

# Texas Register

Volume 16, Number 50, July 2, 1991

Pages 3646-3745

## In This Issue...

### **Emergency Sections**

Center for Rural Health Initiatives

3659-Executive Committee for the Center for Rural Health Initiatives

### **Proposed Sections**

State Purchasing and General Services Commission

3665-Central Purchasing Division

Texas Incentive and Productivity Commission

3665-Productivity Bonus Program

Railroad Commission of Texas

3667-Transportation Division

3668-Gas Utilities Division

3675-Surface Mining and Reclamation Division  
Center for Rural Health Initiatives

3675-Executive Committee for the Center for Rural Health Initiatives

Texas Air Control Board

3676-Control of Air Pollution From Volatile Organic Compounds

3680-Permits

Comptroller of Public Accounts

3681-Tax Administration

### **Withdrawn Sections**

Texas Water Commission

3689-Underground and Aboveground Storage Tanks

### **Adopted Sections**

State Purchasing and General Services Commission

3691-Central Purchasing Division

3692-Travel and Transportation Division

Texas Department of Mental Health and Mental Retardation

3697-Client (Patient) Care

3704-Volunteer Services and Public Information

Texas Workers' Compensation Commission

3708-Medical Benefits-General Medical Provisions  
Texas Air Control Board

3708-Control of Air Pollution from Volatile Organic Compounds

Texas Water Commission

3730-Industrial Solid Waste and Municipal Hazardous Waste

Texas Department of Human Services

3731-Income Assistance Services

3731-Community Care for Aged and Disabled

### **Open Meetings**

3733-Texas Department of Aviation

3733-Texas Education Agency

3734-Texas Council on Vocational Education

3734-Health and Human Services

CONTENTS CONTINUED INSIDE

Changes in this area are not within the scope of allowable changes due to additional restrictiveness. However, the changes will be incorporated in future rulemaking.

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.

#### §115.132. Control Requirements.

(a) For the counties referenced in §115.139 (a) of this title (relating to Counties and Compliance Schedules), no person shall use any single-or multiple-compartment volatile organic compound (VOC) water separator, except for facilities other than petroleum refineries in Gregg County, which separates materials containing VOC obtained from any equipment which is processing, refining, treating, storing, or handling VOC unless each compartment is controlled in one of the following ways:

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

(4) any water separator that becomes subject to the provisions of paragraphs (1),(2), or (3) of this subsection by exceeding provisions of §115.137(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.)

#### §115.139. 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 Water Separation) 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 shall be in compliance with the continuous monitoring requirements to determine carbon adsorption system breakthrough and to measure temperature at catalytic incinerators or chillers contained in §115.136 of this title (relating to Recordkeeping Requirements), 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-9107564

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

Effective date: July 17, 1991

Proposal publication date: February 12, 1991

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

### Subchapter C. Volatile Organic Compound Marketing Operations

#### Loading and Unloading of Volatile Organic Compounds

##### • 31 TAC §§115.212, 115.215, 115.216, 115.219

The Texas Air Control Board (TACB) adopts amendments to §§115.212, 115.215, 115.216, and 115.219. Sections 115.212, 115.216, and 115.219 are adopted with changes to the proposed text as published in the February 12, 1991, issue of the *Texas Register* (16 TexReg 830). Section 115.215 is adopted without changes and will not be republished.

The amendment to §115.212 involves a provision stating that if exemption limits are exceeded, then the requirements of this section become applicable, and add requirements for Dallas, El Paso, and Tarrant Counties. The amendment to §115.215 corrects the reference to a federal test method. The amendment to §115.216 adds a requirement to monitor carbon adsorption systems for breakthrough. The amendment to §115.219 updates the expired compliance date and adds new compliance dates 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 five commenters during the comment period. The United States Environmental Protection Agency (EPA) supported the proposed revisions. Four commenters opposed the proposed amendments. They were the LTV Aerospace and Defense Company (LTV), General Dynamics Corporation (GD), Mobil Oil Corporation (Mobil), and Texas Chemical Council (TCC).

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 volatile organic compounds (VOC) loading/unloading. 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 head 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.

The amendments are adopted under the Texas Clean Air Act (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 purpose of the TCAA.

#### §Control Requirements.

(a) For all persons in the counties referenced in §115.219(a) of this title (relating to Counties and Compliance Schedules), the following control requirements shall apply.

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

(4) No person in Dallas, El Paso, Harris, and Tarrant Counties shall permit the transfer of gasoline from a transport vessel into a gasoline bulk plant storage tank unless the following requirements are met:

(A)-(E) (No change.)

(5) No person in Dallas, El Paso, Harris, and Tarrant Counties shall permit the transfer of gasoline from a gasoline bulk plant into a delivery tank-truck tank unless the following requirements are met:

(A)-(G) (No change.)

(6) Any gasoline terminal or bulk plant that become subject to the provisions of paragraphs (1), (2), (3), (4), or (5) of this subsection by exceeding provisions of §115.217(a) of this title (relating to Exemptions) will remain subject to the provision of this subsection, even if throughput or emission later fall below exemption limits.

(b) (No change.)

**§115.216. Recordkeeping Requirements.** For the counties referenced in §115.219(a) of this title (relating to Counties and Compliance Schedules), affected by §115.211(a) of this title (relating to Emission Specifications), and §115.212(a) of this title (relating to Control Requirements), the owner or operator of any volatile organic compound (VOC) loading or unloading facility shall maintain the following information at the facility for at least two years and shall make such information available upon request to representatives of the Texas Air Control Board, United States Environmental Protection Agency, or local air pollution control agency having jurisdiction in the area:

(1) (No change.)

(2) for vapor recovery system:

(A) (No change.)

(B) the inlet and outlet gas temperature of a chiller or catalytic incinerator;

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

(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.

(3)-(4) (No change.)

**§115.219. 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 Loading and Unloading 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 Dallas, El Paso, and Tarrant Counties affected by the provisions of §115.212(a)(4) and (5) of this title (relating to Control Requirements) shall be in compliance as soon as practicable, but no later than July 31, 1992.

(3) All persons in Dallas and Tarrant Counties affected by the provisions of §115.216(2)(C) of this title (relating to Recordkeeping Requirements) shall be in compliance with the 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-9107565

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

Effective date: July 17, 1991

Proposal publication date: February 12, 1991

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



### Filling of Gasoline Storage Vessels (STAGE I) for Motor Vehicle Fuel Dispensing Facilities

#### • 31 TAC §115.222, §115.229

The Texas Air Control Board (TACB) adopts amendments to §115.222 and §115.229, with changes to the proposed text as published in the February 12, 1991, issue of the *Texas Register* (16 TexReg 830).

The amendment to §115.222 involves a provision stating that if exemption limits are exceeded after May 31, 1991, requirements of this section become applicable. The requirement are also being added to Brazoria, Galveston, Jefferson, and Orange Counties. The amendment to §115.229 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 six commenters during the comment period. The United States Environmental Protection Agency (EPA) supported the proposed revisions, in general. 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 Coalition Advocating A Safe Environment (CASE).

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 Stage I. 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.