance schedules, establishes the final compliance dates for applicable controls in specified counties. These sections are part of a series of additions to Chapter 115 proposed primarily to satisfy United States Environmental Protection Agency requirements for Phase I of the Post-1987 State Implementation Plan revisions for ozone. TACB also has adopted a comprehensive restructuring of Chapter 115 to promote greater clarity and to eliminate inconsistencies resulting from numerous independent revisions over the past several 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 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. Two commenters opposed the proposal, while no one testified in support.

One individual questioned who would be responsible for verifying that appropriate leak testing had been performed prior to gasoline transfers at convenience stores and unmanned terminals. A comprehensive list of the leak test certification numbers for all tank-trucks which service a store or unmanned terminal shall be maintained by the owner or operator of the facility. While the presence of the sticker will not be verified prior to every transfer, the responsibility for a failure to comply with the requirement to use only leak tested trucks clearly rests with the owner or operator of the facility.

One commenter, El Paso City-County Health District, suggested that the inspection certification information be painted on the tanker and that the tank-truck driver provide documentation of the leak test results, upon request. A leak test certification sticker must be displayed on the truck and can be readily observed by enforcement personnel.

The new sections are adopted under the Texas Clean Air Act (TCAA), §382.017, which provides the TACB with the authority to make rules consistent with the policy and purposes of the TCAA.

§115.235. Testing Requirements. For all affected persons in the counties referenced in §115.239 of this title (relating to Counties and Compliance Schedules), the following testing requirements shall apply.

(1) The owner or operator of any gasoline tank-truck which loads or unloads at any gasoline terminal, gasoline bulk plant, or motor vehicle fuel dispensing facility shall cause each such tank-truck tank to be tested annually to insure that the tank is vapor-tight.

(2) Any tank failing to meet the testing criteria of paragraph (1) of this section shall be repaired and retested within 15 days.

(3) Testing required in paragraph (1) of this section shall be conducted in accordance with the following test methods, as appropriate:

(A) Test Method 27 (40 Code of Federal Regulations 60, Appendix A) for determining vapor tightness of gasoline delivery tank using pressure-vacuum test such that the pressure in the tank must change no more than three inches of water (0.75 kPa) in five minutes when pressurized to a gauge pressure of 18 inches of water (4.5 kPa) and when evacuated to a vacuum of six inches of water (1.5 kPa); or

(B) minor modifications to these test methods approved by the executive director.

§115.239. Counties and Compliance Schedules. All affected persons in Dallas, El Paso, Harris, and Tarrant Counties shall be in compliance with this undesignated head concerning control of volatile organic compound leaks from gasoline tank-trucks in accordance with all compliance schedules which have expired prior to February 1, 1990, in accordance with §115.930 of this title (relating to Compliance Dates).

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

Control of Reid Vapor Pressure of Gasoline

• 31 TAC §§115.242, 115.243, 115.245-115.247, 115.249

The Texas Air Control Board (TACB) adopts new §115.242, §115.243, §§115.245-115.247, and §115.249. Sections 115.242 and 115.245 are adopted with changes to the proposed text as published in the July 28, 1989, issue of the *Texas Register* (14 TexReg 3652). Sections 115.243, 115.246, 115.247, and 115.249 are adopted without changes and will not be republished.

The new §115.242, concerning control requirements, defines the type of control or technologies required to achieve necessary emission reductions. The new §115.243, concerning alternate control requirements, enables the TACB executive director to approve substantially equivalent control technologies under specific conditions. The new §115.245, concerning testing requirements, identifies the test methods which must be used to determine compliance. The new §115.246, concerning recordkeeping requirements, describes the information which must be maintained by affected facilities in order to ensure continuous compliance and improve the effectiveness of enforcement. The new §115.247, concerning exemptions, specifies the conditions necessary to qualify for exemption from certain control requirements. The new §115.249, concerning counties and compliance schedules, establishes the final compliance dates for applicable controls in specified counties. These sections are part of a series of additions to Chapter 115 proposed primarily to satisfy United States Environmental Protection Agency (EPA) requirements for Phase I of the Post-1987 State Implementation Plan (SIP) revisions for ozone. The TACB also has adopted a comprehensive restructuring of Chapter 115 to promote greater clarity and to eliminate inconsistencies resulting from numerous independent revisions over the past several 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 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. Ten commenters opposed the proposal, while no one testified in support.

While two commenters, North Central Texas Council of Governments and the City of Fort Worth, expressed general support for the proposed controls on the volatility, or the Reid vapor pressure (RVP), of gasoline in the Dallas/Fort Worth consolidated metropolitan statistical area (CMSA), three additional commenters; Exxon Company, U.S.A. (Exxon), Texas Oil Marketers Association (TOMA), and Texas Mid-Continent Oil and Gas Association (TMOGA); recommended either that statewide controls be implemented or that controls be deferred until EPA promulgates the second phase of the Federal Volatility Program. The Federal Clean Air Act precludes a state from adopting regulations which are different from EPA regulations except when necessary to demonstrate attainment of a national ambient air quality standard. Since the majority of the state is not classified as nonattainment, RVP controls cannot be justified. While the second phase of the Federal RVP Program is expected to be more stringent than the proposed state controls, it is not scheduled for implementation until at least 1992. The Post-1982 SIP revisions for Dallas and Tarrant Counties, however, depend on a reduction in the RVP of gasoline to 9.0 pounds per square inch absolute (psia) by the year 1990. Therefore, delaying implementation of RVP controls until the federal program becomes effective may be considered a failure to implement a commitment in the SIP.

One commenter, EPA, stated that the TACB must submit to EPA a demonstration that justifies the necessity for more stringent controls than provided in the federal program for RVP controls in the Dallas/Fort Worth CMSA. This demonstration must include documentation showing that no more cost-effective controls are available. A regulatory preemption request and the associated demonstration is being prepared by the TACB staff and will be submitted to EPA as soon as possible.

Three commenters; Exxon, TOMA, and TMOGA; stated that further reductions in gasoline volatility in an isolated geographic area are not cost-effective and may be disruptive and costly to the consumer. The commenters indicated that more lead time is necessary to provide for significant refinery modifications, that a shortage in gasoline supplies of up to 2,500 barrels per day (BPD) may occur in the Dallas/Fort Worth area, and that administrative uncertainties will be created similar to those caused by the division of the state at the 99th meridian in the federal program.

While some additional cost, disruption, and confusion may result from the implementation of the proposed RVP controls in the Dallas/Fort Worth CMSA, no serious technical or economic problems are apparent. Lower RVP gasoline is produced by blending