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(d) License Renewal Fees (late)

(1) Regular License

(A) Late 90 days or less-Regular fee plus late fee which is equal to one-half of the certification examination fee

(B) Late more than 90 days but less than one year-Regular fee plus late fee which is equal to the certification examination fee

(2) Inactive/Retiree Renewal Fees, OTR or COTA (late)

(A) Late 90 days or less-\$12

(B) Late more than 90 days but less than one year-\$25

(e) Registration Fees-Facilities

(1) Registration of First Facility-\$300

(2) Registration of Each Additional Facility-\$100

(f) Renewal Fees-Facilities (on-time)

(1) Renewal of Registration of First Facility-\$300

(2) Renewal of Registration of Each Additional Site-\$100

(g) Restoration Fees-First Facility

(1) Late 90 days or less-\$150

(2) Late more than 90 days but less than one year-\$300

(3) Late one year or more-\$600

(h) Restoration Fees-Each Additional Site

(1) Late 90 days or less-\$50

(2) Late more than 90 days but less than one year-\$100

(3) Late one year or more-\$200

(i) Administrative Fees

(1) Verification of Licensure-\$40

(2) Duplicate/Replacement License-\$25

(3) Duplicate Renewal Certificate/Wallet Card-\$25

(4) Duplicate of Facility Registration Certificate \$25

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 May 18, 1995.

TRD-9506103

John P. Maline
Executive Director
Executive Council of
Physical Therapy and
Occupational Therapy
Examiners

Earliest possible date of adoption: June 26, 1995

For further information, please call: (512) 443-8202

TITLE 25. HEALTH SERVICES

Part XI. Texas Cancer Council

Chapter 703. Project Contracts and Grants

• 25 TAC §703.9, §703.10

The Texas Cancer Council proposes amendments to §703.9 and §703.10, concerning project contracts and grants. The amendments are being proposed to comply with the requirements of the Uniform Grant and Contract Management Standards (UGCMS).

Emily Untermeyer, executive director, Texas Cancer Council, has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Ms. Untermeyer also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules will be compliance with the requirements of the Uniform Grant and Contract Management Standards. There are no anticipated economic costs to persons who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Emily Untermeyer, Executive Director, Texas Cancer Council, P.O. Box 12097, Austin, Texas 78711.

The amendments are proposed under the Health and Safety Code, Chapters 102.002 and 102.009, which provides the Texas Cancer Council with the authority to develop and implement the Texas Cancer Plan; and Texas Civil Statutes, Article 6252-13a §4, which provide the Texas Cancer Council with the authority to adopt rules governing council practice and procedures.

There is no other statute, article, or code that is affected by this proposed amendments.

§703.9. Audits.

(a) An independent audit shall be required annually [every two years] for a contract awarded for more than \$100,000 [\$500,000] as required by OMB Circular A-128 and the Uniform Grants and Contract Management Standards. The council shall reimburse the contractor for the relative cost of the audit.

(b) (No change.)

§703.10. Funding Restrictions.

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

(c) Disallowable costs.

(1) The following are the most common types of costs which are disallowed:

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

(F) the cost of an audit for a contract of less than \$100,000 [\$500,000] unless the audit is specifically requested by the council; and

(G) (No change.)

(2) (No change.)

(d) (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 May 17, 1995.

TRD-9506009

Emily F. Untermeyer
Executive Director
Texas Cancer Council

Earliest possible date of adoption: June 26, 1995

For further information, please call: (512) 463-3190

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 115. Control of Air Pollution from Volatile Organic Compounds

Subchapter B. General Volatile Organic Compound Sources Water Separation

• 30 TAC §§115.131-115.133, 115.135, 115.137, 115.139

The Texas Natural Resource Conservation Commission (TNRCC or Commission) proposes amendments to §§115.131-115.133, 115.135, 115.137, and 115.139, concerning Water Separation. The proposed changes have been developed in response to petitions for rulemaking from Texas Mid-Continent Oil and Gas Association; Exxon Company, U.S.A.; Texaco Exploration and Production, Incorporated; Mitchell Energy Corporation; and Chevron USA Production Company. The petitioners seek relief from the current volatile

organic compound (VOC) water separator rules which require that separators used in conjunction with the production of crude oil or condensate in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston ozone nonattainment areas be controlled by sealing or venting them to a vapor recovery system by May 31, 1995. 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 original 1972 VOC control regulation contained a VOC water separator rule which included an exemption for separators used in crude oil or condensate production. The United States Environmental Protection Agency (EPA) mandated control of VOC water separators at oil refineries in 1977 through the issuance of an EPA control techniques guideline (CTG) document. At that time, EPA did not mandate control of VOC water separators at oil or condensate production facilities. However, in 1988, in an effort to develop an approvable ozone attainment State Implementation Plan (SIP) by requiring additional measures in the Dallas/Fort Worth ozone nonattainment area (which then included only Dallas and Tarrant counties), the Texas Air Control Board (TACB, the predecessor to TNRCC) eliminated the exemption for separators used in crude oil or condensate production in these two counties.

The Federal Clean Air Act (CAA) Amendments of 1990 required extension of Reasonably Available Control Technology (RACT) measures to the expanded nonattainment areas defined by the CAA (RACT "catchup") and application of RACT measures to any major VOC source not covered by a CTG. In 1992, the TACB extended the 1988 Dallas/Tarrant counties VOC water separator rule to the other ozone nonattainment counties designated under the CAA Amendments of 1990 to fulfill the CTG RACT "catchup" requirements. The applicability to VOC water separators used in crude oil and condensate production satisfied the CAA requirement to apply RACT to non-CTG major sources. This rulemaking extended the applicability to an estimated 150 VOC water separators used in crude oil and condensate production in the Texas Gulf Coast ozone nonattainment areas. The CAA Amendments of 1990 also required states to adopt a SIP which achieves a 15% net-of-growth reduction in the VOC emissions level by November 15, 1996. The TNRCC submitted this required Rate-of-Progress (ROP) SIP to EPA in May, 1994.

The petitions for rulemaking seek an exemption from the VOC water separator rule adopted in 1992. At the time the rule was extended to the additional ozone nonattainment counties, the TACB received no comments suggesting the inclusion of any exemption to the control requirements. After reviewing the issues raised in the petitions for rulemaking, however, the staff believes emission controls for VOC water separators may not be cost effective in every case, and an exemption may be appropriate for some de minimis emission sources.

Consequently, the TNRCC is proposing an exemption for low emitting separators used in crude oil and condensate production in order to evaluate the appropriateness of incorporating an exemption to the VOC water separator rule. Additionally, on May 10, 1995, the Commission approved a resolution to stay enforcement on VOC water separators used exclusively in crude oil and condensate production in ozone nonattainment areas until December 1, 1995. The TNRCC is also proposing amendments in order to clarify existing requirements, update rule references, and delete obsolete or unnecessary language.

The TNRCC is not proposing extending a de minimis exemption to VOC water separators used in other industrial categories because the costs of control in other categories is not expected to be unreasonable. Separators used in oil and gas production may generate significant volumes of gas (not necessarily VOC), and in contrast to wastewater separators, could not be controlled by simply covering.

The proposed exemption for low emitting separators used in crude oil and condensate production does not affect the approved RACT catchup SIP, since the CTG sources, VOC water separators at petroleum refineries, are not affected. The proposed exemption level, equivalent to a maximum of 18.25 tons per year of VOC, will insure that RACT continues to be applied at non-CTG major sources of VOC. Finally, the proposed exemption does not affect the approvability of the ROP SIP, because emission reductions associated with removal of the exemption for VOC water separators in crude oil and condensate production were not included in the emission reduction credit calculations.

The proposed changes to §115.131, concerning Emission Specifications, and §115.132, concerning Control Requirements, delete language made obsolete by the passage of the May 31, 1995, compliance date

The proposed changes to §115.133, concerning Alternate Control Requirements, update a reference to §115.910 to reflect a title change. The proposed changes to §115.135, concerning Testing Requirements, provide new and updated test methods for determining true vapor pressure.

The proposed changes to §115.137, concerning Exemptions, establish an exemption for low emitting VOC water separators used in crude oil and condensate production and delete language made obsolete by the passage of the May 31, 1995, compliance date.

The proposed changes to §115.139, concerning Counties and Compliance Schedules, delete language made obsolete by the passage of the May 31, 1995, compliance date.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the sections are in effect there will be fiscal implications as a result of enforcement or administration of the sections. There are no costs anticipated for state government. No significant fiscal implications are anticipated for local governments or small businesses. Owners or operators of low emitting VOC water separators used in

crude oil and condensate production in ozone nonattainment areas will obtain relief under the proposed rule from the requirement to control VOC emissions. The affected owners and operators will realize anticipated cost savings which will vary on a case-by-case basis. The control costs were estimated in the 1992 preamble to rulemaking to be \$50,000 capital and \$15,000 annual operating and monitoring cost per control device installed.

Mr. Minick also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcement of and compliance with the sections will be the clarification of existing regulations and more cost-effective control of VOC emissions from oil and gas production activities. There are no costs anticipated to persons required to comply with these sections as proposed.

A public hearing on this proposal will be held in Houston on June 22, 1995, at 11:00 a.m. at the Houston-Galveston Area Council, Conference Room B, 3555 Timmons Lane, Second Floor, Houston. Individuals may present oral statements when called upon, in order of registration. Open discussion within the audience will not occur during the hearing; however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments not presented at the hearing must be submitted to the TNRCC no later than July 7, 1995. Material received by the TNRCC Office of Policy and Regulatory Development 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 central office of the TNRCC located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, and at all TNRCC Air Program regional offices. Please mail written comments to Heather Evans, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, and reference Rule Log Number 95113-115-A1. For further information, contact Eddie Mack at (512) 239-1488 or Randy Hamilton at (512) 239-1512.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

The amendments are proposed under the Texas Health and Safety Code (Vernon 1992), 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.

The proposed amendments affect the Health and Safety Code, §382.017.

§115.131. Emission Specifications.

(a) For all persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas as defined in §115.10 of this title (relating to

Definitions), any volatile organic compound (VOC) water separator equipped with a vapor recovery system in order to comply with §115.132(a) of this title (relating to Control Requirements) shall reduce emissions such that the true partial pressure of the VOC in vent gases to the atmosphere will not exceed a level of 0.5 psia (3.4 kPa). [.]

[(1) a true partial pressure of 0.5 psia (3.4 kPa) at petroleum refineries;

[(2) a true partial pressure of 1.5 psia (10.3 kPa) at facilities other than petroleum refineries until July 31, 1994 in Brazoria, El Paso, Galveston, Harris, Jefferson, and Orange counties;

[(3) a true partial pressure of 0.5 psia (3.4 kPa) at any facility in Dallas and Tarrant counties, or

[(4) a true partial pressure of 0.5 psia (3.4 kPa) at facilities other than petroleum refineries after July 31, 1994 in counties other than Dallas and Tarrant.]

(b) (No change.)

(c) For all persons in Aransas, Bexar, Calhoun, [Hardin.] Matagorda, [Montgomery.] San Patricio, and Travis counties, any VOC water separator equipped with a vapor recovery system in order to comply with §115.132(c) of this title shall reduce emissions such that the true partial pressure of the VOC in vent gases to the atmosphere will not exceed a level of 1.5 psia (10.3 kPa).

§115.132. Control Requirements.

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

(c) For Aransas, Bexar, Calhoun, [Hardin.] Matagorda, [Montgomery.] San Patricio, and Travis counties, no person shall use any single or multiple compartment 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.)

§115.133. Alternate Control Requirements.

(a) For all persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, 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 Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

(b) For all persons in Gregg, Nueces, and Victoria counties, 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 Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

(c) For all persons in Aransas, Bexar, Calhoun, [Hardin.] Matagorda, [Montgomery.] San Patricio, and Travis counties, 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 Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

§115.135. Testing Requirements.

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, compliance with §115.132(a), of this title (relating to Control Requirements) shall be determined by applying the following test methods, as appropriate:

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

(5) determination of true vapor pressure using American Society for Testing Materials (ASTM) Test Methods D323-89, D2879, D4953, D5190, or D5191 [ASTM Test Method D323-82] for the measurement of Reid vapor pressure[, adjusted for actual storage temperature in accordance with API Publication 2517, Third Edition, 1989]; or

(6) (No change.)

(b) For Gregg, Nueces, and Victoria counties, compliance with §115.132(b) shall be determined by applying the following test methods, as appropriate:

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

(5) determination of true vapor pressure using ASTM Test Methods D323-89, D2879, D4953, D5190, or D5191 [ASTM Test Method D323-82] for the measurement of Reid vapor pressure [, adjusted for actual storage temperature in accordance with API Publication 2517, Third Edition, 1989]; or

(6) (No change.)

§115.137. Exemptions.

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

(1) [Until July 31, 1994 in Brazoria, El Paso, Galveston, Harris, Jefferson, and Orange counties.] Any volatile organic compound (VOC) water separator [separators] used exclusively in conjunction with the production of crude oil or condensate is [are] exempt from §115.132(a) of this title (relating to Control Requirements) if the emissions from the separator have a combined weight of VOC equal to or less than 100 pounds (45.4 kg) in any continuous 24-hour period. When emissions from multiple sources (including, but not limited to, VOC water separators, treaters, storage tanks, and saltwater disposal tanks) are routed through a common vent, the calculation of VOC emissions for purposes of this exemption shall be based upon the total of all emission sources which are routed to the common vent. It is unacceptable to disconnect any of the multiple sources routed through a common vent for purposes of complying with this exemption.

[(2) Until July 31, 1994 in Brazoria, El Paso, Galveston, Harris, Jefferson, and Orange counties, any single or multiple compartment VOC water separator which separates less than 200 gallons (757 liters) a day of materials containing VOC obtained from any equipment is exempt from §115.132(a) of this title.

[(3) Until July 31, 1994 in Brazoria, El Paso, Galveston, Harris, Jefferson, and Orange counties, any single or multiple compartment VOC water separator which separates materials having a true vapor pressure of VOC less than 1.5 psia (10.3 kPa) obtained from any equipment in a facility other than a petroleum refinery is exempt from §115.132(a) of this title.]

[(2) [(4)] Any single or multiple compartment VOC water separator which separates materials having a true vapor pressure of VOC less than 0.5 psia (3.4 kPa) obtained from any equipment is exempt from §115.132(a) of this title.

(b) (No change.)

(c) For Aransas, Bexar, Calhoun, [Hardin.] Matagorda, [Montgomery.] San Patricio, and Travis counties, the following exemptions shall apply:

(1)-(3) (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 Emission Specifications; Control Requirements; Alternate Control Requirements; Testing Requirements; Monitoring and Recordkeeping Requirements; and Exemptions) as soon as practicable, but no later than May 31, 1995. [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.]

(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.

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

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 May 19, 1995.

TRD-9506150

Lydia Gonzalez-Gromatzky
Acting Director, Legal
Services Division
Texas Natural Resource
Conservation
Commission

Proposed date of adoption: October 15, 1995

For further information, please call: (512) 239-1970

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part XII. Texas Board of Occupational Therapy Examiners

Chapter 376. Registration of Facilities

• 40 TAC §376.5, §376.8

(Editor's Note. The following proposed amendments were inadvertently omitted from the May 12, 1995 issue of the Texas Register. These amendments were submitted to the Texas Register on May 4, 1995. The earliest possible date of adoption is June 12, 1995.)

The Texas Board of Occupational Therapy Examiners proposes amendments to §376.5 and §376.8, concerning Registration of Facilities. The amendments establish conditions under which the board will waive registration fees, and requirements for reinstatement of a facility registration after it has expired

John P. Maline, Executive Director of the Executive Council of Physical Therapy and Occupational Therapy Examiners, has determined that for the first five-year period the rules are in effect there will be no effect on local or state government as a result of enforcing or administering the rules.

Mr. Maline also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules will be greater availability of occupational therapy services. There will be no negative effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the rules as proposed.

Comments on the proposed rule may be submitted to Josephine Sanchez, OT Coordinator, Executive Council of Physical Therapy and Occupational Therapy Examiners, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704.

The amendments are proposed under the Occupational Therapy Practice Act, Texas Civil Statutes, Article 8851, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

Texas Civil Statutes, Article 8851 is affected by these amendments.

§376.5. Exemptions to Registration. A facility licensed under Subtitle B, Title 4, Health and Safety Code, is exempt from this definition, i.e., hospitals, nursing homes, ambulatory surgical centers, birthing centers, abortion, continuing care, personal care, and special care facilities. Colleges, universities, schools, and home health settings are exempted from registration. These types of facilities are automatically exempt and are not required to obtain a formal exemption from the board.

(1) The occupational therapy facility registration fee(s) for the primary site and/or additional site(s) will be waived upon meeting one of the following conditions:

(A) the facility is providing both occupational therapy (OT) services and physical therapy (PT) services, is currently registered and in good standing as a PT facility, and the OT facility has not registered or paid the OT facility registration fees;

(B) the facility is registered and in good standing as an OT facility and within this year the facility decides to

offer PT services. The PT registration fee(s) must be paid for that year. However, upon the following renewal year, if the conditions set forth in this paragraph are met, then the OT facility registration fee(s) will be waived for the following year.

(2) The facility must submit to the board a written request for waiver of the OT facility registration fee(s). This request must be submitted in writing each renewal year. The waiver request must be made for the OT primary site and each additional OT site(s), if applicable. This request must be submitted within 60 days of the first patient treatment of OT services.

(3) No refunds for OT facility registration fees will be made.

(4) This rule will be implemented effective September 1, 1995.

(5) Waiver from OT facility registration fees does not nullify all other sections as set forth in the TBOTE rules, Chapter 376.

§376.8. Restoration of Registration. When a facility fails to renew its registration within the renewal month, the facility is subject to fees as set by the Executive Council.

(1) If the facility registration has been expired for 90 days or less, the facility may renew by paying the required renewal fee and a restoration fee that is one-half of the renewal fee.

(2) If the facility registration has been expired for more than 90 days but less than one year, the facility may renew by paying all unpaid renewal fees and a restoration fee that is equal to the renewal fee.

(3) If the facility registration has been expired for one year or more, the facility may renew the registration by paying all unpaid renewal fees and a restoration fee which is double the renewal fee.

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 May 4, 1995.

TRD-9506179

John P. Maline
Executive Director
Texas Board of
Occupational Therapy
Examiners

Earliest possible date of adoption: June 12, 1995

For further information, please call: (512) 443-8202