

# TEXAS REGISTER

## IN THIS ISSUE

Volume 20, Number 67 September 5, 1995

Page 6863-6963

### **Office of the Attorney General**

#### **Letter Opinions**

(LO95-46)(ID#-34680) .....	6873
(LO95-47)(ID#-34818) .....	6873
(LO95-48)(ID#-33904) .....	6873

#### **Opinions**

(DM-359)(RQ-787) .....	6873
(DM-361)(RQ-747) .....	6873

#### **Proposed Sections**

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

##### **Marketing and Development Division**

4 TAC §§17.70-17.74 .....	6875
---------------------------	------

##### **Seed Division**

4 TAC §19.3 .....	6876
-------------------	------

### **Railroad Commission of Texas**

#### **Oil and Gas Division**

16 TAC §3.10 .....	6877
16 TAC §3.21 .....	6877

#### **State Board of Examiners for Speech-Language Pathology Audiology**

##### **Speech-Language Pathologists and Audiologists**

22 TAC §741.65, §741.67 .....	6879
22 TAC §741.85 .....	6881
22 TAC §741.103 .....	6883
22 TAC §741.181 .....	6886
22 TAC §741.200 .....	6887

TAC Titles Affected.....6957-6963

Contents Continued Inside



The Texas Register is printed on recycled paper

***In Addition Sections***

**Texas Commission on Alcohol and Drug Abuse**

Notice of Request for Proposals ..... 6947

**State Auditor's Office**

Consultant Proposal Request ..... 6948

**Office of Consumer Credit Commissioner**

Notice of Rate Ceilings ..... 6949

**Texas Department of Health**

Notice of Intent to Revoke Radioactive Material Licenses ..... 6949

**Texas Department of Human Services**

Public Notice of Open Solicitation of LaSalle County ..... 6949

**Texas Department of Insurance**

Company License ..... 6949

Notice of Public Hearing ..... 6950

Third Party Administrator Applications ..... 6950

**Texas Department of Mental Health and Mental Retardation**

Notice of Cancellation of Public Hearing ..... 6950

Notice of Public Hearing on Medicaid Rate ..... 6951

**Texas Natural Resource Conservation Commission**

Notice of Availability and Request for Comments ..... 6951

Notice of Petition to the EPA ..... 6951

Notices of Public Hearing ..... 6952

**Public Utility Commission of Texas**

Notice of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.27 ..... 6954

**The University of Texas System**

Consultant Proposal Requests ..... 6954

*§115.429. Counties and Compliance Schedules.*

[(a) 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.

[(b) All automobile refinishing facilities in Dallas and Tarrant counties shall be in compliance with §115.421(a)(8)(C) of this title as soon as practicable, but no later than July 31, 1994.

[(c) All automobile refinishing facilities in Brazoria, Chambers, Collin, Denton, El Paso, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties shall be in compliance with §115.421(a)(8)(C) of this title and §115.422(1) and (2) of this title as soon as practicable, but no later than July 31, 1994.

[(d)] All wood parts and products surface coating affected by §115.421(a)(13) of this title (relating to Emission Specifications) in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Harris, Liberty, Montgomery, Tarrant, and Waller counties shall be in compliance with this undesignated head (relating to Surface Coating Processes) as soon as practicable, but no later than November 15, 1996.

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 August 30, 1995.

TRD-9510950 Lydia Gonzalez-Gromatzky  
Acting Director, Legal  
Services Division  
Texas Natural Resource  
Conservation  
Commission

Proposed date of adoption: December 20, 1995

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

**Graphic Arts (Printing) by Rotogravure and Flexographic Processes**

• 30 TAC §§115.433,  
115.435-115.437, 115.439

The Texas Natural Resource Conservation Commission (TNRCC or Commission) proposes amendments to §§115.433, 115.435-115.437, and 115.439, concerning Graphic Arts (Printing) by Rotogravure and Flexographic Processes. The proposed changes to §115.433, concerning Alternate Control Requirements, update a reference to §115.910 to reflect a title change. The proposed changes to §115.435, concerning Testing Requirements, correct a reference to a United States Environmental Protection Agency (EPA) guidance document. The proposed changes to §115.436, concerning Monitoring and Recordkeeping Requirements, correct an unintended loophole by which exempted printing operations are not currently required to maintain records (for example, ink and solvent usage records) to document qualification for exemption status, resulting in difficulty in enforcement. The proposed changes to §115.437, concerning Exemptions, delete language which is obsolete due to the passage of a July 31, 1993 compliance date. The proposed changes to §115.439, concerning Counties and Compliance Schedules, update rule references.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

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 enforcing the sections will be a more understandable and enforceable environmental regulation. There will be minimal or no effect on small businesses, persons, and businesses who are required to comply with the sections as proposed. The proposed requirement to maintain ink and solvent usage records will have minimal fiscal impact, since most companies already maintain such records.

Public hearings on this proposal will be held in Beaumont on September 26, 1995, at 7:00 p.m. at the John Gray Institute, 855 Florida Avenue, Beaumont; and in Houston on September 27, 1995, at 10:00 a.m. in Conference Room A at the Houston-Galveston Area Council, 3555 Timmons Lane, 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 may be submitted to the TNRCC central office in Austin. The deadline for submission of written comments will be 30 days after the date of publication of the proposal in the

*Texas Register*. 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 proposal. 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 #95137-115-AI. Comments can also be faxed to (512) 239-5687. Copies of the proposal are available at the central office of the TNRCC, Air Policy and Regulations Division, located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, and at all TNRCC regional offices. For further information, contact Eddie Mack at (512) 239-1488.

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.

*§115.433. Alternate Control Requirements.*

(a) For all affected 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 affected 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.

*§115.435. Testing Requirements.*

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, compliance shall be determined by applying the following test methods, as appropriate:

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

(5) U.S. Environmental Protection Agency (EPA) guidelines series document "Procedures for Certifying Quantity of

Volatile Organic Compounds Emitted by Paint, Ink, and Other Coatings," EPA-450/3-84-019 [EPA-450/3-84-011], as in effect December, 1984;

(6)-(8) (No change.)

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

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

(5) EPA guidelines series document "Procedures for Certifying Quantity of Volatile Organic Compounds Emitted by Paint, Ink, and Other Coatings," EPA-450/3-84-019 [EPA-450/3-84-011], as in effect December, 1984;

(6)-(7) (No change.)

*§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 rotogravure or flexographic printing [graphic arts] facility [subject to the control requirements of §115.432(a) of this title (relating to Control Requirements)] shall:

(1)-(6) (No change.)

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

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

*§115.437. 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, 1993 in Brazoria, El Paso, Galveston, Harris, Jefferson, and Orange counties, all rotogravure and flexographic facilities on a property which, when uncontrolled, have a maximum potential to emit a combined weight of volatile organic compounds (VOC) less than 100 tons (91 metric tons) in one year (based on historical ink and VOC solvent usage, and at maximum production capacity) are exempt from the requirements of §115.432(a) of this title (relating to Control Requirements).

(2) Until July 31, 1993 in Dallas and Tarrant counties, all rotogravure and flexographic printing facilities on a property which, when uncontrolled, emit a combined weight of VOC less than 50 tons in one year (based on historical ink and solvent usage) are exempt from the requirements of §115.432(a) of this title.]

(1)[(3)] [After July 31, 1993 in] In the Beaumont/Port Arthur, Dallas/Fort Worth, and El Paso areas, all rotogravure and flexographic facilities on a property which, when uncontrolled, have a maximum potential to emit a combined weight of volatile organic compounds (VOC) less than 50 tons in one year (based on historical ink and VOC solvent usage, and at maximum production capacity) are exempt from the requirements of §115.432(a) of this title (relating to Control Requirements).

(2)[(4)] [After July 31, 1993 in] In the Houston/Galveston area, all rotogravure and flexographic facilities on a property which, when uncontrolled, have a maximum potential to emit a combined weight of VOC less than 25 tons in one year (based on historical ink and VOC solvent usage, and at maximum production capacity) are exempt from the requirements of §115.432(a) of this title.

(b) (No change.)

*§115.439. Counties and Compliance Schedules.*

(a) (No change.)

(b) All affected persons in Dallas, El Paso, Jefferson, Orange, and Tarrant counties shall be in compliance with §115.437(a)(1) [§115.437(a)(3)] of this title as soon as practicable, but no later than July 31, 1993.

(c) All affected persons in Brazoria, Galveston, and Harris counties shall be in compliance with §115.437(a)(2) [§115.437(a)(4)] of this title as soon as practicable, but no later than July 31, 1993.

(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 August 30, 1995.

TRD-9510951 Lyda Gonzalez-Gromatzky  
Acting Director, Legal  
Services Division  
Texas Natural Resource  
Conservation  
Commission

Proposed date of adoption: December 20, 1995

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

◆ ◆ ◆  
**Offset Lithographic Printing**  
• 30 TAC §§115.442, 115.443,  
115.445, 115.446

The Texas Natural Resource Conservation Commission (TNRCC or Commission) proposes amendments to §§115.442, 115.443, 115.445, and 115.446, concerning Offset

Lithographic Printing. Section 115.442, concerning Control Requirements, is intended to set standards for alcohols in the fountain solutions, with a separate standard for cleaning solutions. The proposed changes to §115.442, correct an unintended loophole by which the current rule language could be interpreted to exempt facilities from the cleaning solution standards. The proposed changes to §115.442 also clarify that the cleaning solutions volatile organic compounds (VOC) content limitations are based upon volume percentages. The proposed changes to §115.443, concerning Alternate Control Requirements, update a reference to §115.910 to reflect a title change. The proposed changes to §115.445, concerning Testing Requirements, correct a reference to a United States Environmental Protection Agency (EPA) guidance document. The proposed changes to §115.446, concerning Monitoring and Recordkeeping Requirements, update a reference to §115.445 to reflect the correct title.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

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 enforcing the sections will be a more understandable and enforceable environmental regulation. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Public hearings on this proposal will be held in Beaumont on September 26, 1995, at 7:00 p.m. at the John Gray Institute, 855 Florida Avenue, Beaumont; and in Houston on September 27, 1995, at 10:00 a.m. in Conference Room A at the Houston-Galveston Area Council, 3555 Timmons Lane, 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 may be submitted to the TNRCC central office in Austin. The deadline for submission of written comments will be 30 days after the date of publication of the proposal in the *Texas Register*. 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 proposal. 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 #95137-115-AI. Comments can also be faxed to (512) 239-5687. Copies of the proposal are available at the central office of the TNRCC, Air Policy and Regulations Division, located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, and at all TNRCC