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Copies of the proposed sections are available from Dwayne Meckler at the central office of TACB, 12124 Park 35 Circle, Austin, Texas 78753, and at all TACB regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearing. TACB would appreciate receiving five copies of testimony prior to or at the hearing. Written testimony received by the Regulation Development Section at the TACB central office by 4 p.m. on July 23, 1991 will be included in the hearing record.

The amendments are proposed under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code Annotated (Vernon 1990), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§115.422. Control Requirements. For the counties referenced in §115.429(2)(A) of this title (relating to Counties and Compliance Schedules):

(1) (No change.)

(2) any surface coating operation that becomes subject to the provisions of §115.421 of this title (relating to Emission Specifications) paragraph (1)(A), (B), and (C) of this section] by exceeding the provisions of §115.427 of this title (relating to Exemptions) shall remain subject to the provisions in §115.421 [of this subsection], even if throughput or emissions later fall below exemption limits.

§115.423. Alternate Control Requirements. For all affected persons in the counties referenced in §115.429 of this title (relating to Counties and Compliance Schedules), the following alternate control techniques may apply.

(1)-(2) (No change.)

(3) If a vapor recovery system is used to control emissions from coating operations, the capture and abatement system shall be capable of achieving and maintaining emission reductions equivalent to the emission limitations of §115.421 of this title (relating to Emission Specifications) and an overall control efficiency of at least 80% of the VOC emissions from those coatings. The owner or operator of any surface coating facility shall submit design data for each capture system and emission control device which is proposed for use to the executive director for approval. Any capture efficiency testing shall be performed in accordance with §115.425(4) [§115.425(2)(D)] of this title (relating to Testing Requirements).

(4) (No change.)

§115.425. Testing Requirements. For the counties referenced in §115.429 of this title (relating to Counties and Compliance Schedules), the following testing requirements shall apply.

(1)-(3). (No change.)

(4) The capture efficiency shall be measured using one of the four protocols in 40 Code of Federal Regulations, Part 52.741, Subpart O, Appendix B.

§115.426. Recordkeeping Requirements. For the counties referenced in §115.429 of this title (relating to Counties and Compliance Schedules), the following recordkeeping requirements shall apply.

(1)-(2)(No change.)

(3) The owner or operator shall maintain, on file, the capture efficiency protocol submitted under §115.425(4) of this title (relating to Testing Requirements). If any changes are made to capture or control equipment, the owner or operator is required to notify the executive director in writing within 30 days of these changes and a new capture efficiency and/or control device destruction or removal efficiency test may be required.

(4)[(3)] In accordance with the schedule referenced in §115.429(1), records shall be maintained sufficient to document the applicability of the condition for exemptions referenced in §115.427 of this title (relating to Exemptions).

§115.429. 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 (relating to Surface Coating Processes) in accordance with the following schedules:

(1) (No change.)

(2) the following additional compliance schedules.

(A)-(B) (No change.)

(C) All affected persons in Brazoria, Dallas, El Paso, Galveston, Harris, Jefferson, Orange, and Tarrant Counties shall be in compliance with §115.425(4) of this title (relating to Testing Requirements) and §115.426(2)(A)(III) and (3) of this title (relating to Recordkeeping Requirements) as soon as practicable, but no later than July 31, 1992.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 25, 1991.

TRD-9107583

Lane Hartsock
Director, Planning and
Development Program
Texas Air Control Board

Proposed date of adoption: September 13, 1991

For further information, please call: (512) 908-1000, ext. 1770

Graphic Arts (Printing) by Rotogravure and Flexographic Processes

• 31 TAC §§115.435, 115.436, 115.439

The Texas Air Control Board (TACB) proposes amendments to §§115.435, 115.436, and 115.439, concerning graphic arts (printing) by rotogravure and flexographic processes. The proposed changes have been developed in response to a requirement by the United States Environmental Protection Agency (EPA) to correct certain regulation deficiencies and inconsistencies to ensure compliance with applicable requirements for control and collection systems of volatile organic compounds.

The proposed change to §115.435, concerning testing requirements, adds a requirement that capture efficiency compliance testing be conducted with protocols established by EPA regulations. The proposed change to §115.436, concerning recordkeeping requirements, requires that the capture efficiency protocol be kept on file and that TACB be notified of any capture or control equipment change. The proposed changes to §115.439, concerning counties and compliance schedules, add compliance dates for the new requirements.

Bennie Engelke, director of administrative services, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state and local governments.

Lane Hartsock, director of the Planning and Development Program, has determined that for each of the first five years the sections are in effect the public benefit anticipated as a result of implementing the sections will be rules which are more uniformly applicable nationwide and satisfaction of a requirement by EPA.

Economic costs to persons and businesses required to implement the proposed measures are associated with the initial capture efficiency testing and recordkeeping requirements. The costs are estimated as follows: annual cost per test on a line will be -0- for fiscal year 1991; and \$15,000 for fiscal years 1992-1995.

Any costs beyond 1995 would be continuing annual operating, maintenance, and recordkeeping costs. All estimates are stated in 1991 dollars with no adjustment for inflation.

A public hearing on this proposal is scheduled for 7 p.m. on July 22, 1991, in the Auditorium of TACB located at 12124 Park 35 Circle, Austin.

Copies of the proposed sections are available from Dwayne Meckler at the central office of TACB, 12124 Park 35 Circle, Austin, Texas 78753, and at all TACB regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearing. TACB would appreciate receiving five copies of testimony prior to or at the hearing. Written

testimony received by the Regulation Development Section at the TACB central office by 4 p.m. on July 23, 1991, will be included in the hearing record.

The amendments are proposed under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code Annotated (Vernon 1990), which provides the TACB with the authority to adopt 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)-(6) (No change).

(7) the capture efficiency which shall be measured using one of the four protocols in 40 Code of Federal Regulations, Part 52.741, Subpart O, Appendix B.

(8) [(7)] minor modifications to these test methods and procedures approved by the executive director.

§115.436. Recordkeeping Requirements. For the counties referenced in §115.439 of this title (relating to Counties and Compliance Schedules), the owner/ or operator of any graphic arts facility subject to the control requirements of §115.432 of this title (relating to Control Requirements) shall:

(1)-(5) (No change.)

(6) maintain on file the capture efficiency protocol submitted under §115.435(7) of this title (relating to Testing Requirements). If any changes are made to capture or control equipment, the owner or operator is required to notify the executive director in writing within 30 days of these changes and a new capture efficiency and/or control device destruction or removal efficiency test may be required.

§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 (relating to Graphic Arts (Printing) by Rotogravure and Flexographic Processes) in accordance with the following compliance schedules.

(1) (No change.)

(2) All persons affected by §115.432(3) of this title (relating to Control Requirements), §115.435(7) of this title (relating to Testing Requirements), §115.436(3)(C) and (6) of this title (relating to Recordkeeping Requirements), and §115.437(1) of this title (relating to Exemp-

tions) shall be in compliance with these sections as soon as practicable, but no later than July 31, 1992.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 25, 1991.

TRD-9107584

Lane Hartssock
Director, Planning and
Development Program
Texas Air Control Board

Proposed date of adoption: September 13, 1991

For further information, please call: (512) 908-1770

Chapter 116. Permits

• 31 TAC §116.11

The Texas Air Control Board (TACB) proposes an amendment to §116.11, concerning permit fees, to accomplish two changes. The first is to require separate and distinct permit fees for all facilities that must comply with the prevention of significant deterioration (PSD) of air quality regulations promulgated by the United States Environmental Protection Agency (EPA) in the Code of Federal Regulations (CFR) at 40 CFR 52.21, as amended October 17, 1988. These fees are needed to support the greater level of staff resources to review and act on PSD permit applications. The second is to increase the current permit fee rate for sources not required to comply with the PSD regulations. The last sentence of subsection (a) is proposed for deletion to remove obsolete material, and the TACB mailing address is corrected in subsection (c).

Lawrence Pewitt, P.E., director of the permits program, has determined that for the first five-year period the section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. There are anticipated increases in fee revenues to the state as follows. There will be a minimum increase in the fee for non-PSD permits of \$150 and a maximum increase of \$25,000. This proposal assumes approval of an increase in the upper fee limit to \$75,000 by the Texas Legislature. The maximum fee currently allowed by the Texas Clean Air Act (TCAA) is \$50,000. The proposed fee for PSD permits would range from \$1,500 to \$75,000, based on a rate of 0.5% of the capital costs of the project. Previously, PSD permits would have been charged the standard permit fee. If the Texas Legislature chooses not to set the maximum fee at \$75,000, the fees will be changed to reflect the new maximum allowed in the statute. There will be no fiscal implications for local government. The anticipated economic cost to persons who are required to comply with the section as proposed would be the applicable fee amounts calculated in the fee schedule of §116.11(b)(2). The fiscal impact on small businesses would also be the increase in the applicable fee amounts calculated in the fee schedule.

Mr. Pewitt also has determined that for each year of the first five years the section is in

effect the public benefit anticipated as a result of enforcing the section will be more complete recovery of the cost of providing services and a reduced need for the TACB to request appropriated funds from the general revenue fund.

A public hearing on this proposal is scheduled for 2 p.m. on July 30, 1991, in the Auditorium of the TACB located at 12124 Park 35 Circle, Austin.

Copies of the proposed revision are available from Barry Irwin at the central office of the TACB, 12124 Park 35 Circle, Austin, Texas 78753, and at all TACB regional offices. Public comment, both oral and written, on the proposal is invited at the hearing. The TACB would appreciate receiving five copies of any written testimony prior to or at the hearing. Written testimony received by the Regulation Development Section at the TACB central office by 4 p.m. on July 31, 1991 will be included in the hearing record.

The amendment is adopted under the TCAA, §382.017, Texas Health and Safety Code (Vernon 1990), which provides the TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§116.11. Permit Fees.

(a) Applicability. Any person who applies for a permit to construct a new facility or to modify an existing facility pursuant to §116.1 of this title (relating to Permit Requirements) shall remit, at the time of application for such permit, a fee based on the estimated capital cost of the project. The fee will be determined as set forth in subsection (b) of this section (concerning determination of fees). [By May 31, 1986, the Executive Director shall review the fees assessed and the costs recovered pursuant to this section and present to the board a report of the results of such review which shall include recommended changes to the section as may be appropriate.]

(b) Determination of fees [Fees].

(1) (No change.)

(2) The following fee schedule may be used by a permit applicant to determine the fee to be remitted with a permit application.

(A) If the estimated capital cost of the project is less than \$300,000 or if the project consists of new facilities controlled and operated directly by the federal government for which an application is submitted after January 1, 1987, and the federal regulations for prevention of significant deterioration (PSD) of air quality do not apply, the fee is \$450 [\$300] or \$1,500 if the PSD regulations do apply. The provisions of paragraphs (3) and (4) of this subsection do not apply to a project consisting of new facilities controlled and operated directly by the federal government.