

Texas Register

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(A)-(C) (No change.)

(D) Any emergency roof drain must be provided with a slotted membrane fabric cover that covers at least 90% of the area of the opening.

(E)-(F) (No change.)

(b) (No change.)

(c) Vapor recovery systems used as a control device on any stationary tank, reservoir, or other container shall maintain a minimum control efficiency of 90%.

§115.114. Inspection Requirements. For all persons in the counties referenced in §115.119(a) of this title (relating to Counties and Compliance Schedules), all secondary seals used to comply with §115.112(a)(1) of this title (relating to Control Requirements) shall be inspected according to the following schedules by the owner, operator, or authorized representative to insure compliance with §115.112(a)(2)(E) and (F) of this title (relating to Control Requirements).

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

(3) All secondary seals shall be visually inspected semiannually to insure compliance with §115.112(a)(2)(E)-(F).

§115.119. Counties and Compliance Schedules.

(a) 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 Storage of Volatile Organic Compounds) in accordance with the following schedules.

(1) All affected persons shall be in compliance with all compliance schedules which have expired prior to January 1, 1991, in accordance with §115.930 of this title (relating to Compliance Dates).

(2) All persons in Brazoria, Dallas, El Paso, Galveston, Harris, Jefferson, Orange, or Tarrant Counties affected by the provisions of §115.112(c) of this title (relating to Control Requirements), §115.114(3) of this title (relating to Inspection Requirements), and §115.116(3)(C) of this title (relating to Recordkeeping Requirements) shall be in compliance with these sections as soon as practicable, but no later than July 31, 1992.

(b) (No change.)

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 June 25, 1991.

TRD-9107562

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

Effective date: July 17, 1991

Proposal publication date: February 12, 1991

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

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Subchapter B. General Volatile
Organic Compound Sources
Vent Gas Control

• 31 TAC §§115.122, 115.126,
115.129

The Texas Air Control Board (TACB) adopts amendments to §§115.122, 115.126, and 115.129, with changes to the proposed text as published in the February 12, 1991, issue of the *Texas Register* (16 TexReg 830).

The amendment to §115.122 involves a provision stating that if exemption limits are exceeded, then the requirements of this section become applicable. The amendment to §115.126 adds requirements to monitor temperatures at catalytic incinerators or chillers and carbon adsorption systems for breakthrough. The amendment to §115.129 updates the expired compliance date and adds a new compliance date for new requirements.

Public hearings were held on March 4, 1991, in Beaumont and El Paso and on March 5, 1991, in Houston and Arlington. Testimony was received from seven commenters during the comment period. The United States Environmental Protection Agency (EPA) supported the proposed revisions, in general. Six commenters opposed the proposed amendments. They were the LTV Aerospace and Defense Company (LTV), General Dynamics Corporation (GD), Mobil Oil Corporation (Mobil), Texas Chemical Council (TCC), and two individuals.

The intent of the "once in, always in" provision is that once a facility is required to implement applicable control measures, the facility needs to remain subject to controls even if emissions or throughput later fall below applicable exemption limits. In response to an EPA requirement, this provision was proposed for rules concerning vent gas control. Five commenters submitted remarks concerning these proposed amendments. Of the five, one simply indicated approval of the philosophy. Two commenters, Mobil and TCC, requested clarification on whether a facility which must be in compliance with control requirements must maintain the controls because of the amendments, and whether the controls are to be operated only during times when exemption levels would be exceeded. The staff agreed and modified the wording to more clearly establish that once a facility exceeds an exemption level and must utilize controls, the facility will be required to maintain the controls even if emissions or throughput are later sustained at a level below any applicable exemption limit.

Four commenters, LTV, GD, Mobil, and TCC, were concerned that the amendments would result in the loss of exemption status for "a

single excursion," "the smallest violation," or due to upsets or maintenance activities. Although it is not entirely clear what is meant by a single excursion or a small violation, the staff agrees that EPA's intent with the provision is to require a source exceeding the applicable exemption level to implement controls. This, however, would not include uncontrollable, short-term upsets or planned maintenance activities. Additionally, Mobil and TCC wanted a definition of exceedance. The regulation previously held and continues to hold the implicit understanding that upsets and maintenance were to be handled by TACB rules dealing with these issues and not by this regulation, unless otherwise specifically stated. If an exceedance is not an upset, e.g., it is caused by an increase in production, then the source is subject to the control requirements. Each exceedance will need to be evaluated on a case-by-case basis to determine whether it was an upset. Therefore, the staff does not recognize the need to define the term.

LTV, GD, Mobil, and TCC also indicated concern that the amendments required immediate compliance with the control requirements upon exceedance of the exemptions. The staff position is that applicable control measures are to be in place prior to changes in operation or equipment that will result in increasing emissions or throughput. Additionally, LTV commented that the date of May 31, 1991 conflicted with other dates in the rules. In the modified wording for these proposed amendments, the date is removed because the intent is that this provision should be applicable upon the effective date of the rules. Furthermore, references to "once in, always in" in the compliance date section in each of the applicable undesignated heads is recommended for deletion. The staff believes that these compliance dates are unnecessary since the provision is to become applicable upon the effective date of the rules.

Comments were received from EPA and an individual regarding recordkeeping requirements for general vent gas sources. EPA noted that recordkeeping specified in §115.126(1) should be required for sources covered by §115.121(3) as well as those covered by §115.121(2). This change was not proposed as part of the public hearing, and thus, cannot be accomplished at this time. However, these comments will be considered in future rulemaking. The individual wanted the TACB to clarify whether records required by this rule and similar records elsewhere in the regulation are to be made available to the public. As stated in the opening paragraph of §115.126, the records are to be made available to the TACB, EPA, and any local program having jurisdiction. Much of the information in records is proprietary information, and the TACB cannot require a company to make this information available to the public upon request. However, the public does have access to non-proprietary information in the TACB permit and compliance files.

The amendments are adopted 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 purpose of the TCAA.

§115.122. Control Requirements.

(a) For all persons in the counties referenced in §115.129(a) of this title (relating to Counties and Compliance Schedules), the following control requirements shall apply.

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

(3) Any vent gas stream that becomes subject to the provisions of paragraph (1) or (2) of this subsection by exceeding provisions of §115.127(a) of this title (relating to Exemptions) will remain subject to the provisions of this subsection, even if throughput or emissions later fall below the exemption limits.

(b) (No change.)

§115.126. Recordkeeping Requirements. For the counties referenced in §15.129(a)(2) of this title (relating to Counties and Compliance Schedules), the owner or operator of any facility which emits volatile organic compounds (VOC) through a stationary vent shall maintain records at the facility for at least two years and shall make such records available to representatives of the Texas Air Control Board, United States Environmental Protection Agency, or local air pollution control agency having jurisdiction in the area, upon request. These records shall include, but not be limited to, the following.

(1) Records for each vent required to satisfy the provisions of §115.121(a)(2) of this title (relating to Emission Specifications) shall be sufficient to demonstrate the proper functioning of applicable control equipment to design specifications, including:

(A) (No change.)

(B) continuous monitoring of temperatures upstream and downstream of a catalytic incinerator or chiller;

(C) the exhaust gas VOC concentration of any carbon adsorption system to determine breakthrough;

(D) the date and reason for any maintenance and repair of the required control devices and the estimated quantity and duration of VOC emissions during such activities; and

(E) the results of any testing of any vent conducted at an affected facility in accordance with the provisions specified in §115.125 of this title (relating to Testing Requirements).

(2)-(3) (No change.)

§115.129. Counties and Compliance Schedules.

(a) All affected persons in Brazoria, Dallas, El Paso, Galveston, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties shall be in compliance with this undesignated head (relating to Vent Gas Control) in accordance with the following schedules.

(1) All affected persons shall be in compliance with all compliance schedules which have expired prior to January 1, 1991, in accordance with §115.930 of this title (relating to Compliance Dates).

(2) All persons in Brazoria, Dallas, El Paso, Galveston, Harris, Jefferson, Orange, and Tarrant Counties affected by the provisions of §115.126(1)(B) and (C) of this title (relating to Recordkeeping Requirements) shall be in compliance with these sections as soon as practicable, but no later than July 31, 1992.

(b) (No change.)

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 June 25, 1991.

TRD-9107563

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

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

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Water Separation

• 31 TAC §§115.132, 115.136, 115.139

The Texas Air Control Board (TACB) adopts amendments to §§115.132, 115.136, and 115.139. Sections 115.132 and 115.139 are adopted with changes to the proposed text as published in the February 12, 1991, issue of the *Texas Register* (16 TexReg 830). Section 115.136 is adopted without changes and will not be republished.

The amendment to §115.132 involves a provision stating that if exemption limits are exceeded, then the requirements of this section become applicable. The amendment to §115.136 adds requirements to monitor temperatures at catalytic incinerators or chillers and carbon adsorption systems for breakthrough. The amendment to §115.139 updates the expired compliance date and adds a new compliance date for new requirements.

Public hearings were held on March 4, 1991, in Beaumont and El Paso and on March 5, 1991, in Houston and Arlington. Testimony was received from seven commenters during the comment period. One individual and the United States Environmental Protection Agency (EPA) supported the proposed revisions. Five commenters opposed the proposed amendments. They were the LTV Aerospace and Defense Company (LTV), General Dynamics Corporation (GD), Mobil Oil Corporation (Mobil), Texas Chemical

Council (TCC), and one individual. The intent of the "once in, always in" provision is that once a facility is required to implement applicable control measures, the facility needs to remain subject to controls even if emissions or throughput later fall below applicable exemption limits. In response to an EPA requirement, this provision was proposed for rules concerning water separation. Five commenters submitted remarks concerning these proposed amendments. Of the five, one simply indicated approval of the philosophy. Two commenters, Mobil and TCC, requested clarification on whether a facility which must be in compliance with control requirements must maintain the controls because of the amendments, and whether the controls are to be operated only during times when exemption levels would be exceeded. The staff agreed and modified the wording to more clearly establish that once a facility exceeds an exemption level and must utilize controls, the facility will be required to maintain the controls even if emissions or throughput are later sustained at a level below any applicable exemption limit.

Four commenters, LTV, GD, Mobil, and TCC, were concerned that the amendments would result in the loss of exemption status for "a single excursion," "the smallest violation," or due to upsets or maintenance activities. Although it is not entirely clear what is meant by a single excursion or a small violation, the staff agrees that EPA's intent with the provision is to require a source exceeding the applicable exemption level to implement controls. This, however, would not include uncontrollable, short-term upsets or planned maintenance activities. Additionally, Mobil and TCC wanted a definition of exceedance. The regulation previously held and continues to hold the implicit understanding that upsets and maintenance were to be handled by TACB rules dealing with these issues, and not by this regulation, unless otherwise specifically stated. If an exceedance is not an upset, e.g. it is caused by an increase in production, then the source is subject to the control requirements. Each exceedance will need to be evaluated on a case-by-case basis to determine whether it was an upset. Therefore, the staff does not recognize the need to define the term.

LTV, GD, Mobil, and TCC also indicated concern that the amendments required immediate compliance with the control requirements upon exceedance of the exemptions. The staff position is that applicable control measures are to be in place prior to changes in operation or equipment that will result in increasing emissions or throughput. Additionally, LTV commented that the date of May 31, 1991 conflicted with other dates in the rules. In the modified wording of these amendments, the date is removed because the intent is that this provision should be applicable upon the effective date of the rules. Furthermore, reference to "once in, always in" in the compliance date section in each of the applicable undesignated heads is deleted. The staff believes that these compliance dates are unnecessary since the provision is to become applicable upon the effective date of the rules.

EPA commented that exhaust temperatures immediately downstream of a direct-flame incinerator needed to be added to the recordkeeping requirements of §115.136.