

soon as practicable but no later than December 31, 1989.

(C) All affected persons shall be in compliance with §115.426 of this title (relating to Recordkeeping Requirements):

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

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

(D) All persons required to implement controls as a result of exceeding the exemption levels referenced in §115.427(6) of this title (relating to Exemptions) shall be in compliance with §115.421 of this title (relating to Emissions Specifications):

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

(ii) in El Paso 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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Executive Director
Texas Air Control Board

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

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**Graphic Arts (Printing) by
Rotogravure and
Flexographic Processes**

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• 31 TAC §§115.432, 115.433,
15.435-115.437, 115.439

The Texas Air Control Board (TACB) adopts new §§115.432, 115.433, 115.435-115.437, and 115.439. Sections 115.435, 115.437, and 115.439 are adopted with changes to the proposed text as published in the July 28, 1989, issue of the *Texas Register* (14 TexReg 3670). Sections 115.432, 115.433, and 115.436 are adopted without changes and will not be republished.

The new §115.432, concerning control requirements, defines the type of control or technologies required to achieve necessary emission reductions. The new §115.433, concerning alternate control requirements, enables the TACB executive director to approve substantially equivalent control technologies under specific conditions. The new §115.435, 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 §115.436, 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 §115.437, concerning exemptions, specifies the conditions necessary to qualify for exemption from certain control requirements. The new §115.439, 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. Four commenters opposed the proposal, while no one testified in support.

Two commenters, EPA and one individual, indicated that compliance with §115.432 should be achieved on a line-by-line basis. EPA has advocated a very narrow concept of the definition of a line that includes only the equipment necessary to produce a single product unit. In practice this has ranged from an individual press to a single solvent in a press using many different inks. The TACB staff defines a line in a broader way, including equipment at a facility used to produce all similar products which are covered by the same limitation. This broader interpretation provides for the emission reductions expected from the rule if all inks used satisfied the applicable emission limits, while potentially allowing a facility to use a limited daily amount of higher solvent inks for specialty purposes. EPA's more limited interpretation severely limits or eliminates this flexibility with no significant air quality benefit.

One individual suggested that exempt solvents should be treated as water in the calculations used to determine compliance with applicable control requirements. The proposed control requirements for graphic arts provide for use of either low solvent or high solids inks, as well as add-on control equipment. The limitations for both low solvent and high solids inks clearly indicate that water and exempt solvents are to be addressed in the same manner. Therefore, no revision to the proposal appears warranted.

One commenter, the City of Fort Worth, questioned which exemptions apply in Dallas and Tarrant Counties. The TACB staff intended the 100 tons per year (tpy) exemption to apply in all counties listed in §115.439 except Dallas and Tarrant

Counties. The TACB staff intended the 50 tpy exemption to apply only in Dallas and Tarrant counties. Since there appears to be some question as to which counties are affected by these exemptions, clarification of the rule may be warranted.

One commenter, EPA, suggested that the 100 tpy exemption cutoff be based on a maximum potential to emit assuming operations 8,760 hours per year, or on actual emissions only if production is restricted through a federally enforceable permit. The TACB control plans and the associated emission reduction calculations are based on actual emissions of volatile organic compounds as reported in the emission inventory, in accordance with EPA guidelines for development of SIP revisions. The inconsistent use of actual and potential emissions confuses control efforts and planning activities which are based on measurable emission quantities and not hypothetical emissions. However, if actual emissions from an exempted source exceed the specified exemption limits, enforcement action may be taken to impose penalties and/or require implementation of an enforceable board order to restrict production, as necessary. These board orders may be submitted as SIP revisions, as appropriate, to ensure federal enforceability. Therefore, the use of theoretical potential emissions should never be required to qualify for or ensure compliance with an exemption.

One individual opposed the 100 tpy exemption and the 50 tpy exemption in Dallas and Tarrant Counties. The Sierra Club suggested that a 10 tpy exemption limit be used instead. The 100 tpy exemption was established when the rule was first implemented in response to the publication of applicable control techniques guidelines by EPA. At that time, only major sources were required to implement these controls. The exemption level in Dallas and Tarrant Counties was reduced to achieve additional emission reductions necessary to demonstrate attainment. Phase II of the Post-1987 SIP revision for all of the major urban nonattainment areas in Texas is expected to include the implementation of all of the most stringent controls currently enforced in the state, in addition to controls on smaller sources. Additional control options will be evaluated in the future and may be considered in subsequent rulemaking, if appropriate.

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.

§115.435. Testing Requirements. For the counties referenced in §115.439 of this title (relating to Counties and Compliance Schedules), compliance with §115.432 of this title (relating to Control Requirements) in Dallas and Tarrant Counties 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 rates, as necessary;

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

(5) United States Environmental Protection Agency (EPA) 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) minor modifications to these test methods and procedures approved by the executive director.

§115.437. Exemptions. For the counties referenced in §115.439 of this title (relating to Counties and Compliance Schedules), the following exemptions shall apply.

(1) Any rotogravure or flexographic facility, except those specified in paragraph (2) of this section, 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 §115.432 of this title (relating to Control Requirements).

(2) In the counties referenced in §115.439(2) of this title (relating to Counties and Compliance Schedules), any rotogravure and flexographic printing facility which when uncontrolled emits a combined weight of VOC less than 50 tons in one year (based on historical ink and solvent usage) is exempt from the requirements of §115.432 of this title (relating to Control Requirements).

§115.439. Counties and Compliance Schedules. All affected persons in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties shall be in compliance with this undesignated head concerning graphic arts (printing) by rotogravure and flexographic processes, in accordance with the following compliance schedules.

(1) All affected persons shall be in compliance with all compliance schedules which have expired prior to February 1, 1990, in accordance with §115.930 of this title (relating to Compliance Dates).

(2) All persons required to implement controls as a result of the lowering of the exemption level as specified in §115.437(2) of this title (relating to Exemptions) in Dallas and Tarrant Counties shall be in compliance as soon as practicable but no later than December 31, 1989.

(3) All affected persons shall be in compliance with the provisions of §115.436 of this title (relating to Record Keeping Requirements):

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

(B) in Brazoria, El Paso, Galveston, Harris, Jefferson, and Orange 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.

TRD-9000964 Allen Ell Bell
Executive Director
Texas Air Control Board

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

Subchapter F. Miscellaneous Industrial Sources

Cutback Asphalt

• 31 TAC §§115.512, 115.513, 115.515-115.517, 115.519

The Texas Air Control Board (TACB) adopts new §§115.512, 115.513, 115.515-115.517, and 115.519. Section 115.515 and §115.519 are adopted with changes to the proposed text as published in the July 28, 1989, issue of the *Texas Register* (14 TexReg 3671). Sections 115.512, 115.513, 115.516, and 115.517 are adopted without changes and will not be republished.

The new §115.512, concerning control requirements, defines the type of control or technologies required to achieve necessary emission reductions. The new §115.513, concerning alternate control requirements, enables the TACB executive director to approve substantially equivalent control technologies under specific conditions. The new §115.515, 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 §115.516, 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

§115.517, concerning exemptions, specifies the conditions necessary to qualify for exemption from certain control requirements. The new §115.519, 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 revisions for ozone. The TACB also has adopted a comprehensive restructuring of Chapter 11 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. Three commenters opposed the proposal, while no one testified in support.

Two commenters, the Sierra Club and one individual suggested cutback asphalt be more tightly controlled including a ban on the use of cutback asphalt by private companies and public agencies. Another commenter, EPA, suggested that the summertime ban on the use of cutback asphalt should apply to Brazoria, El Paso, Galveston, Harris, Jefferson, and Orange Counties. The control on cutback asphalt in all counties except Dallas and Tarrant Counties is primarily directed at the use or contract for use of cutback asphalt by governmental agencies. The TACB staff believes that this accounts for the majority of cutback asphalt used in the affected urban areas. The control strategy for Dallas and Tarrant Counties further prohibits the sale of cutback asphalt during the control period, effectively restricting the availability of the material to all potential users. Extending this additional control of cutback asphalt into additional counties would require additional rulemaking. This control option will be studied in the future and may be incorporated into control strategies for these areas, if appropriate.

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.

§115.515. Testing Requirements. For the counties referenced in 115.519 of this title (relating to Counties and Compliance Schedules), compliance with §115.512(4) of this title (relating to Control Requirements) shall be determined by applying the following test methods, as appropriate:

(1) American Society of Testing and Materials Test Method D 244 for determining volatile organic compound content of asphalt emulsions; or

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