

# Texas Register

Volume 18, Number 96, December 24, 1993

Page 9868-9959

## In This Issue...

### **Emergency Sections**

#### **General Services Commission**

Central Purchasing Division	
1 TAC §113.19.....	9880

#### **Banking Department of Texas**

Prepaid Funeral Contracts	
7 TAC §25.23, §25.24.....	9880

### **Proposed Sections**

#### **Texas Department of Agriculture**

Quarantines	
4 TAC §5.152, §5.153.....	9881

#### **Banking Department of Texas**

Prepaid Funeral Contracts	
7 TAC §25.2.....	9881
7 TAC §25.11.....	9883
7 TAC §25.12.....	9884
7 TAC §25.14.....	9885
7 TAC §25.23, §25.24.....	9885

#### **Procedure for Hearings**

7 TAC §33.32.....	9889
-------------------	------

#### **Texas Optometry Board**

General Rules	
22 TAC §273.5, §273.6.....	9890

#### **Texas Natural Resource Conservation Commission**

General Rules	
30 TAC §101.1.....	9890

Control of Air Pollution from Motor Vehicles	
30 TAC §114.25.....	9891

#### **Control of Air Pollution from Volatile Organic Compounds**

30 TAC §115.10.....	9904
30 TAC §115.132, §115.139.....	9905
30 TAC §§115.152, 115.153, 115.156, 115.157, 115.159..	9906
30 TAC §§115.211-115.217, 115.219.....	9907
30 TAC §§115.352-115.357, 115.359.....	9913
30 TAC §§115.412, 115.415-115.417, 115.419.....	9914
30 TAC §115.432.....	9916
30 TAC §115.532.....	9916
30 TAC §§115.541-115.547, 115.549.....	9917
30 TAC §§115.552, 115.553, 115.555-115.557, 115.559..	9919

CONTENTS CONTINUED INSIDE



The Texas Register is printed on recycled paper

advance as possible.

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

*§115.132. Control Requirements.*

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, no person shall use any single or multiple compartment volatile organic compound (VOC) water separator which separates materials containing VOC obtained from any equipment which is processing, refining, treating, storing, or handling VOC, unless each compartment is controlled in one of the following ways.

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

(4) Any water separator that becomes subject to the provisions of paragraphs (1), (2), or (3) of this subsection by exceeding provisions of §115.137(a) of this title (relating to Exemptions) will remain subject to the provisions of this subsection, even if throughput or emissions later fall below the exemption limits unless and until emissions are reduced to at or below the controlled emissions level existing prior to implementation of the project by which throughput or emission rate was reduced; and

(A) the project by which throughput or emission rate was reduced is authorized by any permit or permit amendment or standard permit or standard exemption required by Chapter 116 of this title (relating to Control of Air Pollution). If a standard exemption is available for the project, compliance with this subsection must be maintained for 30 days after the filing of documentation of compliance with that standard exemption; or

(B) if no permit or standard exemption is required for the project, the owner/operator has given the TNRCC 30 days' notice of the project in writing.

(b)-(c) (No change.)

*§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) All affected persons in Chambers, Collin, Denton, Fort Bend,

Hardin, Liberty, Montgomery, and Waller Counties shall be in compliance with §115.131(a) of this title (relating to Emission Specifications), §115.132(a) of this title (relating to Control Requirements), §115.133(a) of this title (relating to Alternate Control Requirements), §115.135(a) of this title (relating to Testing Requirements), §115.136(a) of this title (relating to Monitoring and Recordkeeping Requirements), and §115.137(a) of this title (relating to Exemptions) as soon as practicable, but no later than May 31, 1995 [July 31, 1994]. Sections 115.131(c) of this title, 115.132(c) of this title, 115.133(c) of this title, and 115.137(c) of this title shall no longer apply in Hardin and Montgomery Counties after May 31, 1995 [July 31, 1994].

(2) All persons in Brazoria, El Paso, Galveston, Harris, Jefferson, and Orange Counties affected by §115.131(a)(4) of this title and §115.137(a)(1)-(3) of this title shall be in compliance as soon as practicable, but no later than May 31, 1995 [July 31, 1994].

(b) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on December 17, 1993.

TRD-9333818

Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource  
Conservation  
Commission

Proposed date of adoption: May 15, 1994

For further information, please call: (512) 463-8159

◆ ◆ ◆  
**Municipal Solid Waste Landfills**

• 30 TAC §§115.152, 115.153, 115.156, 115.157, 115.159

The Texas Natural Resource Conservation Commission (TNRCC) proposes amendments to §§115.152, 115.153, 115.156, 115.157, and 115.159, concerning Municipal Solid Waste Landfill Facilities (MSWLF). The proposed changes have been developed in response to a requirement by the United States Environmental Protection Agency (EPA) and the 1990 Amendments to the Federal Clean Air Act (CAA) for states to develop and adopt the Rate-of-Progress (ROP) State Implementation Plan (SIP). The ROP SIP is required to achieve and maintain a volatile organic compound (VOC) emissions level that is 15% below the 1990 base year emissions by 1996 in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston ozone nonattainment areas. These rules regarding landfills extend existing rules to Brazoria, Chambers, El Paso, Fort Bend, Galveston, Harris, Liberty, Montgom-

ery, and Waller Counties.

The proposed amendment to §115.152, concerning Control Requirements, provides the criteria for the application of controls for landfills. Section 115.153, concerning Alternate Control Requirements, provides alternate methods of compliance that may be approved by the Executive Director. Section 115.156, concerning Monitoring and Recordkeeping Requirements, sets required procedures and schedules for continued monitoring of landfills and prescribes the periods for which certain records must be kept on the premises. Section 115.157, concerning Exemptions, lists conditions which exempt owners or operators of landfills from the provisions of this subchapter. Section 115.159, concerning Counties and Compliance Schedule, specifies the due date and affected persons that are required to comply with this subchapter.

The proposed amendments are part of the Phase II rules in a series of proposed revisions to Chapter 115 (concerning Control of Air Pollution From VOCs) and the SIP to provide the required reductions in the ozone nonattainment areas as mandated by the 1990 CAA Amendments. Since this is an interim step in attaining the ozone standard, only those controls needed to satisfy the requirement will be adopted. Additional controls are anticipated to be adopted by November 15, 1994, in conjunction with an attainment demonstration requirement in each ozone nonattainment area. By this time, Urban Airshed Modeling (UAM) will be available to facilitate more scientific decision-making regarding the effect of control measure scenarios on ozone levels. The UAM is a quantitative state-of-the-art computer model that will enable the staff to evaluate the effects of various combinations of control measures on ozone.

Texas is submitting rules to meet the ROP reduction in two phases. Phase I rules comprised a significant portion of the required reductions and were submitted by the original deadline of November 15, 1993. Phase II consists of any remaining percentage toward the 15% net of growth reductions, as well as additional contingency measures to obtain an additional 3.0% of reductions. Phase II will be submitted by November 15, 1994.

Stephen Minick, budget and planning division, has determined that for each year of the first five-year period the proposed sections are in effect, there will be fiscal cost implications for state and local governments of \$80,000 to \$100,000 to implement the program. Economic costs to businesses required to implement the proposed control measures are estimated to be \$306,000 for the initial installation of control equipment and \$75,000 per year for operating costs for each landfill with 32 wells, monitoring equipment, and a candle flare. Any costs beyond 1998 would be associated with the ongoing operating and statutory requirements. All estimates are stated in 1994 dollars with no adjustments for inflation and assume continuing costs equal to those incurred during 1994-1998.

Mr. Minick also has determined that for the first five-year period the proposed sections are in effect, the public benefit anticipated as

a result of implementing the sections will be satisfaction of FCAA Amendments and EPA requirements, and VOC emission reductions in ozone nonattainment areas which are necessary for the timely attainment of the ozone standard. There are no fiscal implications for persons or small businesses affected by the proposed amendments.

Public hearings on this proposal will be held at the following times and places: January 24, 1994, 7:00 p.m., City of Houston, Pollution Control Building Auditorium, 7411 Park Place Boulevard, Houston, Texas; and January 26, 1994, 6:00 p.m., City of El Paso, Council Chambers, 801 West Irving Boulevard, 2 Civic Center Plaza, El Paso, Texas.

Staff members will be available to discuss the proposal 30 minutes prior to each hearing. Public comments, both oral and written, on the proposed changes are invited at the hearings. Interrogation or cross-examination is not permitted.

Written comments not presented at the hearings must be submitted to the TNRCC, Office of Air Quality, Regulation Development Section, P.O. Box 13087, Austin, Texas 78711-3087, no later than February 11, 1994. Material received by 4:00 p.m. on that date will be considered by the Commission prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Section of the TNRCC Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, Texas 78753, and at all TNRCC Air Program regional offices. For further information, contact Jose T. Cavazos at (512) 908-1517.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 475-2245. Requests should be made as far in advance as possible.

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

#### §115.152. Control Requirements.

(a) For the Houston/Galveston, El Paso, and Dallas/Fort Worth ozone nonattainment area as defined in §115.10 of this title (relating to Definitions), no person shall operate or allow the operation of a municipal solid waste landfill (MSWLF) unless each owner or operator of a MSWLF calculates the volatile organic compounds (VOC) emission rate for the landfill using the procedures provided in §60.753 of the proposed federal rules published in the May 30, 1991, *Federal Register* (58 FR 104). The VOC emission rate shall be recalculated annually. If at any time, the calculated VOC emission rate exceeds 150 Megagrams (Mg) per year, the owner or operator shall:

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

§115.153. *Alternate Control Requirements.* For all persons in the Houston/Galveston, El Paso, and Dallas/Fort Worth ozone nonattainment area, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this section may be approved by the Executive Director in accordance with §115.910 of this title (relating to Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

§115.156. *Monitoring and Recordkeeping Requirements.* For the Houston/Galveston, El Paso, and Dallas/Fort Worth ozone nonattainment area, the following recordkeeping requirements shall apply

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

§115.157. *Exemptions.* For the Houston/Galveston, El Paso, and Dallas/Fort Worth ozone nonattainment area, the following facilities are exempt:

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

§115.159. *Counties and Compliance Schedule.* All affected MSWLFs in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Tarrant Counties shall be in compliance with this undesignated head as soon as practicable, but no later than May 31, 1995.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

Issued in Austin, Texas, on December 17, 1993.

TRD-9333819

Mary Ruth Holder  
Director, Legal Division  
Texas Natural Resource  
Conservation  
Commission

Proposed date of adoption: May 15, 1994

For further information, please call (512) 463-8159

### ◆ ◆ ◆ Subchapter C. Volatile Organic Compound Transfer Operations

#### Loading and Unloading of Volatile Organic Compounds

##### • 30 TAC §§115.211-115.217, 115.219

The Texas Natural Resource Conservation Commission (TNRCC) proposes amendments to §§115.211-115.217, and 115.219, concerning Loading and Unloading of Volatile

Organic Compounds. The proposed changes have been developed in response to a requirement by the U.S. Environmental Protection Agency (EPA) and the 1990 Amendments to the Federal Clean Air Act (FCAA) for states to develop and adopt the Rate-of-Progress (ROP) State Implementation Plan (SIP). The ROP SIP is required to achieve and maintain a volatile organic compound (VOC) emissions level that is 15% below the 1990 base year emissions by 1996 in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston ozone nonattainment areas. The affected ozone nonattainment counties are Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller.

The proposed amendment to §115.211, concerning Emission Specifications, establishes an emission limitation of 0.09 pound of VOC from the vapor recovery system vent per 1,000 gallons of gasoline transferred or 95% control efficiency to marine terminals in Houston/Galveston, and deletes obsolete language. The proposed amendment to §115.212, concerning Control Requirements, extends the applicability of control requirements to include marine vessels and marine terminals in Houston/Galveston, which specifies a minimum vapor recovery system control efficiency of 90% and requires marine vessels to be certified leak free before VOC transfer can occur. Provisions for vacuum assisted loading and automatic shutoff in the event of a control device malfunction at gasoline terminals in Dallas/Fort Worth, El Paso, and Houston/Galveston have also been added to §115.212, and obsolete language has been deleted.

The proposed amendment to §115.213, concerning Alternate Control Requirements, deletes obsolete language.

The proposed amendment to §115.214, concerning Inspection Requirements, adds inspection requirements for marine vessels in Houston/Galveston, adds fugitive monitoring requirements at gasoline terminals in Dallas/Fort Worth, El Paso, and Houston/Galveston, and deletes an obsolete paragraph. The proposed amendment to §115.215, concerning Approved Test Methods, updates the test methods for determining true vapor pressurization in cargo tanks.

The proposed amendment to §115.216, concerning Monitoring and Recordkeeping Requirements, adds inspection requirements for marine terminals and adds recordkeeping requirements for VOC loading operations at marine terminals and gasoline terminals.

The proposed amendment to §115.217, concerning Exemptions, establishes the exemptions for marine terminals, clarify current exemptions, and deletes obsolete language.

The proposed amendment to §115.219, concerning Counties and Compliance Schedules, specifies the applicable counties and the compliance dates for the new requirements, and deletes obsolete language.

The proposed amendments are part of the Phase II rules in a series of proposed revisions.