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(2) All persons in El Paso County affected by the provisions of §115.417(3) of this title (relating to Exemption) shall be in compliance with this section as soon as practicable, but no later than July 31, 1992.

(3) All person in Dallas, Harris, and Tarrant Counties affected by the deletion of any exemptions from §115.417 of this title (relating to Exemptions) shall be in compliance with this section as soon as practicable, but no later than July 31, 1992.

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-9107573

Lane Hartssock
Director, Planning and
Development Program
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Proposal publication date: February 12, 1991

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Surface Coating Processes

• 31 TAC §§115.421-115.427, 115.429

The Texas Air Control Board (TACB) adopts amendments to §§115.421-115.423, 115.425-115.427, and 115.429, and new §115.424. Sections 115.422, 115.423, 115.426, 115.427, and 115.429 are adopted with changes to the proposed text as published in the February 12, 1991, issue of the *Texas Register* (16 TexReg 830). Sections 115.421, 115.424, and 115.425 are adopted without change and will not be republished.

The amendment to §115.421 modifies the basis of allowable emissions from pounds volatile organic compounds (VOC) per gallon of coating (minus water) to pounds of VOC per gallon of solids for large appliance, furniture, coil, paper, fabric, vinyl, can, and miscellaneous metal parts and products coatings. The amended allowable emissions are equivalent to those used in the previous version of the rule. The applicability of the limitations were changed from the application system to each coating line to provide for "line by line" compliance as required by the United States Environmental Protection Agency (EPA). Plastisol coatings were added to the limitations for vinyl coating. The phrase "and exempt solvents" was included with water when determining pounds per gallon of coating. In the section on automobile and light-duty truck coating, the assumed transfer efficiency was changed from 30% to 65% and the term "air spray applicator or equivalent" changed to "all application equipment" to meet EPA requirements.

The amendment to §115.422 involves a provision stating that if exemption limits are exceeded after May 31, 1991, requirements of this section become applicable. The amend-

ment to §115.423 adds clarifying language to several subsections. Most substantively, the method to test for capture efficiency of a vapor recovery system was added to paragraph (3), and a cautionary statement was added to paragraph (4) to indicate that EPA approval may be needed for alternate controls.

The amendments to §115.424 adds clarifying language and requires that samples of the coatings for analysis be supplied to TACB, federal, or local program inspectors at no cost. The amendments to §115.425 and §115.426 correct respective referenced citations. The requirement to continuously monitor carbon adsorption bed exhaust to determine if breakthrough has occurred is also added to the latter section.

The amendment to §115.427 involves deleting an obsolete exemption and correcting all citation references. EPA also requires that the documentation required to qualify for an exemption be approved by both the TACB executive director and EPA. The amendment to §115.429 updates the expired compliance date and adds 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 eight commenters during the comment period. EPA and one individual supported the proposed revisions. Six commenters opposed the proposed amendments. They were the LTV Aerospace and Defense Company (LTV), General Dynamics Corporation (GD), Mobil Oil Corporation (Mobil), the Texas Chemical Council (TCC), the United States Air Force (USAF), and the City of Dallas.

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 surface coating. 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, reference 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 date are unnecessary since the provision is to become applicable upon the effective date of the rules.

USAF commented that the costs of obtaining line-by-line compliance and implementing changes brought about by new definitions would have extreme implications. The staff agrees that costs are likely to substantially increase as a result of these EPA requirements. Furthermore, the staff believes that refinement of EPA definitions is necessary. Future rulemaking on this subject is anticipated.

GD objected to the changing of baseline transfer efficiency for automobile and light-duty truck refinishers in Dallas and Tarrant Counties from 30% to 65% in §115.421(8)(C). This change in transfer efficiency, however, was made per EPA requirements and, therefore, will not be deleted.

EPA commented that the "once in, always in" provision of the surface coating control requirements section should also encompass the emissions specifications section (§115.421). Such changes cannot be made without additional public hearings, since the revision was not part of the current proposal.

The City of Dallas asked for clarification of the purpose of having solvent directed into a container to prevent evaporation as specified by §115.422(1)(C) and §115.421(9)(C). The City of Dallas contends that the VOCs will be emitted at another location and, therefore, no credit should be given for VOC handled as specified. The staff feels that by requiring solvent to be directed into containers, recycling and reuse is promoted, thereby reducing the potential for region wide emissions.

USAF was concerned with the addition of capture efficiency testing to §115.423(3), saying the requirement is burdensome, expensive, and added time delays. The staff amended the wording to clarify that capture

efficiency testing is not automatically required for all facilities. However, the actual method to test for capture efficiency has been established by EPA and will be required by EPA in future TACB rulemaking.

LTV objected to the addition of wording to §115.423(4) regarding EPA approval of certain alternate control requirements (ACRs) due to added review time. EPA has maintained throughout the years that if an ACR has conditions that are not specified in Regulation V, then the ACR constitutes a revision to the state implementation plan, which requires EPA approval. The staff's wording establishes EPA's requirements for ACRs and will remain as written.

Comments were received from GD, LTV, and the City of Dallas stating that the emissions limitations for the exemption addressed in §115.427(6)(A) were too restrictive. However, these exemption levels are contained in the currently implemented version of Regulation V and were effective on August 31, 1990, in Dallas and Tarrant Counties and on December 31, 1990, in El Paso and Harris Counties. The implication that the current proposal changes those compliance dates to July 31, 1992, is erroneous. Since TACB is not proposing a relaxation of the compliance dates or the exemption levels, the exemption will remain as it is currently worded with a deletion of the compliance date.

GD commented on the syntax of the surface coating exemption in §115.427(6) (B). A phrase was added stating that in order for the exemption to be granted by the executive director, documentation had to be provided showing control equipment is not technically or economically feasible. However, with the phrase inserted where proposed, the exemption appears to require documentation that the necessary coating performance and control equipment are not technically or economically feasible, and that the performance and controls cannot be achieved with compliant coatings. To correctly reflect the intent of the changes to this exemption, the phrase regarding control equipment was simply moved to the end of the sentence.

USAF and GD provided comments stating that operations such as touch-up swabs, spray cans, and artists' paint brushes should be explicitly exempt from emissions specifications. The staff feels, however, that the three-pound per hour, 15-pound per day exemption in §115.427(6)(A) covers these operations adequately, and if a facility exceeds the exemption limitations, state-wide actions should be taken.

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.

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

(1) any automobile refinishing operation shall minimize volatile organic compound (VOC) emissions during equipment cleanup by the following procedures:

(A) install and operate a system which totally encloses spray guns, cups, nozzles, bowls, and other parts during washing, rinsing, and draining procedures;

(B) recycle all wash solvents from an enclosed reservoir which must be kept closed at all times, except when being refilled with fresh solvent solution; and

(C) dispose of all waste solvents and associated cleaning material in closed containers;

(2) any surface coating operation that becomes subject to the provisions of 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 of this paragraph, 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) (No change.)

(2) Any alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria, such as use of improved transfer efficiency in this section, may be approved by the executive director in accordance with §115.910 of this title (relating to Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

(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(2)(D) of this title (relating to Testing Requirements).

(4) For any surface coating process or processes at a specific property, the executive director may approve requirements different from those in §115.421(9) based upon his determination that such requirements will result in the lowest emission rate that is technologically and economically reasonable. When he makes such a determination, the executive director shall specify the date or dates by which such different requirements shall be met and shall specify any requirements to be

met in the interim. If the emissions resulting from such different requirements equal or exceed 25 tons a year for a property, the determinations for that property shall be reviewed every two years. Executive director approval does not necessarily constitute satisfaction of all federal requirements nor eliminate the need for approval by the United States Environmental Protection Agency in cases where specified criteria for determining equivalency have not been clearly identified in applicable sections of this chapter.

§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) (No change.)

(2) The owner or operator of any surface coating facility which utilizes a vapor recovery system approved by the executive director in accordance with §115.423(3) of this title (relating to Alternate Control Requirements) shall:

(A) install and maintain monitors to accurately measure and record operational parameters of all required control devices as necessary to ensure the proper functioning of those devices in accordance with design specifications, including:

(i) (No change.)

(ii) the total amount of VOC recovered by carbon adsorption or other solvent recovery systems during a calendar month;

(iii) continuous monitoring of carbon adsorption bed exhaust to determine if breakthrough has occurred; and

(iv) the dates and reasons for any maintenance and repair of the required control devices and the estimated quantity and duration of VOC emissions during such activities;

(B)-(C) (No change.)

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

§115.427. Exemptions. For the counties referenced in §115.429 of this title (relating to Counties and Compliance Schedule), the following exemption shall apply.

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

(6) In accordance with the schedule referenced in §115.429(1), the following exemptions shall apply to surface coating operations in Dallas, El Paso, Har-

ris, and Tarrant Counties, except for aircraft prime coating controlled by §115.421(9)(A)(v) of this title (relating to Emission Specifications) and automobile and truck refinishing controlled by §115.421(8)(B) and (C).

(A) Surface coatings operations on a property which when uncontrolled will emit a combined weight of VOC of less than three pounds per hour and 15 pounds in any consecutive 24-hour period shall be exempt from the provisions of §115.421, and §115.423 of this title (relating to Alternate Control Requirements).

(B) Surface coating operations on a property which when uncontrolled will emit a combined weight of VOC of less than 100 pounds in any consecutive 24-hour period shall be exempt from the provisions of §115.421 and §115.423 if documentation is provided to and approved by both the executive director of the Texas Air Control Board and the United States Environmental Protection Agency, to demonstrate that necessary coating performance criteria cannot be achieved with coating which satisfy applicable emission specifications and that control equipment is not technically or economically feasible.

(7) The following coatings are exempt from the application of this undesignated head (relating to Surface Coating Processes):

(A)-(D) (No change.)

§115.429. Counties and Compliance Schedule. 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) all compliance schedules which have expired prior to January 1, 1991, in accordance with §115.930 of this title (relating to Compliance Date); and

(2) the following additional compliance schedules.

(A) All persons affected by changes from gallon of coating to gallon of solids and the addition of exempt solvents for calculating VOC content in §115.421 of this title (relating to Emissions Specifications) shall be in compliance with this section as soon as practicable, but no later than July 31, 1992.

(B) All affected persons in Dallas and Tarrant Counties shall be in compliance with §115.421(8)(C) and (D) as soon as practicable, but no later than July 31, 1992.

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-9107574

Lane Hartsack
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

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**Graphic Arts (Printing) By
Rotogravure and Flexo-
graphic Processes**

• **31 TAC §§115.432, 115.435,
115.436, 115.437, 115.439**

The Texas Air Control Board (TACB) adopts amendments to §§115.432, 115.435, 115.436, 115.437, and 115.439. Sections 115.432, 115.437, and 115.439 are adopted with changes to the proposed text as published in the February 12, 1991, issue of the *Texas Register* (16 TexReg 830). Sections 115.435 and 115.436 are adopted without changes and will not be republished.

The amendment to §115.432 involves a provision stating that if exemption limits are exceeded then the requirements of this section become applicable. Clarification is also added to indicate that capture system refers to each printing line. The amendment to §115.435 add a reference to federal performance test procedures. The amendment to §115.436 adds a requirement to monitor carbon adsorption system for breakthrough. The amendment to §115.437 make the 100 tons per year exemption to be based on maximum production capability. The amendment to §115.439 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) and one individual 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 rule concerning graphic arts. 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.

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.

§115.432. Control Requirements. For the counties referenced in §115.439 of this title (relating to Counties and Compliance Schedules):

(1) no person shall operate or allow the operation of a packaging rotogravure, publication rotogravure, or flexo-