

Texas Register

Volume 17, Number 83, November 3, 1992

Page 7717-7811

In This Issue...

Texas Ethics Commission

Opinions

AOR 117-121.....7727

Proposed Sections

Texas Ethics Commission

Practice and Procedure

1 TAC §§10.1, 10.3, 10.5, 10.7, 10.9, 10.11, 10.13, 10.15,
10.17, 10.19, 10.21, 10.23, 10.25, 10.27, 10.29, 10.31,
10.33, 10.35, 10.37, 10.39, 10.41, 10.43.....7729

Office of Secretary of State

Elections

1 TAC §81.11.....7732

Texas Department of Housing and Community Affairs

Guidelines for Multifamily Housing Revenue Bond

10 TAC §§33.1-33.13.....7733

Taxable Multifamily Mortgage Revenue Bond Program

10 TAC §§35.1-35.15.....7734

Tax-Exempt Multifamily Mortgage Revenue Bond Program

10 TAC §§39.1-39.17.....7741

Texas State Board of Registration for Professional Engineers

Practice and Procedure

22 TAC §131.81.....7747

22 TAC §131.112.....7748

22 TAC §131.133.....7748

Texas Department of Health

Health Planning and Resource Development

25 TAC §§13.41-13.44.....7749

Hospital Licensing

25 TAC §133.21.....7750

[Occupational Health and] Radiation Control

25 TAC §289.124.....7750

Texas Department of Insurance

Trade Practices

28 TAC §21.900.....7751



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CONTENTS CONTINUED INSIDE

the comment period was extended to August 14, 1992. No testimony was received during the comment period regarding the proposed revisions to §101.1.

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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.

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 October 26, 1992.

TRD-9214456 Lane Hartsock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Effective date: November 16, 1992

Proposal publication date: June 30, 1992

For further information, please call: (512) 908-1451

Subchapter A. Definitions.

The Texas Air Control Board (TACB) adopts amendments to §§115.10, 115.116, 115.119, 115.126, 115.127, 115.129, 115.136, 115.139, 115.211, 115.215, 115.217, 115.219, 115.316, 115.319, 115.421, 115.425-115.427, 115.429, 115.436, 115.439, 115.536, and 115.539 and new §§115.241-115.249, concerning definitions. Sections 115.116, 115.119, 115.126, 115.129, 115.136, 115.139, 115.216, 115.219, 115.316, 115.319, 115.426, 115.429, 115.436, 115.439, 115.536, and 115.539 and new §§115.242, 115.245, 115.246, 115.248, and 115.249 are adopted with changes to the proposed text as published in the June 30, 1992, issue of the *Texas Register* (17 TexReg 4656). Sections 115.10, 115.127, 115.211, 115.215, 115.217, 115.421, 115.425, and 115.427 and new §§115.241, 115.243, 115.244, and 115.247 are adopted without changes and will not be republished.

The amendments satisfy a requirement by the United States Environmental Protection Agency (EPA) for states to adopt Stage II vapor recovery rules for motor vehicle fuel dispensing facilities in ozone nonattainment counties (Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller Counties). The amendments also satisfy a requirement

by EPA for states to adopt Reasonably Available Control Technology (RACT) rules by November 15, 1992, for major volatile organic compound (VOC) sources which are not covered under an existing EPA control techniques guideline (CTG) or by one of the new CTGs which EPA must finalize in 1993. Additionally, the proposed revisions correct the recordkeeping requirements for Victoria County as required by EPA in order to facilitate the reclassification of Victoria County as an ozone attainment area. In concurrent rulemaking, TACB adopts the repeal of the undesignated head, concerning Control of Reid Vapor Pressure of Gasoline, and previous §115.249.

Public hearings were held on July 27, 1992, in Houston; July 28, 1992, in Beaumont; July 29, 1992, in El Paso; and July 30, 1992, in Arlington. Written comments were initially to be accepted through July 31, 1992; however, the comment period was extended to August 14, 1992. Written testimony was received from 58 commenters during the comment period. Oral testimony was received from 30 commenters. Most of the comments addressed the specific changes proposed and covered a variety of issues. EPA; Sierra Club, Lone Star Chapter (Sierra Club); Texas Campaign for the Environment (TCE); Galveston-Houston Association for Smog Prevention (GHASP); El Paso City-County Health and Environmental District (El Paso); C and R Distributing (C&R); and four individuals generally supported the proposed revisions and suggested changes. Rescar Incorporated (Rescar); Texas Oil Marketers Association (TOMA); DuPont, Gulf Coast Regional Manufacturing Services (DuPont); Texas Automobile Dealers Association (TADA); Diamond Shamrock, Incorporated (Diamond Shamrock); Monsanto Chemical Company (Monsanto); Chevron Corporation (Chevron); Ameron Protective Coatings Division (Ameron); McGinnis, Lochridge, and Kilgore; Texas Paint Council (TPC); Dow Chemical Company (Dow); Barras Industries, Incorporated (Barras); M. G. Wright Company (Wright); Permian Enterprises, Incorporated (Permian); Sterling Chemicals (Sterling); Houston Lighting and Power (HL&P); Weismantel International (Weismantel); Carboline Company (Carboline); Chemical Waste Management, Incorporated (CWM); DeVilbiss Ransburg Company (DeVilbiss); Energy Coatings Company (Energy Coatings); North Star Steel Texas (North Star); Champions Pipe Coating, Incorporated (Champions); Graco, Incorporated (Graco); Mobil Oil Corporation (Mobil); Chaparral Industries, Incorporated (Chaparral); Five Star Transportation, Incorporated (Five Star); Speeflo Manufacturing Corporation (Speeflo); DuPont, Automotive Products (DuPont Automotive); The Sherwin-Williams Company (Sherwin-Williams); Palmer Painting Company, Incorporated (Palmer); The Glidden Company (Glidden); Jones-Blair Company (Jones-Blair); AWD Technologies, Incorporated (AWD); Wagner Spray Tech Corporation (Wagner); L. M. Spray Equipment Company (L. M. Spray); Laster Castor Corporation (Laster); El Paso Natural Gas Company (EPNGC); Spray-Quip, Incorporated (Spray-Quip); Exxon Company, U.S.A. (Exxon); Sipco Services and Marine, Incorpo-

rated (Sipco); Steel Structures Painting Council (SSPC); Texas Chemical Council (TCC); Harry's Pump Service, Incorporated (Harry's); Empire Coatings, Incorporated (Empire); Porter International (Porter); Don S. Reichle and Associates (Reichle); Trinity Industries, Incorporated (Trinity); BJ Services Company (BJ); Switzer Petroleum Products (Switzer); City of Port Arthur (Port Arthur); Foret Painting and Sandblasting Company (Foret); Painting and Decorating Contractors of America (PDCA); NCN Texaco (NCN); Shell Oil Company (Shell); Sigma Coatings (Sigma); and two individuals were opposed to the revisions. Testimony submitted by Palmer was supported by Wright and TPC. Comments by Glidden were supported by TPC.

Sierra Club and an individual supported all rule revisions affecting Victoria County in order to facilitate the reclassification of Victoria County as an ozone attainment county.

An individual commented on recordkeeping requirements throughout Chapter 115. The individual wanted the required records to be made available to the public at TACB, local air pollution control agencies, and the library at either Rice University or the University of Houston.

Companies are not required to supply records directly to the public or to university libraries, but as stated in the opening paragraphs of the recordkeeping rules, the records must be made available to TACB, EPA, and any local air pollution control program having jurisdiction. Some of the information in records may be proprietary information, and TACB cannot require that this information be made available to any member of the public upon request. However, the public does have access to nonproprietary information in TACB permit and compliance files.

An individual commented that regulations should be enforceable.

The staff agrees and has endeavored to draft the most enforceable regulations possible.

An individual suggested that control of particulate emissions would be less expensive than control of VOCs in order to reduce ozone.

The roles of VOC and oxides of nitrogen (NO_x) in ozone formation have been well documented. While reductions in VOC emissions will continue to play an important role in the overall ozone control strategy, reductions in NO_x emissions have emerged as the next technically justifiable step toward attainment of the ozone standard. However, particulate emissions are unrelated to ozone formation, and therefore the cost of particulate controls is irrelevant to the ozone control strategy.

An individual commented that emissions from both stationary sources and mobile sources need to be controlled and suggested that the TACB require "close-coupled catalytic fittings" or "preheated catalytic converters" on cars.

The staff agrees that additional emphasis on mobile sources and stationary sources will be necessary to achieve attainment with the ozone standard. Comments on mobile source emission control requirements are not within the scope of the revisions. The suggestions may be considered in future rulemaking efforts.

Sierra Club commented on §115.10 and recommended that the definition of "independent small business marketer of gasoline" be revised to include only a throughput criteria. Sierra Club suggested the definition be based upon a throughput of 10,000 gallons of gasoline per month. Sierra Club commented further that the proposed definition could allow sizable businesses to be exempted from Stage II vapor control requirements at motor vehicle fuel dispensing facilities.

The staff disagrees that the proposed definition would allow "sizable businesses" to be exempt from Stage II. Rather, it would enable eligible independent small business marketers of gasoline to request, under §115.249(3), an extension of time to comply with the Stage II requirements. Since the proposed definition was made in response to an EPA requirement and contains the wording used by EPA, the definition was adopted as proposed.

DuPont, Dow, TCC, CWMI, Sterling, Mobil, Monsanto, and AWD commented on proposed revisions to §§115.116, 115.126, 115.136, 115.216, 115.316, 115.436, and 115.536, concerning proposed revisions to carbon adsorption rules. DuPont, CWMI, Mobil, and Monsanto objected to continuous monitoring for disposable carbon canisters. DuPont and Mobil suggested daily monitoring in these cases, while CWMI favored weekly monitoring, and Monsanto suggested monthly monitoring. Mobil also expressed concern that they would be given no time to install monitors on carbon adsorbers.

Neither the current rule nor the proposed changes require monitors on carbon canisters. Carbon canisters are carbon adsorbers as defined in §115.10. Carbon adsorption systems are defined separately to "include a system to regenerate the saturated adsorbent." The monitoring and recordkeeping requirements apply to carbon adsorption systems as defined in §115.10, but not to simple carbon adsorbers such as carbon canisters. In response to the commenters' suggested monitoring schedule for carbon adsorbers, TACB may consider adding specific monitoring and recordkeeping requirements for carbon adsorbers in future rulemaking. Due to the apparent confusion concerning the distinction between carbon adsorbers and carbon adsorption systems, the wording "as defined in §115.10 of this title (relating to Definitions)" was added after "carbon adsorption system" in §§115.116(a)(3)(C), 115.116(b)(3)(C), 115.126(a)(1)(C), 115.126(b)(1)(C), 115.136(b)(2)(C), 115.216(a)(2)(C), 115.216(b)(2)(C), 115.316(a)(1)(C), 115.316(b)(1)(C), 115.436(a)(3)(C), 115.436(b)(3)(C), 115.536(a)(2)(A)(ii), and 115.536(b)(2)(A)(ii).

Mobil commented that they do not know of any EPA requirement for continuously monitoring the operational parameters of control devices, while Dow recommended daily, weekly, or monthly monitoring for carbon adsorption systems.

EPA specified the continuous monitoring requirements for control devices in the November 1991 EPA document "Technical Support Document for the Proposed Approval of the Texas Air Control Board Revisions to Regula-

tion V, Control of Air Pollution From Volatile Organic Compounds-Post 87 VOC RACT Corrections (RACT Fix-up)." This document is referenced in the April 14, 1992, issue of the *Federal Register* on page 12904.

DuPont, Mobil, Dow, Sterling, and TCC believed the cost of monitors to be underestimated.

The cost of monitors will vary from relatively inexpensive for thermocouples to measure temperature of catalytic or thermal incinerators to more costly for equipment to monitor the VOC exhaust concentration from a carbon adsorption system.

TCC suggested that installation and maintenance of monitors should be in a section other than recordkeeping.

Existing rules in the Recordkeeping Requirements section already require monitors on the operational parameters of control devices. Since the monitoring and recordkeeping requirements are inextricably linked, the staff changed the section title to "Monitoring and Recordkeeping Requirements" for clarity.

TCC stated that carbon adsorption systems have very predictable breakthrough conditions and/or times and are designed to never reach breakthrough. TCC suggested some other (unspecified) methods besides monitoring the exhaust gas VOC concentration of the carbon adsorption system be used, and stated that most of the time the exhaust gas VOC concentration of the system would be very low. AWD claimed that Dow's SORBATHENE carbon adsorption system never reaches saturation and suggested that continuous temperature monitoring be considered equivalent for this unit. AWD also believed that the monitoring requirements should be defined in the permit.

Monitoring is necessary in order to verify that the control device is functioning properly and to insure the enforceability of the control requirements. Any carbon adsorption system may reach breakthrough, regardless of the intent of the system design, and monitoring of the exhaust gas VOC concentration is the accepted method to observe the operating condition of the system. Since not all affected facilities have TACB permits, monitoring requirements must remain in Regulation V to insure that enforceable requirements are in place for all affected facilities.

Dow commented that an excessive amount of paper will be generated by keeping records for two years.

Retention of records for two years is standard practice and will not require excessive paperwork. EPA requires that records be maintained for two years. Any relaxation of this requirement could jeopardize EPA approval.

Dow believed that recordkeeping for carbon adsorption systems should only be required when a system is inoperable or when "operating out of established boundaries."

The staff disagrees with Dow. The company's proposal would require recordkeeping only when the carbon adsorption system is in an upset condition, but would not establish that the unit was operating in compliance at all other times.

Sterling believed that monitoring requirements are redundant because some sources have to do monitoring as required by National Emission Standards for Hazardous Air Pollutants (NESHAPS), and recommended that any source subject to NESHAPS be exempt from Regulation V monitoring requirements.

The staff is aware that federal requirements such as NESHAPS may sometimes overlap with Regulation V requirements. However, EPA's RACT requirements do not recognize exemptions for such cases. EPA, Sierra Club, TCE, GHASP, El Paso, and two individuals generally supported the proposed §§115.241-115.249. Port Arthur questioned whether on-board canisters would be required on new automobiles in lieu of Stage II requirements for motor vehicle fuel dispensing facilities. Port Arthur also suggested that TACB consider missing the mandated deadline of November 15, 1992, for adoption of Stage II rules in order to spend more time developing the rules.

EPA will not be requiring on-board canisters due to safety concerns expressed by the Department of Transportation. The 1990 amendments to the Federal Clean Air Act (FCAA) require TACB to adopt Stage II rules by November 15, 1992, and the state is subject to sanctions if the statutory deadline is missed.

TCE and GHASP believed Stage II to be cost-effective, while Chevron believed costs to be underestimated. TOMA believed that the cost to facilities with less than 50,000 gallons per month of gasoline throughput will be too high and cause economic hardship. TCE, GHASP, and an individual recommended that TACB consider offering low-interest loans to small independent facilities affected by Stage II, while NCN expressed a desire for federal financial assistance for facilities affected by Stage II.

TACB recognizes that independent small business marketers of gasoline may have a difficult time absorbing the costs associated with installation of Stage II equipment and has added the availability of an extended compliance schedule for these facilities. Specifically, the compliance schedule has been revised to allow independent small business marketers of gasoline, whose facilities have a gasoline throughput of less than 50,000 gallons per month per facility, to install Stage II systems when their storage tanks are replaced or equipped with corrosion protection as required by the Texas Water Commission (TWC), but no later than December 22, 1998. While sympathetic with the financial concerns of affected facilities, TACB currently has no authority or resources to provide loans. However, the TACB Small Business Ombudsman is developing a proposal to offer financial assistance to small businesses. The proposal would create a loan program using penalty or fee money collected by TACB as a means of assisting small businesses with the financial burden of complying with air pollution laws. In addition, the United States Small Business Administration makes loans to small businesses.

Sierra Club commented that it should be explicitly stated that Stage II applies to all counties in the ozone nonattainment areas.

The applicable counties are explicitly listed in §115.249, concerning counties and compliance schedule.

TCE suggested that Stage II be implemented statewide.

Regulation V is specifically intended to address VOC emissions in ozone nonattainment areas rather than statewide emissions. Additionally, as specified in the Health and Safety Code, §382.019(d), the Texas Legislature has allowed TACB to adopt Stage II rules only when EPA has determined that Stage II is required for compliance with the FCAA, except that TACB may adopt Stage II rules following appropriate health studies and in consultation with the Texas Department of Health, if it is determined to be necessary for the protection of public health.

HL&P and TADA stated that Stage II should only apply to facilities which sell gasoline and not to private refueling facilities (such as government and company fleet refueling facilities).

EPA requires that private motor vehicle refueling facilities as well as retailers be subject to the Stage II requirements. VOC emissions will result from vehicle refueling operations, regardless of whether the gasoline is sold to a private individual or dispensed into a fleet vehicle. The purpose of Stage II is to control these VOC emissions, resulting in emission reductions in ozone nonattainment areas which are necessary for the timely attainment of the ozone standard. Stage II will also reduce the general public's exposure to benzene during vehicle refueling.

An individual and Port Arthur commented on §115.241. The individual questioned how the 95% control efficiency is determined, while Port Arthur opposed requiring Stage II systems certified by the California Air Resources Board (CARB).

The 95% control efficiency is determined by CARB. CARB tests Stage II systems using established test procedures and methods and approves only those systems which achieve at least 95% vapor recovery. As stated in §115.242(1), only CARB-certified Stage II systems may be installed. Due to the resources required to duplicate the already-established CARB testing program, the staff does not support rules which would allow Stage II systems other than CARB-certified systems.

EPA commented on §115.242(1) and suggested revised language to clarify the prohibition against the installation of Stage II systems which include remote vapor check valves and/or dual-hang (non-coaxial) hoses. The staff agrees that EPA's proposed revision will clarify §115.242(1) and has incorporated the suggested language.

Chevron commented on §115.242(3) and suggested the addition of language which would allow leaks between the nozzle and the vehicle filler neck. Chevron contended that these defects do not involve the dispensing or Stage II systems and should be exempt. The staff disagrees with Chevron. Gasoline leaks between the nozzle and the vehicle filler neck serve as an indication of defects in the dispensing and/or Stage II systems.

Two individuals commented on §115.242(4) and suggested that a dated "Out-of-Order" tag be required on inoperable dispensing equipment. The proposed §115.242(4) already includes a requirement for a dated "Out-of-Order" tag on inoperable equipment. Therefore, no change in the language was made.

Chevron commented on §115.242(5) and suggested that "approved" be changed to "certified" for consistency. The staff agrees and has incorporated the suggested revision.

Chevron and El Paso commented on §115.242(7). Chevron suggested that §115.242(7) be revised to allow posting of the operating instructions "in a conspicuous place on each side of any pump island involving Stage II," rather than on the front of each gasoline dispensing pump. The staff believes the operating instructions should be posted conspicuously on the front of each gasoline dispensing pump to help ensure the proper operation of the Stage II system. Operating instructions posted on each side of a gasoline pump island might not be visible to every person operating the dispensing equipment. Therefore, no change in the proposed language was made.

El Paso suggested that §115.242(7)(C) specify the appropriate local air pollution control agency in addition to the appropriate TACB regional office. The staff agrees with El Paso, and the commenter's suggestion was incorporated into §115.242(7)(C).

An individual commented that "substantially equivalent" is not defined in §115.243 and suggested that the definition of "substantially equivalent" include a 95% control efficiency. The individual also suggested TACB receive input from local air pollution control programs, EPA, and the general public on any Stage II system authorized under §115.243.

The term "substantially equivalent" has the meaning commonly ascribed to it in the field of air pollution control, and the staff does not believe that further definition is necessary. Section 115.243 requires alternate Stage II systems to be both CARB-certified and substantially equivalent. Consequently, any system approved under §115.243 must meet the 95% control efficiency required by CARB. Section 115.243 will allow the TACB to approve new Stage II systems which were certified by CARB since the April 1992 date referenced in §115.242(1). No additional input from local air pollution control programs, EPA, and the general public on Stage II systems authorized under §115.243 appears necessary.

Diamond Shamrock suggested revisions to §115.243 which would enable TACB to approve Stage II systems that have not been CARB-certified.

EPA has advised that Stage II systems must be either: a CARB-certified system; tested and approved using CARB test methods; or a system approved through an equivalent testing program which in turn has been approved by EPA. EPA has stated that it will not accept the TACB's approval of systems modified from their CARB-certified configuration, unless TACB opts to submit and gain EPA approval for a testing program equivalent to

CARBs. Due to the resources required to duplicate the CARB testing program, the staff does not support rules which would allow Stage II systems other than CARB-certified systems.

Diamond Shamrock commented on §115.244 and stated that the daily inspection requirements are onerous and should be changed to a monthly inspection requirement. The staff disagrees and believes that the time required to conduct the daily inspections will be minimal. Diamond Shamrock's suggested monthly inspection schedule could allow defects to remain uncorrected for an unacceptable length of time.

Chevron commented on §115.245(2) and suggested that the 10-day notification requirement be shortened to two-three days. The staff supports the 10-day notification requirement in order to allow inspectors an opportunity to observe the required initial testing of Stage II equipment. The staff notes that the 10-day notification is considerably shorter than the 45-day notification for testing specified in a typical TACB permit.

An individual commented on §115.245(2), which defines a major system replacement or modification to be the replacing, repairing, or upgrading of 75% or more of a facility's Stage II equipment. The individual questioned how "75% or more of the Stage II equipment" will be determined.

The staff agrees that this phrase is ambiguous and has developed more specific language. The language referring to "75% or more of a facility's Stage II equipment" in §115.245(2) has been deleted, and clarifying language has been added which specifies that a major system replacement or modification is the repair or replacement of any stationary storage tank equipped with a Stage II vapor recovery system; or the repair or replacement of any part of an underground piping system attached to a stationary storage tank equipped with a Stage II vapor recovery system, excluding the repair or replacement of an underground piping system which is accessible for such repair or replacement without excavation.

An individual commented on §115.245(3). The individual opposed language which states that "minor modifications of these test methods may be approved by the executive director" and commented that "minor modification" is not defined.

EPA has identified and published specific acceptable test methods for use in determining compliance. These test methods are currently recognized as industry standards, but EPA has indicated that minor modifications to methods which do not involve any significant change in the results may be independently approved by the executive director. However, new test methods or major changes must still be submitted to EPA for approval.

El Paso suggested that §115.246 specify clearly that records be made available to the appropriate TACB regional office and the appropriate local air pollution control agency, where applicable. The staff agrees with El Paso and has incorporated the revision into a new paragraph (6) in §115.246.

Diamond Shamrock, Chevron, Exxon, and C&R opposed the requirement of §115.246 to keep records on-site and suggested that the rule be revised to allow recordkeeping at an alternate centralized location such as a division office with the records to be provided by that office at TACB's request. The staff does not agree that keeping records on-site should be optional because enforcement would become much more difficult. It would be impossible for the TACB or other inspectors to conduct a complete on-site inspection if records were maintained at a remote location.

An individual commented on §115.246(1) and suggested that affected facilities be required to keep a copy of the CARB executive order for the facility's Stage II system indefinitely, rather than just for two years. The staff agrees that a copy of the appropriate CARB executive order should always be kept at each facility. Revised language has been incorporated into a new paragraph (6) in §115.246.

Chevron commented that the requirement of §115.246(2) to keep records of "the time period and duration of each malfunction of the system" is contrary to the requirement that malfunctioning equipment be taken out of service immediately. Section 115.246(2) is not intended to imply that a facility is permitted to continue operating noncompliant equipment. The wording has been revised to eliminate any potential misunderstanding.

TOMA recommended the addition of rules to §115.247 that would require certification for exemption verification purposes. The staff can not add additional recordkeeping requirements to §115.247 for exempt facilities or independent small business marketers of gasoline who have requested an extended compliance schedule without first conducting additional public hearings. However, any facility claiming to be exempt from Stage II requirements must maintain monthly gasoline throughput records to document the applicability of the exemption, and the staff will require appropriate recordkeeping as part of any compliance schedule extension granted to independent small business marketers of gasoline.

EPNGC believed that the exemption criteria of §115.247(2) was unclear and suggested TACB clarify if the exemption limit applies to the entire facility's gasoline throughput or to each "tank system" or pump. As noted in §115.247(2), the exemption is based upon a motor vehicle fuel dispensing facility's gasoline throughput. As defined in §115.10, a "motor vehicle fuel dispensing facility" is "any site where gasoline is dispensed to motor vehicle fuel tanks from stationary storage tanks." The staff believes that it is clear that this definition covers the entire facility, rather than just a component such as a fuel dispensing pump or storage tank.

EPNGC commented that the meaning of "construction" in §115.247(2) needs to be clarified and suggested revised language.

"Construction" refers to the construction of an entirely new motor vehicle fuel dispensing facility and not to the replacement of one or more underground storage tanks. However, an exempted facility that replaces an under-

ground storage tank would be wise to concurrently install underground Stage II piping. If the gasoline throughput ever exceeded the exemption level, this would minimize Stage II installation costs since the tank would not have to be excavated. The staff does not believe that additional clarification is necessary.

TADA, HL&P, Switzer, and an individual opposed the exemption criteria specified in §115.247(2). TADA believed that the exemption level specified in §115.247(2) should be 50,000 gallons of gasoline per month, while HL&P suggested an exemption level of 10,000 gallons per month averaged over one year. Switzer suggested an exemption level of 50,000 gallons per month until 1998 and an exemption level of 25,000 gallons per month after 1998. The individual opposed any exemption based upon gasoline throughput.

EPA requires that the exemption throughput level be no greater than 10,000 gallons per month, except that for independent small business marketers of gasoline, a state may choose to raise the exemption level as high as 50,000 gallons per month. Therefore, a blanket exemption for facilities with gasoline throughputs of less than 50,000 gallons per month is not permissible. The exemption level was set at 10,000 gallons per calendar month as proposed with an extended compliance schedule available for independent small business marketers of gasoline. The staff believes that establishing the gasoline exemption level based upon the throughput for any post-1990 calendar month, rather than upon a monthly average throughput, will result in a rule which is more clearly defined and more enforceable. For instance, the exemption in EPA's model rule is based upon an average monthly gasoline throughput and specifies that the averaging period is a rolling 30-day period. This would require inspectors to determine 365 "monthly averages" per year per facility.

Chevron and Exxon commented on §115.248. Chevron supported the training requirements of §115.248(1)-(2), but suggested that detailed training be mandated only for those people who actually work with and on Stage II equipment. Exxon suggested that the person completing the training be allowed to train employees from multiple facilities; i.e., a relaxation of the requirement for at least one trainer per Stage II facility.

Section 115.248 contains the minimum training requirements mandated by EPA. Since the proposed §115.248 was made in response to an EPA requirement, a relaxation of the training requirements could jeopardize EPA approval. Therefore, no change in the language has been made.

Two individuals commented on §115.248(3)(A) and suggested that the owner/operator training program include a discussion of health effects. The staff agrees and revised §115.248(3)(A) to include language specifying that the training program will include a discussion of health effects.

TOMA, Diamond Shamrock, EPA, C&R, Sierra Club, and an individual commented on §115.249. TOMA believed that the compliance schedule is too short and suggested a phased schedule for independent small busi-

ness marketers of gasoline based upon throughput: facilities with 25,000 to 50,000 gallons per month to comply with Stage II requirements by December 22, 1998 with Stage II equipment to be installed when the tanks are replaced or equipped with corrosion protection and facilities with less than 25,000 gallons per month to always be exempt. C&R stated that there are only five contractors in the El Paso area who are licensed by TWC to install the necessary equipment and suggested that the May 15, 1993, compliance date of §115.249(1) be extended to November 15, 1993, with all facilities to be in compliance by November 15, 1995, without exception. Diamond Shamrock opposed the 100,000 gallons per calendar month cutoff and suggested the cutoff be set at 100,000 gallons per month averaged over two years. Sierra Club opposed the extension of compliance dates by more than three months. An individual supported the installation of Stage II systems concurrently with underground storage tank replacement.

The staff has discussed these comments with TWC and EPA and has revised §115.249(3) such that independent small business marketers of gasoline whose facilities have a gasoline throughput of less than 50,000 gallons per month shall be required to install Stage II systems when their storage tanks are replaced or equipped with corrosion protection, but no later than December 22, 1998. This extended schedule will reduce costs significantly for independent small business marketers of gasoline by allowing Stage II systems to be installed concurrently with underground storage tank upgrades and/or replacements required by TWC no later than December 22, 1998. The May 15, 1993, compliance date in §115.249(1) for facilities for which construction began after November 15, 1990, is mandated by EPA, however, and cannot be changed. The staff believes that establishing the gasoline throughput cutoffs based upon the throughput for any post-1990 calendar month, rather than upon a monthly average throughput, will result in a rule which is more clearly defined and more enforceable.

EPA stated that the cutoff in §115.249(2) should be changed from "more than 100,000 gallons per month" to "at least 100,000 gallons per month" to insure that the cutoff is at least as stringent as specified in the 1990 FCAA amendments. The staff agrees with EPA and has incorporated corrected language into §115.249(2).

An individual supported the proposed mirror backing coating emission limitations of §115.421(a)(12), while TPC suggested that mirror backing rules are not warranted since there is no CTG for this category. The staff developed the proposed revisions in response to a requirement by EPA for states to adopt RACT rules by November 15, 1992, for major VOC sources which are not covered by an existing EPA CTG or by one of the new CTGs which EPA is scheduled to finalize in 1993. The mirror backing coating industry is a major VOC source (greater than 25 tons per year per facility) which will not be covered by a CTG; therefore, TACB is required to develop an appropriate RACT rule.

A number of comments were received on the proposed revisions to §115.422(3) and

§115.429(d) which would restrict the types of spray equipment used to apply coatings at some facilities. Rescar, Ameron, Barras, Permian, Carboline, Energy Coatings, North Star, Champions, Chaparral, Five Star, Speeflo, DuPont Automotive, Sherwin-Williams, Palmer, Jones-Blair, Wagner, Laster, Spray-Quip, Sipco, SSPC, Empire, Trinity, BJ, PDCA, Shell, Sigma, and two individuals believed that conventional air atomization and airless guns may, in some cases, be necessary. TPC also suggested that conventional air atomization and airless guns may, in some cases, be more efficient than high-volume, low-pressure spray guns. TPC, Barras, DuPont Automotive, Sherwin-Williams, Wagner, Sipco, SSPC, PDCA, and Reichle expressed concern that the proposed spray gun restrictions could apply to architectural coatings. Glidden, Graco, and Foret believed the proposal needed clarification as to the applicability. Wright, Carboline, Champions, Palmer, Jones-Blair, Wagner, L. M. Spray, Laster, Spray-Quip, Sipco, Harry's, Empire, Porter, and PDCA believed that transfer efficiency is irrelevant to VOC emissions and suggested that the VOC content in the coating being applied should be the only consideration. Weismantel, Carboline, DeVilbiss, and an individual believed that compliant coatings should be exempted from §115.422(3). Wright and SSPC suggested that the existing limits on the VOC content in coatings be lowered. DeVilbiss, Glidden, Sipco, DuPont Automotive, and SSPC expressed concern about costs.

Information received during the comment period indicates that more investigation into the technical aspects of possible restrictions on coating application equipment is needed before any regulatory controls should be implemented. Therefore, the proposed revisions to §115.422(3) and §115.429(d) were withdrawn.

DuPont, Dow, TCC, Sterling, and AWD commented on proposed revisions to carbon adsorption monitoring in §115.426. Dow recommended daily, weekly, or monthly monitoring for carbon adsorption systems. DuPont objected to continuous monitoring for disposable carbon canisters and suggested daily monitoring.

Neither the current rule nor the proposed changes require monitors on carbon canisters. Carbon canisters are carbon adsorbers as defined in §115.10. Carbon adsorption systems are defined separately to "include a system to regenerate the saturated adsorbent." The monitoring and recordkeeping requirements apply to carbon adsorption systems as defined in §115.10, but not to simple carbon adsorbers such as carbon canisters.

Mobil commented that they do not know of any EPA requirement for continuously monitoring the operational parameters of control devices. EPA specified the continuous monitoring requirements for control devices in the November 1991 EPA document "Technical Support Document for the Proposed Approval of the Texas Air Control Board Revisions to Regulation V, Control of Air Pollution From Volatile Organic Compounds-Post 87 VOC RACT Corrections (RACT Fix-up)." This doc-

ument is referenced in the April 14, 1992, *Federal Register* on page 12904.

DuPont, Dow, Sterling, and TCC believed the cost of monitors to be underestimated. The cost of monitors will vary from relatively inexpensive for thermocouples to measure temperature of catalytic or thermal incinerators to more costly for equipment to monitor the VOC exhaust concentration from a carbon adsorption system.

TCC suggested that installation and maintenance of monitors should be in a section other than recordkeeping. Existing rules in the recordkeeping requirements section already require monitors on the operational parameters of control devices. Since the monitoring and recordkeeping requirements are inextricably linked, the staff has changed the section title from "Recordkeeping Requirements" to "Monitoring and Recordkeeping Requirements" for clarity.

TCC stated that carbon adsorption systems have very predictable breakthrough conditions and/or times and are designed to never reach breakthrough. TCC suggested some other (unspecified) methods besides monitoring the exhaust gas VOC concentration of the carbon adsorption system be used, and stated that most of the time the exhaust gas VOC concentration of the system would be very low. AWD claimed that Dow's SORBATHENE carbon adsorption system never reaches saturation and suggested that continuous temperature monitoring be considered equivalent for this unit.

AWD also believed that the monitoring requirements should be defined in the permit.

Monitoring is necessary in order to verify that the control device is functioning properly and to insure the enforceability of the control requirements. Any carbon adsorption system may reach breakthrough, regardless of the intent of the system design, and monitoring of the exhaust gas VOC concentration is the accepted method to observe the operating condition of the system. Since not all affected facilities have TACB permits, monitoring requirements must remain in Regulation V to insure that enforceable requirements are in place for all affected facilities.

Dow commented that an excessive amount of paper will be generated by keeping records for two years. Retention of records for two years is standard practice and will not require excessive paperwork. EPA requires that records be maintained for two years, and any relaxation of this requirement could jeopardize EPA approval.

Dow believed that recordkeeping for carbon adsorption systems should only be required when a system is inoperable or when "operating out of established boundaries." The staff disagrees with Dow. The company's proposal would require recordkeeping only when the carbon adsorption system is in an upset condition, but would not establish that the unit was operating in compliance at all other times.

Sterling believed that monitoring requirements are redundant because some sources have to do monitoring as required by National Emission Standards for Hazardous Air Pollut-

ants (NESHAPS), and recommended that any source subject to NESHAPS be exempt from Regulation V monitoring requirements.

The staff is aware that federal requirements such as NESHAPS may sometimes overlap with Regulation V requirements. However, EPA's RACT requirements do not recognize exemptions for such cases.

• 31 TAC §115.10

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

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In compliance with the Americans With Disabilities Act, this document may be requested in alternate formats by contacting the Air Quality Planning Program staff at (512) 908-1457, (512) 908-1500 FAX or 1-800-RELAY-TX (TDD), or by writing or visiting at 12124 Park 35 Circle, Austin, Texas 78753.

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 October 26, 1992.

TRD-9214459 Lane Hartscock
Deputy Director, Air Quality
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Texas Air Control Board

Effective date: November 16, 1992

Proposal publication date: June 30, 1992

For further information, please call: (512) 908-1451

Subchapter B. General Volatile Organic Compound Sources Storage of Volatile Organic Compounds

• 31 TAC §115.116, §115.119

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

§115.116. Monitoring and Recordkeeping Requirements.

(a) For all persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following recordkeeping requirements shall apply.

(1) (No change.)

(2) The results of inspections required by §115.114(a) of this title (relating

to Inspection Requirements) shall be recorded.

(3) Affected persons shall install and maintain monitors to continuously measure and record operational parameters of any of the following emission control devices installed to meet applicable control requirements. Such records must be sufficient to demonstrate proper functioning of those devices to design specifications, including:

(A) the exhaust gas temperature immediately down-stream of a direct-flame incinerator;

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

(C) the exhaust gas volatile organic compound (VOC) concentration of any carbon adsorption system, as defined in §115.010 of this title (relating to Definitions), to determine if breakthrough has occurred; and

(D) (No change.)

(4) (No change.)

(5) All records shall be maintained for two years and be made available for review upon request by authorized representatives of the Texas Air Control Board (TACB), United States Environmental Protection Agency (EPA), or local air pollution control agencies.

(b) For all persons in Gregg, Nueces, and Victoria Counties, the following recordkeeping requirements shall apply.

(1) (No change.)

(2) The results of inspections required by §115.114(b) of this title shall be recorded.

(3) In Victoria County, affected persons shall install and maintain monitors to continuously measure and record operational parameters of any of the following emission control devices installed to meet applicable control requirements. Such records must be sufficient to demonstrate proper functioning of those devices to design specifications, including:

(A) the exhaust gas temperature immediately downstream of a direct-flame incinerator;

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

(C) the exhaust gas VOC concentration of any carbon adsorption sys-

tem, as defined in §115.10 of this title, to determine if breakthrough has occurred; 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.

(4) The results of any testing conducted in accordance with the provisions specified in §115.115(b) of this title (relating to Testing Requirements) shall be maintained at an affected facility.

(5) All records shall be maintained for two years and be made available for review upon request by authorized representatives of the TACB, EPA, or local air pollution control agencies.

§115.119. Counties and Compliance Schedules.

(a) All affected persons in Chambers, Collin, Denton, Fort Bend, Hardin, Liberty, Montgomery, and Waller Counties shall be in compliance with §115.112(a) of this title (relating to Control Requirements), §115.113(a) of this title (relating to Alternate Control Requirements), §115.114(a) of this title (relating to Inspection Requirements), §115.115(a) of this title (relating to Testing Requirements), §115.116(a) of this title (relating to Monitoring and Recordkeeping Requirements), and §115.117(a) of this title (relating to Exemptions) as soon as practicable, but no later than January 31, 1994. Sections 115.112(c) of this title, 115.113(c) of this title, and 115.117(c) of this title shall no longer apply in Hardin and Montgomery Counties after January 31, 1994.

(b) All affected persons in Victoria County shall be in compliance with §115.116(b)(3) of this title, as soon as practicable, but no later than July 31, 1993.

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 October 26, 1992.

TRD-9214480

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Effective date: November 16, 1992

Proposal publication date: June 30, 1992

For further information, please call: (512) 908-1451

Vent Gas Control

• 31 TAC §§115.126, 115.127, 115.129

The amendments are adopted under the Texas Clean Air Act (TCAA), §382. 017,

Texas Health and Safety Code (Vernon 1990), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§115.126. Monitoring and Recordkeeping Requirements.

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, 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 (TACB), United States Environmental Protection Agency (EPA), or any 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) and (3) of this title (relating to Emission Specifications) shall be sufficient to demonstrate the proper functioning of applicable control equipment to design specifications, including:

(A) continuous monitoring of the exhaust gas temperature immediately downstream of a direct-flame incinerator;

(B) (No change.)

(C) continuous monitoring of the exhaust gas VOC concentration of any carbon adsorption system, as defined in §115.010 of this title (relating to Definitions), to determine breakthrough;

(D) (No change.)

(E) the results of any testing of any vent conducted at an affected facility in accordance with the provisions specified in §115. 125(a) of this title (relating to Testing Requirements).

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

(b) For Victoria County, the owner or operator of any facility which emits 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 TACB, EPA, or any 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(b) of this title shall be sufficient to demonstrate the proper functioning of applicable control equipment to design specifications, including:

(A) continuous monitoring of the exhaust gas temperature immediately downstream of a direct-flame incinerator;

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

(C) continuous monitoring of the exhaust gas VOC concentration of any carbon adsorption system, as defined in §115.10 of this title, 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(b) of this title (relating to Testing Requirements).

(2) Records for each vent exempted from control requirements in accordance with §115.127(b) of this title (relating to Exemptions) shall be sufficient to demonstrate compliance with applicable exemption limits, including:

(A) the pounds of ethylene emitted per 1,000 pounds of low-density polyethylene produced;

(B) the combined weight of VOC of each vent gas stream on a daily basis;

(C) the true partial pressure of VOC in each vent gas stream on a daily basis; and

(D) the results of any testing of any vent conducted at an affected facility in accordance with the provisions specified in this section.

(3) Records for each vent exempted from control requirements in accordance with §115.127(b) of this title and having a VOC emission rate and concentration less than 50% of the applicable exemption limits at maximum actual operating conditions shall be sufficient to demonstrate continuous compliance with the applicable exemption limit, including:

(A) complete information from either test results or appropriate calculations which clearly documents that the emission characteristics at maximum actual

operating conditions are less than 50% of the applicable exemption limits; and

(B) daily operating parameters which may affect VOC emissions from the vent sufficient to demonstrate that the maximum actual operating conditions represented for the affected facility have not been exceeded.

§115.129. Counties and Compliance Schedules.

(a) All affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas shall be in compliance with this undesignated head (relating to Vent Gas Control) in accordance with the following schedules.

(1) All affected persons in Chambers, Collin, Denton, Fort Bend, Hardin, Liberty, Montgomery, and Waller Counties shall be in compliance with §115.121(a) of this title (relating to Emission Specifications), §115.122(a) of this title (relating to Control Requirements), §115.123(a) of this title (relating to Alternate Control Requirements), §115.125(a) of this title (relating to Testing Requirements), §115.126(a) of this title (relating to Monitoring and Recordkeeping Requirements), and §115.127(a) of this title (relating to Exemptions), as soon as practicable, but no later than July 31, 1994. Sections 115.121(c) of this title, 115.122(c) of this title, 115.123(c) of this title, and 115.127(c) of this title, shall no longer apply in Hardin and Montgomery Counties after July 31, 1994.

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

(b) All affected persons in Victoria County shall be in compliance with §115.126(b) of this title, as soon as practicable, but no later than July 31, 1993.

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 October 26, 1992.

TRD-9214461

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Texas Air Control Board

Effective date: November 16, 1992

Proposal publication date: June 30, 1992

For further information, please call: (512) 908-1451

Water Separation

• 31 TAC §115.136, §115.139

The amendments are adopted under the Texas Clean Air Act (TCAA), §382.017, Texas Health and Safety Code (Vernon

1990), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§115.136. Monitoring and Recordkeeping Requirements.

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following recordkeeping requirements shall apply.

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

(4) All records shall be maintained at the affected facility for at least two years and be made available upon request to representatives of the Texas Air Control Board (TACB), United States Environmental Protection Agency (EPA), or any local air pollution control agency having jurisdiction in the area.

(b) For Gregg, Nueces, and Victoria Counties, the following recordkeeping requirements shall apply.

(1) Any person who operates a single or multiple compartment volatile organic compound (VOC) water separator without the controls specified in §115.132(b) of this title (relating to Control Requirements) shall maintain complete and up-to-date records sufficient to demonstrate continuous compliance with the applicable exemption criteria including, but not limited to, the names and true vapor pressures of all such materials stored, processed, or handled at the affected property, and any other necessary operational information.

(2) In Victoria County, affected persons shall install and maintain monitors to continuously measure and record operational parameters of any emission control device installed to meet applicable control requirements. Such records must be sufficient to demonstrate proper functioning of those devices to design specifications, including:

(A) the exhaust gas temperature immediately downstream of any direct-flame incinerator;

(B) the gas temperature immediately upstream and downstream of any catalytic incinerator or chiller;

(C) the exhaust gas VOC concentration of any carbon adsorption system, as defined in §115.10 of this title (relating to Definitions), to determine if breakthrough has occurred; and

(D) 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.

(3) Affected persons shall maintain the results of any testing conducted in accordance with the provisions specified in §115.135(b) of this title (relating to Testing Requirements).

(4) All records shall be maintained at the affected facility for at least two years and be made available upon request to representatives of TACB, EPA, or any local air pollution control agency having jurisdiction in the area.

§115.139. Counties and Compliance Schedules.

(a) All affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas shall be in compliance with this undesignated head (relating to Water Separation) in accordance with the following schedules:

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

(b) All affected persons in Victoria County shall be in compliance with §115.136(b)(2) of this title (relating to Monitoring and Recordkeeping Requirements) as soon as practicable, but no later than July 31, 1993.

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 October 26, 1992.

TRD-9214462

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Effective date: November 16, 1992

Proposal publication date: June 30, 1992

For further information, please call: (512) 908-1451

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**Loading and Unloading of
Volatile Organic Compounds**

• 31 TAC §§115.211, 115.215,
115.216, 115.217, 115.219

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

§115.216. Monitoring and Recordkeeping Requirements.

(a) For facilities in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas 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 (TACB), United States Environmental Protection Agency (EPA), or any local air pollution control agency having jurisdiction in the area:

(1) (No change.)

(2) for vapor recovery systems:

(A) continuous monitoring and recording of the exhaust gas temperature immediately downstream of a direct-flame incinerator;

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

(C) continuous monitoring and recording of the exhaust gas VOC concentration of any carbon adsorption system, as defined in §115.10 of this title (relating to Definitions), to determine breakthrough; and

(D) (No change.)

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

(5) affected persons shall maintain the results of any testing conducted in accordance with the provisions specified in §115.215(a) of this title (relating to Testing Requirements).

(b) For facilities in Victoria County affected by §115.211(b) of this title and §115.212(b) of this title, the owner or operator of any 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 TACB, EPA, or any local air pollution control agency having jurisdiction in the area:

(1) a daily record of the total throughput of VOC loaded at the facility;

(2) for vapor recovery systems:

(A) continuous monitoring and recording of the exhaust gas temperature immediately downstream of a direct-flame incinerator;

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

(C) continuous monitoring and recording of the exhaust gas VOC con-

centration of any carbon adsorption system, as defined in §115.10 of this title, 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) for gasoline terminals:

(A) a daily record of the number of delivery vessels loaded at the terminal and the quantity of gasoline loaded to each delivery vessel; and

(B) a record of the results of any testing conducted at the terminal in accordance with the provisions specified in §115.215(b) of this title;

(4) affected persons shall maintain the results of any testing conducted in accordance with the provisions specified in §115.215(b) of this title.

§115.219. Counties and Compliance Schedules.

(a) All affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas 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 in Chambers, Collin, Denton, Fort Bend, Hardin, Liberty, Montgomery, and Waller Counties shall be in compliance with §115.211(a) of this title (relating to Emission Specifications), §115.212(a) of this title (relating to Control Requirements), §115.213(a) of this title (relating to Alternate Control Requirements), §115.214(a) of this title (relating to Inspection Requirements), §115.215(a) of this title (relating to Testing Requirements), §115.216(a) of this title (relating to Monitoring and Recordkeeping Requirements), and §115.217(a) of this title (relating to Exemptions), as soon as practicable, but no later than January 31, 1994. Sections 115.212(c) of this title, 115.213(c) of this title, and 115.217(c) of this title shall no longer apply in Hardin and Montgomery Counties after January 31, 1994.

(2) All affected persons in Brazoria, El Paso, Galveston, Jefferson, and Orange Counties shall be in compliance with §115.211(a)(1)(B) of this title as soon as practicable, but no later than January 31, 1994.

(3) All affected persons in Brazoria, Dallas, El Paso, Galveston, Jefferson, Orange, and Tarrant Counties shall be

in compliance with §115.211(a)(2) of this title as soon as practicable, but no later than January 31, 1994.

(4) All affected persons in Brazoria, Galveston, Jefferson, and Orange Counties shall be in compliance with §115.212(a)(4) and (5) of this title, §115.214(a)(4) of this title, and §115.216(a)(4) of this title as soon as practicable, but no later than January 31, 1994.

(5)-(6) (No change.)

(b) All affected persons in Victoria County shall be in compliance with §115.216(b) of this title as soon as practicable, but no later than July 31, 1993.

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 October 26, 1992.

TRD-9214463

Lane Hartsock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Effective date: November 16, 1992

Proposal publication date: June 30, 1992

For further information, please call: (512)
908-1451

Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities

• 31 TAC §§115.241-115.249

The amendments are adopted under the Texas Clean Air Act (TCAA), §382. 017, Texas Health and Safety Code (Vernon 1990), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§115.242. Control Requirements. For all persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas affected by this undesignated head (relating to Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities), a vapor recovery system will be assumed to comply with the specified emission limitation of §115.241 of this title (relating to Emission Specifications) if the following conditions are met.

(1) The facility is equipped with a Stage II vapor recovery system that has been certified by a California Air Resources Board (CARB) executive order concerning Stage II vapor recovery systems as of April 1992, except that Stage II vapor recovery systems which include remote vapor check valves and/or dual-hang hoses shall not be installed.

(2) The owner or operator shall maintain the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and free of defects that would impair the effectiveness of the system, including, but not limited to:

(A) absence or disconnection of any component that is a part of the approved system;

(B) a vapor hose that is crimped or flattened such that the vapor passage is blocked, or the pressure drop through the vapor hose exceeds by a factor of two or more the value as certified in the approved system;

(C) a nozzle boot that is torn in one or more of the following ways:

(i) a triangular-shaped or similar tear more than 0.5 inches on a side;

(ii) a hole more than 0.5 inches in diameter; or

(iii) a slit more than 1.0 inch in length;

(D) for balance nozzles, a faceplate that is damaged such that the capability to achieve a seal with a fill pipe interface is affected for a total of at least one-fourth of the circumference of the faceplate;

(E) for nozzles in vacuum assist type systems, a flexible cone for which a total of at least one-fourth of the cone is damaged or missing;

(F) a nozzle shutoff mechanism that malfunctions in any manner;

(G) vapor return lines, including such components as swivels, anti-recirculation valves, and underground piping, that malfunction, are blocked, or are restricted such that the pressure drop through the line exceeds by a factor of two or more the value as certified in the approved system;

(H) a vapor processing unit that is inoperative;

(I) a vacuum producing device that is inoperative;

(J) pressure/vacuum relief valves, vapor check valves, or dry breaks that are inoperative; and

(K) any equipment defect that is identified in a CARB certification of

an approved system as substantially impairing the effectiveness of the system in reducing refueling vapor emissions.

(3) No gasoline leaks, as detected by sight, sound, or smell, exist anywhere in the dispensing equipment or Stage II vapor recovery system.

(4) Upon identification of any of the defects described in paragraphs (2) and (3) of this section, the owner or operator shall place a dated "Out-of-Order" tag on all dispensing equipment for which vapor recovery has been impaired. The tagged equipment shall not be used and the tag shall not be removed until the defective equipment has been properly repaired, replaced, or adjusted, as necessary.

(5) No person shall repair, modify, or permit the repair or modification of the Stage II vapor recovery system or its components such that they are different from their approved configuration, and only original equipment manufacturer (OEM) parts or CARB-certified non-OEM aftermarket parts shall be used as replacement parts.

(6) No person shall tamper with, or permit tampering with, any part of the Stage II vapor recovery system in a manner that would impair the operation or effectiveness of the system.

(7) The owner or operator of a motor vehicle fuel dispensing facility shall post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system. These instructions shall, at a minimum, include:

(A) a clear description of how to correctly dispense gasoline using the system;

(B) a warning against attempting to continue to refuel after initial automatic shutoff of the system (an indication that the vehicle fuel tank is full); and

(C) the telephone number and address of the appropriate Texas Air Control Board regional office and any local air pollution control program with jurisdiction to be used for questions, comments, or the reporting of any problems experienced with the system.

(8) Any motor vehicle fuel dispensing facility that becomes subject to the provisions of this undesignated head by exceeding the exemption limits of §115.247 of this title (relating to Exemptions) will remain subject to the provisions of this undesignated head even if its gasoline throughput later falls below exemption limits.

§115.245. Testing Requirements. For all affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas compliance with §115.241 of this title (relating to Emission Specifications) and §115.242 of this title (relating to Control Requirements) shall be determined at each facility within 30 days of installation of the Stage II equipment by testing as follows.

(1) Liquid blockage testing, leak check testing, and all other related tests for automatic shutoff and flow prohibiting mechanisms, as applicable, shall be conducted in accordance with the test procedures found in Appendix J of the United States Environmental Protection Agency guidance document "Technical Guidance—Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities" (EPA-450/3-91-022b) as in effect November 1991. The owner or operator shall provide written notification to the appropriate Texas Air Control Board (TACB) regional office and any local air pollution program with jurisdiction of the testing date and who will conduct the test at least 10 days in advance of the date the testing will occur.

(2) Verification of proper operation of the Stage II equipment shall be performed at least every five years or upon major system replacement or modification, whichever occurs first. The verification shall include a leak check test and all other functional tests that were required for the initial system test. The owner or operator shall provide written notification to the appropriate TACB regional office and any local air pollution program with jurisdiction of the testing date and who will conduct the test at least 10 days in advance of the date the testing will occur. For the purposes of this paragraph, a major system replacement or modification is defined as:

(A) the repair or replacement of any stationary storage tank equipped with a Stage II vapor recovery system; or

(B) the repair or replacement of any part of an underground piping system attached to a stationary storage tank equipped with a Stage II vapor recovery system, excluding the repair or replacement of an underground piping system which is accessible for such repair or replacement without excavation.

(3) Minor modifications of these test methods may be approved by the executive director.

§115.246. Recordkeeping Requirements. For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the owner or operator

of any motor vehicle fuel dispensing facility subject to the control requirements of this undesignated head (relating to Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities) shall maintain the following records:

(1) a copy of the California Air Resources Board (CARB) executive order for the Stage II vapor recovery system installed at the facility;

(2) a record of any maintenance conducted on any part of the Stage II equipment, including a general part description, the date and time the equipment was taken out of service, the date of repair or replacement, the replacement part manufacturer's information, a general description of the part location in the system (e.g., pump number, etc.), and a description of the problem;

(3) proof of attendance and completion of the training specified in §115.248 of this title (relating to Training Requirements), with the documentation of all Stage II training for each employee to be maintained as long as that employee continues to work at the facility;

(4) a record of the results of testing conducted at the motor vehicle fuel dispensing facility in accordance with the provisions specified in §115.245 of this title (relating to Testing Requirements);

(5) a record of the results of the daily inspections conducted at the motor vehicle fuel dispensing facility in accordance with the provisions specified in §115.244 of this title (relating to Inspection Requirements); and

(6) all records shall be maintained at the facility site for at least two years, except that the CARB executive order specified in paragraph (1) of this section shall be kept on-site indefinitely. All records shall be made immediately available for review upon request by authorized representatives of the Texas Air Control Board, United States Environmental Protection Agency, or any local air pollution control program with jurisdiction.

§115.248. Training Requirements. For all persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas affected by this undesignated head (relating to Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities), the following training requirements apply.

(1) The owner or operator of a motor vehicle fuel dispensing facility shall ensure that at least one facility representative receive training and instruction in the operation and maintenance of the Stage II vapor recovery system by successfully completing a training course approved by the Texas Air Control Board. Each such facility representative is then responsible for

making every current and future employee aware of the purposes and correct operating procedures of the system. The required training shall be completed as soon as practicable prior to the initiation of operation of the facility's Stage II equipment.

(2) If the facility representative who received the training is no longer employed at that facility, another facility representative must successfully complete the training within three months of the departure of the previously trained employee.

(3) Training will include, but is not limited to, the following:

(A) purposes and effects of the Stage II vapor recovery system program, including health effects;

(B) equipment operation and function specific to each facility's Stage II vapor recovery system;

(C) maintenance schedules and requirements for the facility's equipment;

(D) equipment warranties;

(E) equipment manufacturer contacts (names, addresses, and telephone numbers) for parts and service; and

(F) enforcement consequences for noncompliance with Stage II program requirements.

§115.249. Counties and Compliance Schedules. All affected persons in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Harris, Hardin, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller Counties shall be in compliance with this undesignated head (relating to Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities) according to the following schedules:

(1) as soon as practicable, but no later than May 15, 1993, for facilities for which construction began after November 15, 1990;

(2) as soon as practicable, but no later than November 15, 1993, for facilities with a monthly throughput of at least 100,000 gallons of gasoline. For the purposes of this paragraph, the monthly throughput shall be based on the gasoline throughput for each calendar month beginning January 1, 1991;

(3) as soon as practicable, but no later than November 15, 1994, for all other facilities, except that individual independent small business marketers of gaso-

line, as defined in §115.10 of this title (relating to Definitions), may petition the executive director for an extension of the compliance deadline to December 22, 1998, or until one or more of the facility's gasoline storage tanks are replaced and/or equipped with corrosion protection as required by the Texas Water Commission, whichever occurs first, provided that the petition is submitted no later than November 15, 1993 and approved by the executive director. The availability of an extended compliance schedule for independent small business marketers of gasoline only applies to individual facilities for which the monthly gasoline throughput is less than 50,000 gallons per month, based on the gasoline throughput for each calendar month beginning January 1, 1991; and

(4) if more than one of the compliance schedules in paragraphs (1)-(3) of this section (relating to Counties and Compliance Schedules) applies to a facility, the earliest compliance schedule shall take precedence.

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 October 26, 1992.

TRD-9214464 Lane Hartssock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Effective date: November 16, 1992

Proposal publication date: June 30, 1992

For further information, please call: (512) 908-1451

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Chapter 115. Control of Air
Pollution from Volatile
Organic Compounds

Subchapter C. Volatile Organic
Compound Marketing Operations

Control of Reid Vapor Pressure
of Gasoline

• 31 TAC §115.249

The Texas Air Control Board (TACB) adopts the repeal of §115.249, concerning control of Reid vapor pressure of gasoline as published in the June 30, 1992 issue of the *Texas Register* (17 TexReg 4666).

The repeal of §115.249 involves removal of existing requirements which were superseded by more stringent federal requirements that became effective on May 1, 1992. In concurrent action, TACB adopts a new undesignated head concerning control of vehicle refueling emissions (Stage II) at motor vehicle fuel dispensing facilities. This new undesignated head is included in Subchapter C, concerning volatile organic compound marketing operations.

Public hearings were held on July 27, 1992, in Houston; July 28, 1992, in Beaumont; July 29, 1992, in El Paso; and July 30, 1992, in Arlington. Written comments were initially to be accepted through July 31, 1992; however, the comment period was extended to August 14, 1992. No written or oral testimony was received during the comment period concerning the proposed repeal of §115.249.

TACB is an equal opportunity employer and does not discriminate on the basis of race, color, religion, sex, national origin, age, or disability in employment or in the provision of services, programs, or activities.

In compliance with the Americans With Disabilities Act, this document may be requested in alternate formats by contacting the Air Quality Planning Program staff at (512) 908-1457, (512) 908-1500 FAX or 1-800-RELAY-TX (TDD), or by writing or visiting at 12124 Park 35 Circle, Austin, Texas 78753.

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

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 October 26, 1992.

TRD-9214458 Lane Hartssock
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Texas Air Control Board

Effective date: November 16, 1992

Proposal publication date: June 30, 1992

For further information, please call: (512) 908-1451

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Subchapter D. Petroleum Refining and Petrochemical Processes

Process Unit Turnaround and Vacuum Producing Systems in Petroleum Refineries

• 31 TAC §115.316, §115.319

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

§115.316. Monitoring and Recordkeeping Requirements.

(a) For all affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following recordkeeping requirements shall apply.

(1) Any person who operates a vacuum-producing system affected by §115.311(a) of this title (relating to Emission Specifications) shall keep the following records:

(A) continuous monitoring of the exhaust gas temperature immediately downstream of a direct-flame incinerator;

(B) (No change.)

(C) continuous monitoring of the exhaust gas volatile organic compound (VOC) concentration of any carbon adsorption system, as defined in §115.10 of this title (relating to Definitions), to determine breakthrough; and

(D) (No change.)

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

(4) All records shall be maintained for two years and be made available for review upon request by authorized representatives of the Texas Air Control Board (TACB), United States Environmental Protection Agency (EPA), or local air pollution control agencies.

(b) For all affected persons in Victoria County, the following recordkeeping requirements shall apply.

(1) Any person who operates a vacuum-producing system affected by §115.311(b) of this title shall keep the following records:

(A) continuous monitoring of the exhaust gas temperature immediately downstream of a direct-flame incinerator;

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

(C) continuous monitoring of the exhaust gas VOC concentration of any carbon adsorption system, as defined in §115.10 of this title, 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.

(2) Any person who conducts a process unit turnaround affected by §115.312(b) of this title (relating to Control Requirements) shall keep the following records:

(A) the date of process unit shutdown and subsequent start-up following turnaround;

(B) the type of process unit involved in the turnaround; and

(C) an estimation of the concentration and total emissions of VOC emissions released to the atmosphere during the process turnaround.

(3) The results of any testing conducted in accordance with the provisions specified in §115.315(b) of this title (relating to Testing Requirements) shall be maintained at the affected facility.

(4) All records shall be maintained for two years and be made available for review upon request by authorized representatives of TACB, EPA, or local air pollution control agencies.

§115.319. Counties and Compliance Schedules.

(a) All affected persons in the Beaumont/Port Arthur, Dallas/ Fort Worth, El Paso, and Houston/Galveston areas shall be in compliance with this undesignated head (relating to Process Unit Turnaround and Vacuum-Producing Systems in Petroleum Refineries) in accordance with the following schedules.

(1) All affected persons in Chambers, Collin, Denton, Fort Bend, Hardin, Liberty, Montgomery, and Waller Counties shall be in compliance with §115.311(a) of this title (relating to Emission Specifications), §115.312(a) of this title (relating to Control Requirements), §115.313(a) of this title (relating to Alternate Control Requirements), §115.315(a) of this title (relating to Testing Requirements), and §115.316(a) of this title (relating to Monitoring and Recordkeeping Requirements), as soon as practicable, but no later than July 31, 1993.

(2) All persons in Dallas, Jefferson, Orange, and Tarrant Counties affected by the provisions of §115.316(a) of this title shall be in compliance with this section as soon as practicable, but no later than July 31, 1993.

(b) All affected persons in Victoria County shall be in compliance with §115.316(b) of this title, as soon as practicable, but no later than July 31, 1993.

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 October 26, 1992.

TRD-9214465 Lane Hartsock
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Texas Air Control Board

Effective date: November 16, 1992

Proposal publication date: June 30, 1992

For further information, please call: (512) 908-1451

Subchapter E. Solvent-Using Processes

Surface Coating Processes

• 31 TAC §§115.421, 115.425, 115.426, 115.427, 115.429

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.

§115.421. Emission Specifications.

(a) No person in the Beaumont/Port Arthur, Dallas/ Fort Worth, El Paso, and Houston/Galveston areas as defined in §115.010 of this title (relating to Definitions) may cause, suffer, allow, or permit volatile organic compound (VOC) emissions from the surface coating processes as defined in §115.10 of this title affected by paragraphs (1)-(12) of this subsection to exceed the specified emission limits. These limitations are based on the daily weighted average of all coatings delivered to each coating line, except for those in paragraph (10) of this subsection which are based on paneling surface area and those in paragraph (11) of this subsection which are based on the VOC content of architectural coatings sold or offered for sale.

(1)-(11) (No change.)

(12) Surface coating of mirror backing.

(A) After July 31, 1994, VOC emissions from the coating of mirror backing shall not exceed the following limits for each surface coating application method:

(i) 9.8 pounds per gallon (0.50 kg/liter) of solids delivered to a curtain coating application system;

(ii) 7.1 pounds per gallon (0.43 kg/liter) of solids delivered to a roll coating application system.

(B) All VOC emissions from solvent washings shall be included in determination of compliance with the emission limitations in subparagraph (A) of this paragraph, unless the solvent is directed into containers that prevent evaporation into the atmosphere.

(b) (No change.)

§115.425. Testing Requirements.

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Hous-

ton/Galveston areas, the following testing requirements shall apply.

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

(4) The capture efficiency shall be measured using applicable procedures outlined in 40 Code of Federal Regulations Part 52.741, Subpart O, Appendix B. These procedures are:

Procedure T-Criteria for and Verification of a Permanent or Temporary Total Enclosure;

Procedure L-Volatile Organic Compounds (VOC) Input;

Procedure G.2-Captured VOC Emissions (Dilution Technique);

Procedure F.1-Fugitive VOC Emissions from Temporary Enclosures;

Procedure F.2-Fugitive VOC Emissions from Building Enclosures.

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

(C) The following conditions must be met in measuring capture efficiency.

(i) (No change.)

(ii) All affected facilities shall accomplish the initial capture efficiency testing by July 31, 1992, in Brazoria, Dallas, El Paso, Galveston, Harris, Jefferson, Orange, and Tarrant Counties, and by July 31, 1993, in Chambers, Collin, Denton, Fort Bend, Hardin, Liberty, Montgomery, and Waller Counties, except that all mirror backing coating facilities shall accomplish the initial capture efficiency testing by July 31, 1994.

(iii) (No change.)

(b) (No change.)

§115.426. Monitoring and Recordkeeping Requirements.

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, 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(a)(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) continuous monitoring of the exhaust gas temperature of direct-flame incinerators and/or the gas temperature immediately upstream and downstream of any catalyst bed;

(ii)-(iv) (No change.)

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

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

(b) For Gregg, Nueces, and Victoria Counties, 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(b)(3) of this title 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) continuous monitoring of the exhaust gas temperature of direct-flame incinerators and/or the gas temperature immediately upstream and downstream of any catalyst bed;

(ii) -(iv) (No change.)

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

(3) (No change.)

§115.427. Exemptions.

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following exemptions shall apply.

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

(5) In Dallas, El Paso, Harris, and Tarrant Counties, and after July 31, 1993, in counties other than Dallas, El Paso, Harris, and Tarrant, the following exemptions shall apply to surface coating operations, except for aircraft prime coating controlled by §115.421(a)(9)(A)(v) of this title (relating to Emission Specifications) and automobile and truck refinishing controlled by §115.421(a)(8)(B) and (C) of this title.

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

(C) Mirror backing coating operations located on a property which, when uncontrolled, emit a combined weight of volatile organic compound less than 25 tons in one year (based on historical coating

and solvent usage) are exempt from the provisions of this undesignated head (relating to Surface Coating Processes).

(6) The following coatings are exempt from the provisions of §115.421(a)(11) of this title:

(A) paints sold in containers of one quart or less;

(B) paints used on roadways, pavement, swimming pools, and similar surfaces; and

(C) concentrated color additives.

(7) Sealants applied over bare metal during automobile refinishing solely for the prevention of flash rusting are exempt from the provisions of §115.421(a)(8)(C) of this title.

(b) (No change.)

§115.429. Counties and Compliance Schedules.

(a)-(c) (No change.)

(d) All affected mirror backing coating facilities in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller Counties shall be in compliance with §115.421(a) of this title (relating to Emission Specifications), §115.422 of this title (relating to Control Requirements), §115.423(a) of this title (relating to Alternate Control Requirements), §115.424(a) of this title (relating to Inspection Requirements), §115.425(a) of this title (relating to Testing Requirements), §115.426(a) of this title (relating to Monitoring and Recordkeeping Requirements), and §115.427(a) of this title (relating to Exemptions) as soon as practicable, but no later than July 31, 1994.

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 October 26, 1992.

TRD-9214466 Lane Hartssock
Deputy Director, Air Quality
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Texas Air Control Board

Effective date: November 16, 1992

Proposal publication date: June 30, 1992

For further information, please call: (512) 908-1451

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Graphic Arts (Printing) by Rotogravure and Flexographic Processes

• 31 TAC §115.436, §115.439

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.

§115.436. Monitoring and Recordkeeping Requirements.

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the owner or operator of any graphic arts facility subject to the control requirements of §115.432(a) of this title (relating to Control Requirements) shall:

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

(3) install and maintain monitors to continuously measure and record operational parameters of any emission control device installed to meet applicable control requirements. Such records must be sufficient to demonstrate proper functioning of those devices to design specifications, including:

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

(C) the exhaust gas volatile organic compound (VOC) concentration of any carbon adsorption system, as defined in §115.010 of this title (relating to Definitions), to determine if breakthrough has occurred; and

(D) (No change.)

(4)-(6) (No change.)

(b) For Gregg, Nueces, and Victoria Counties, the owner or operator of any graphic arts facility subject to the control requirements of §115.432(b) of this title shall:

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

(3) install and maintain monitors to continuously measure and record operational parameters of any emission control device installed to meet applicable control requirements. Such records must be sufficient to demonstrate proper functioning of those devices to design specifications, including:

(A) (No change.)

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

(C) in Victoria County, the exhaust gas VOC concentration of any carbon adsorption system, as defined in §115.010 of this title, to determine if breakthrough has occurred; and

(D) 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;

(4)-(5) (No change.)

§115.439. Counties and Compliance Schedules.

(a)-(c) (No change.)

(d) All affected persons in Victoria County shall be in compliance with §115.436(b)(3)(C) of this title (relating to Monitoring and Recordkeeping Requirements) as soon as practicable, but no later than July 31, 1993.

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 October 26, 1992.

TRD-9214468 Lane Hartssock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Effective date: November 16, 1992

Proposal publication date: June 30, 1992

For further information, please call: (512) 908-1451

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**Subchapter F. Miscellaneous
Industrial Sources**

**Pharmaceutical Manufacturing
Facilities**

• **31 TAC §115.536, §115.539**

The amendments are adopted under the Texas Clean Air Act (TCAA), §382. 017, Texas Health and Safety Code (Vernon 1990), which provides TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§115.536. Monitoring and Recordkeeping Requirements.

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following recordkeeping requirements shall apply.

(1) The owner or operator of any pharmaceutical manufacturing facility which utilizes a surface condenser to control emissions of volatile organic compound (VOC) from process units affected by

§115.531(a)(1) of this title (relating to Emission Specifications) shall install and maintain monitors to continuously measure and record the outlet gas temperature to ensure proper functioning in accordance with design specifications.

(2) The owner or operator of any pharmaceutical manufacturing facility which utilizes a vapor recovery system to satisfy the requirements of §115.531(a) of this title or §115.532(a) of this title (relating to Control Requirements) shall:

(A) install and maintain monitors to continuously 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 exhaust gas VOC concentration of any carbon adsorption system, as defined in §115.10 of this title (relating to Definitions), to determine if breakthrough has occurred;

(iii)-(iv) (No change.)

(B) (No change.)

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

(5) The owner or operator of any affected pharmaceutical manufacturing facility shall maintain all records at the affected facility for at least two years and make such records available upon request to representatives of the Texas Air Control Board (TACB), United States Environmental Protection Agency (EPA), or local air pollution control agency.

(b) For Gregg, Nueces, and Victoria Counties, the following recordkeeping requirements shall apply.

(1) The owner or operator of any pharmaceutical manufacturing facility which utilizes a surface condenser to control emissions of VOC from process units affected by §115.531(b)(1) of this title shall install and maintain monitors to continuously measure and record the outlet gas temperature to ensure proper functioning in accordance with design specifications.

(2) The owner or operator of any pharmaceutical manufacturing facility which utilizes a vapor recovery system to satisfy the requirements of §115.531(b) of this title or §115.532(b) of this title shall:

(A) install and maintain monitors to continuously 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) in Victoria County, the exhaust gas VOC concentration of any carbon adsorption system, as defined in §115.10 of this title, to determine if breakthrough has occurred;

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

(iv) the daily emission rate of VOC from the control device;

(B) (No change.)

(3)-(5) (No change.)

§115.539. Counties and Compliance Schedules.

(a)-(b) (No change.)

(c) All affected persons in Victoria County shall be in compliance with §115.536(b)(2)(A)(iii) of this title (relating to Monitoring and Recordkeeping Requirements) as soon as practicable, but no later than July 31, 1993.

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 October 26, 1992.

TRD-9214469 Lane Hartssock
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Planning
Texas Air Control Board

Effective date: November 16, 1992

Proposal publication date: June 30, 1992

For further information, please call: (512) 908-1451

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 15. Medicaid Eligibility

Subchapter B. Medicare and Third-party Resources

• **40 TAC §15.204**

The Texas Department of Human Services (DHS) adopts new §15.204, without changes to the proposed text as published in the September 25, 1992, issue of the *Texas Register* (17 TexReg 6593).

The new section is justified to comply with the Omnibus Budget Reconciliation Act of 1990, which created a new federally-mandated cov-