

# Texas Register

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graphic printing line that uses solvent-containing ink unless volatile organic compound (VOC) emissions are limited by one of the following:

(A) application to the substrate of low solvent ink with a volatile fraction containing 25% by volume or less of VOC solvent and 75% by volume or more of water and exempt solvent;

(B) application to the substrate of high solids solvent-borne ink containing 60% by volume or more of nonvolatile material (minus water and exempt solvent); or

(C) operation of a carbon adsorption or incineration system to reduce the VOC emissions from an effective capture system by at least 90% by weight. The design and operation of the capture system for each printing line must be consistent with good engineering practice and shall be required to provide for an overall reduction in VOC emissions, as demonstrated to the satisfaction of the executive director, upon request, of at least the following weight percentages:

(i) 75% for a publication rotogravure process;

(ii) 65% for a packaging rotogravure process; or

(iii) 60% for a flexographic printing process;

(2) any graphic arts facility that becomes subject to the provisions of paragraph 1(A), (B), or (C) of this section by exceeding provisions of §115.437 of this title (relating to Exemptions) will remain subject to the provisions of this subsection, even if throughput or emissions later fall below exemption limits;

(3) any capture efficiency testing of the capture system must be conducted in accordance with §115.435 of this title (relating to Testing Requirements).

**§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) All rotogravure and flexographic facilities on a property, except those specified in paragraph (2) of this section, which when uncontrolled have a maximum potential to emit 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, and at maximum production capacity) are exempt from the requirements of §115.432 of this title (relating to Control Requirements).

(2) In Dallas and Tarrant Counties, all rotogravure and flexographic printing facilities on a property which, when

uncontrolled, emit a combined weight of VOC less than 50 tons in one year (based on historical ink and solvent usage) are 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 (relating to 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 January 1, 1991, in accordance with §115.930 of this title (relating to Compliance Dates).

(2) All persons affected by §115.432(3) of this title (relating to Control Requirements), §115.436(3)(C) of this title (relating to Recordkeeping Requirements), and §115.437(1) of this title (relating to Exemptions) shall be in compliance with the sections 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-9107575

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

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Proposal publication date: February 12, 1991

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

## Subchapter F. Miscellaneous Industrial Sources

### Cutback Asphalt

#### • 31 TAC §115.512, §115.519

The Texas Air Control Board (TACB) adopts amendments to §115.512 and §115.519. Section 115.519 is adopted with changes to the proposed text as published in the February 12, 1991 issue of the *Texas Register* (16 TexReg 830). Section 115.512 is adopted without changes and will not be republished.

The amendment to §115.512 adds a requirement of cutback asphalt use during the ozone season in Brazoria, El Paso, Galveston, Harris, Jefferson, and Orange Counties. The amendment to §115.519 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 not received from any commenters during the comment period on the revisions to

the individual subsections of §115.512 and §115.519.

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 purposes of the TCAA.

**§115.519. Counties and Compliance Schedules.** All affected persons in Brazoria, Dallas, El Paso, Galveston, Harris, Jefferson, Nueces, Orange, and Tarrant Counties shall be in compliance with this undesignated head (relating to Cutback Asphalt) in accordance with all compliance schedules which have expired prior to January 1, 1991, in accordance with §115.930 of this title (relating to Compliance Dates), except that all persons in Brazoria, El Paso, Galveston, Harris, Jefferson, and Orange Counties affected by §115.512(3) of this title (relating to Control Requirements) shall be in compliance as soon as practicable, but no later than April 16, 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.

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

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Proposal publication date: February 12, 1991

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

## Pharmaceutical Manufacturing Facilities

#### • 31 TAC §§115.532, 115.536, 115.537, 115.539

The Texas Air Control Board (TACB) adopts amendments to §§115.532, 115.536, 115.537, and 115.539. Section 115.532 and §115.539 are adopted with changes to the proposed text as published in the February 12, 1991, issue of the *Texas Register* (16 TexReg 830). Section 115.536 and §115.537 are adopted without changes and will not be republished.

The amendment to §115.532 involves a provision stating that if exemption limits are exceeded then the requirements of this section become applicable. The amendment to §115.536 adds a requirement to monitor carbon adsorption systems for breakthrough. The amendment to §115.537 involves lowering the exemption level for Dallas, El Paso, and Tarrant Counties. The amendment to §115.539 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 rules concerning pharmaceuticals. 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 control are to be operated only during time when exemption levels would be exceeded. The staff agree 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 amendment 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 rule. 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 provide TACB with the authority to adopt rules consistent with the policy and purpose of the TCAA.

**§115.532. Control Requirements.** For the counties referenced in §115.539 of this title (relating to Counties and Compliance Schedules), the owner or operator of a synthesized pharmaceutical manufacturing facility shall provide the following specified controls.

(1)-(4) (No change.)

(5) Pharmaceutical manufacturing facility. Any pharmaceutical manufacturing facility that becomes subject to the provisions of paragraphs (1) -(4) of this section by exceeding provisions of §115.537 of this title (relating to Exemptions) will remain subject to the provisions of this section, even if throughput or emissions later fall below exemption limits.

**§115.539. 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 Pharmaceutical Manufacturing Facilities) 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 §115.536(2)(A)(ii) of this title (relating to Recordkeeping Requirements) and §115.537(6) 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.

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Lane Hanzock  
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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## Part IX. Texas Water Commission

### Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

#### Subchapter E. Interim Standards for Owners and Operators of Hazardous Waste Storage Processing, or Disposal Facilities

##### • 31 TAC §335.112

The Texas Water Commission adopts an amendment to §335.112, concerning industrial solid and municipal hazardous waste management and standards, without changes to the proposed text as published in the April 23, 1991, issue of the *Texas Register* (16 TexReg 2278).

The amendment is adopted to implement the federally mandated change from the extraction procedure (EP) method to the toxicity characteristic leaching procedure (TCLP) method for determining characteristically hazardous waste and to expand the list of constituents for which the leachate will be analyzed.

The federal TCLP rule adopted in the March 29, 1990, issue of the *Federal Register* was promulgated pursuant to the Resource Conservation and Recovery Act, 42 United States Code (USC), §6901 et seq (1976) (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA). Under RCRA, §3006(g), 42 United States Code 6926(g), new requirements imposed by HSWA take effect in authorized states (of which Texas is one) at the same time they take effect in nonauthorized states. While states must still adopt HSWA-related provisions to retain final authorization, the HSWA requirements are implemented by EPA in authorized states in the interim. Pursuant to 40 Code of Federal Regulations (CFR), §271.21(e)(2), Texas must modify its program to reflect federal program changes and must subsequently submit those program modifications to EPA for approval. Upon EPA approval of the state program modifications, Texas will be authorized to implement the TCLP requirements in lieu of EPA. On February 20, 1991, the Texas Water Commission adopted amendments to 31 TAC Chapter 335, Subchapters A, E, and F which accomplished most of the rule changes necessary to obtain EPA authorization to implement the TCLP requirements. The amendments hereby adopted will complete all the rule changes necessary for the State of Texas to obtain final TCLP authorization for the EPA.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Water Code, §5.103, Texas Water Code Annotated, Chapter 5 (Vernon 1990), which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, and pursuant to the Texas Solid Waste Disposal Act, §361.017 and §361.024, Texas Health and Safety Code