

# Texas Register

Volume 18, Number 53, July 9, 1993

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## Texas Register



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## How to Use the Texas Register

**Information Available:** The 10 sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

**Governor** - Appointments, executive orders, and proclamations.

**Attorney General** - summaries of requests for opinions, opinions, and open records decisions.

**Secretary of State** - opinions based on the election laws.

**Texas Ethics Commission** - summaries of requests for opinions and opinions.

**Emergency Sections** - sections adopted by state agencies on an emergency basis.

**Proposed Sections** - sections proposed for adoption.

**Withdrawn Sections** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

**Adopted Sections** - sections adopted following a 30-day public comment period.

**Open Meetings** - notices of open meetings.

**In Addition** - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

**How to Cite:** Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 18 (1993) is cited as follows: 18 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "18 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 18 TexReg 3."

**How to Research:** The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, section numbers, or TRD number.

### Texas Administrative Code

The *Texas Administrative Code (TAC)* is the official compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*. West Publishing Company, the official publisher of the *TAC*, releases cumulative supplements to each printed volume of the *TAC* twice each year.

The *TAC* volumes are arranged into Titles (using Arabic numerals) and Parts (using Roman numerals).

The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency. The *Official TAC* also is available on WESTLAW, West's computerized legal research service, in the TX-ADC database.

To purchase printed volumes of the *TAC* or to inquire about WESTLAW access to the *TAC* call West: 1-800-328-9352.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

**How to Cite:** Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

**How to update:** To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Table of TAC Titles Affected*. The table is published cumulatively in the blue-cover quarterly indexes to the *Texas Register* (January 22, April 16, July 13, and October 12, 1993). In its second issue each month the *Texas Register* contains a cumulative *Table of TAC Titles Affected* for the preceding month. If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with one or more *Texas Register* page numbers, as shown in the following example.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE  
*Part I. Texas Department of Human Services*  
40 TAC §3.704.....950, 1820

The *Table of TAC Titles Affected* is cumulative for each volume of the *Texas Register* (calendar year).

**Update by FAX:** An up-to-date *Table of TAC Titles Affected* is available by FAX upon request. Please specify the state agency and the *TAC* number(s) you wish to update. This service is free to *Texas Register* subscribers. Please have your subscription number ready when you make your request. For non-subscribers there will be a fee of \$2.00 per page (VISA, MasterCard). (512) 463-5561.

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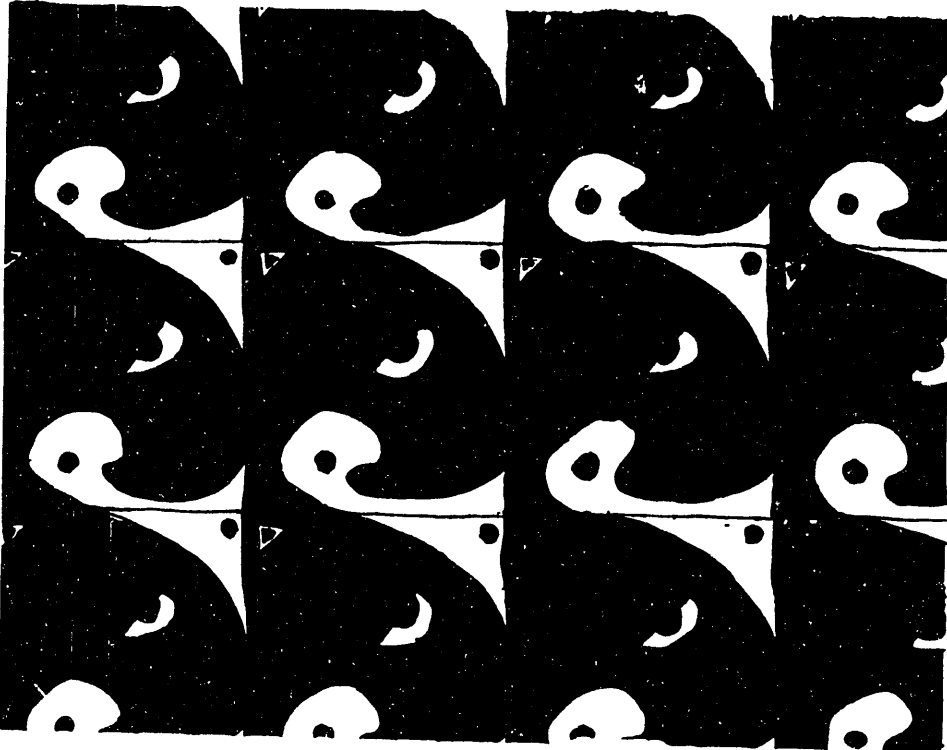
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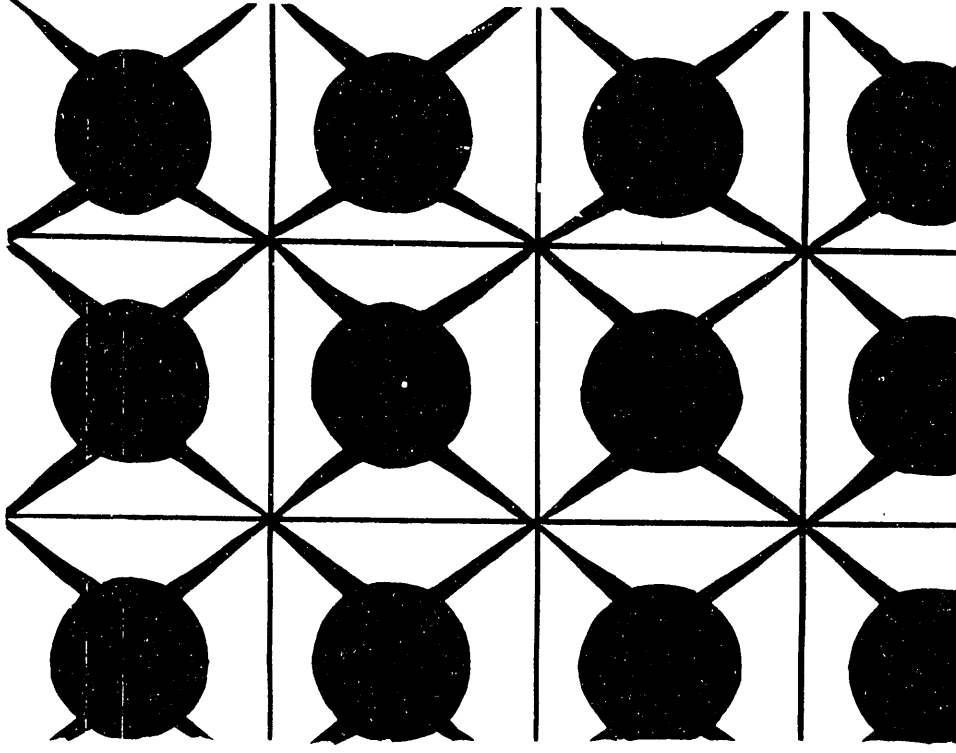
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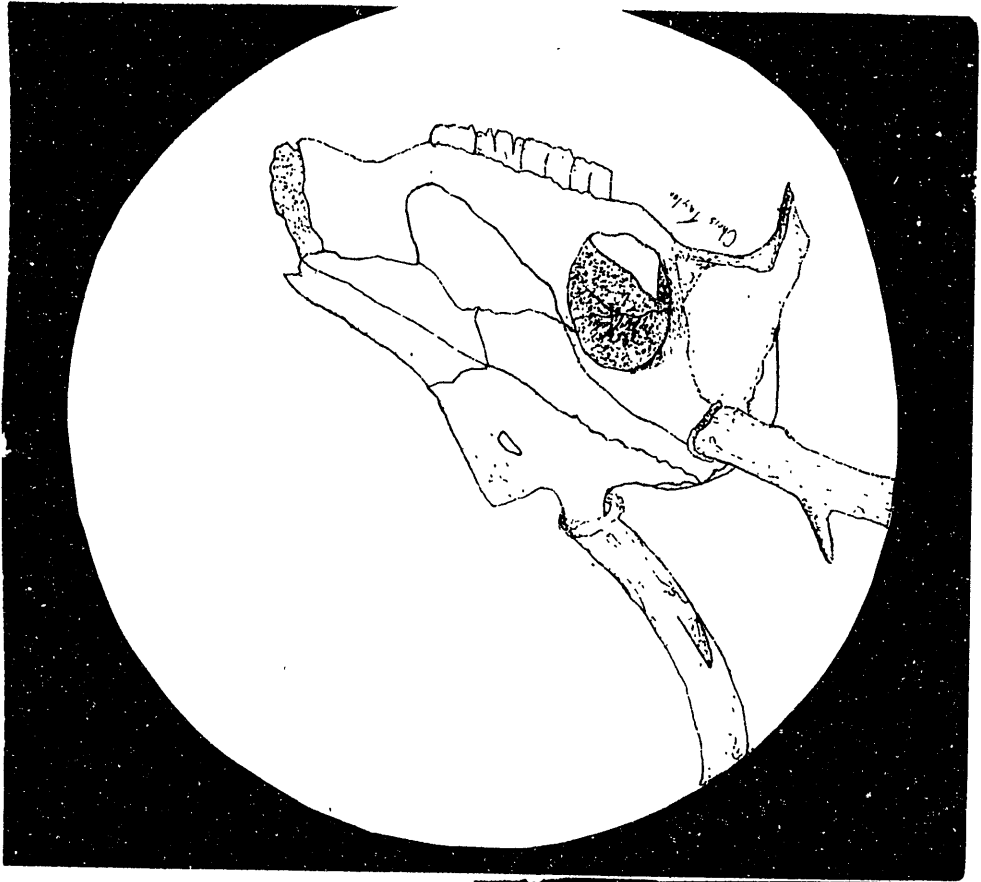




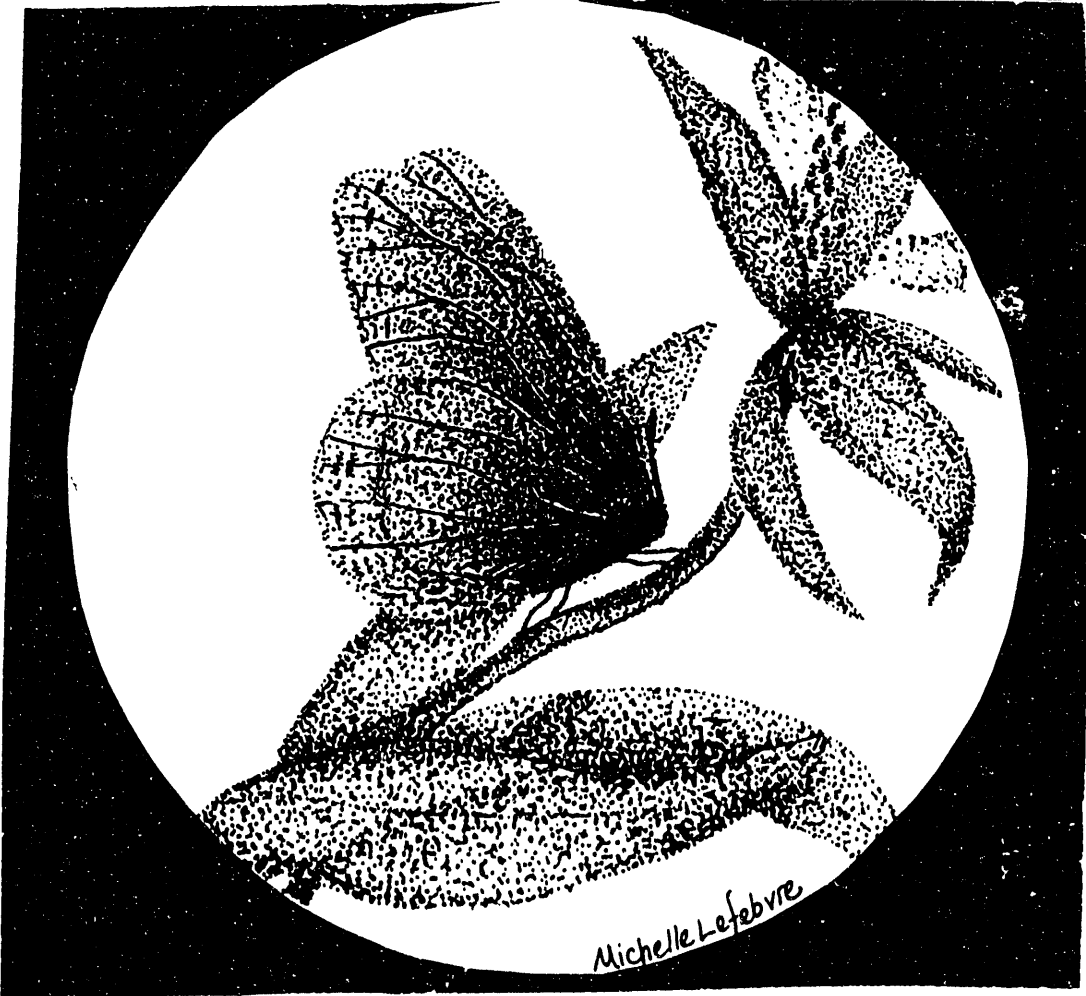
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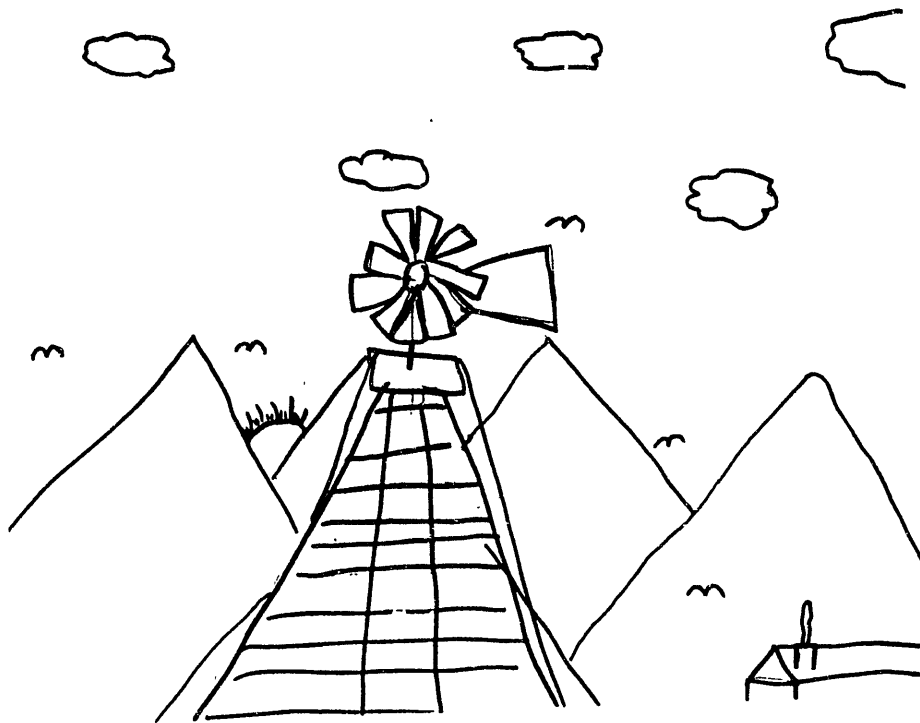
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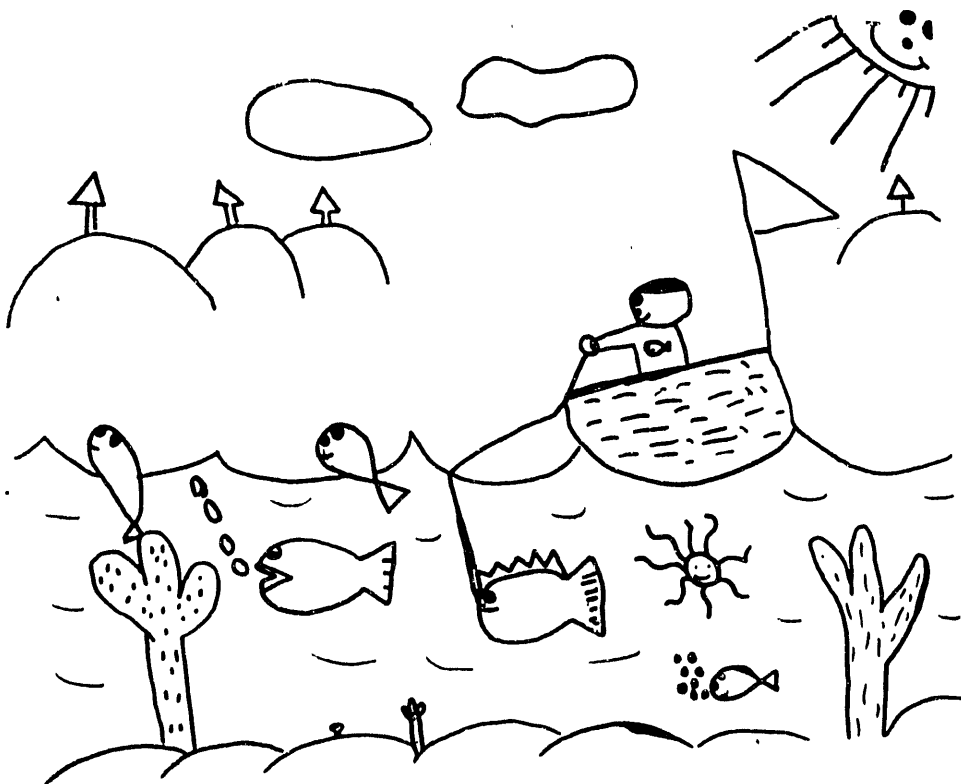
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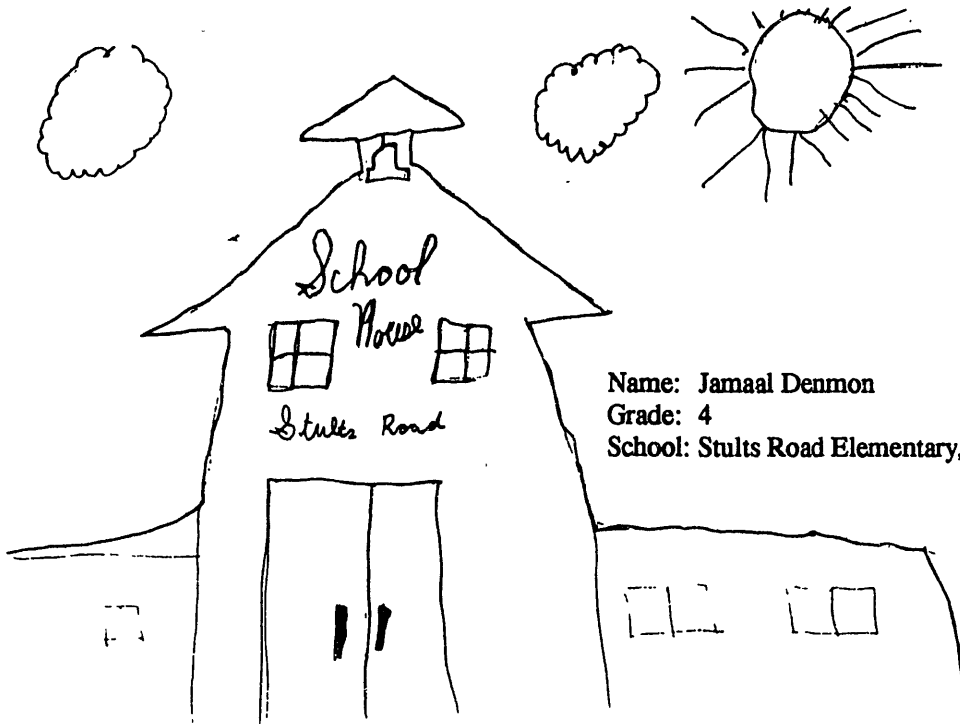




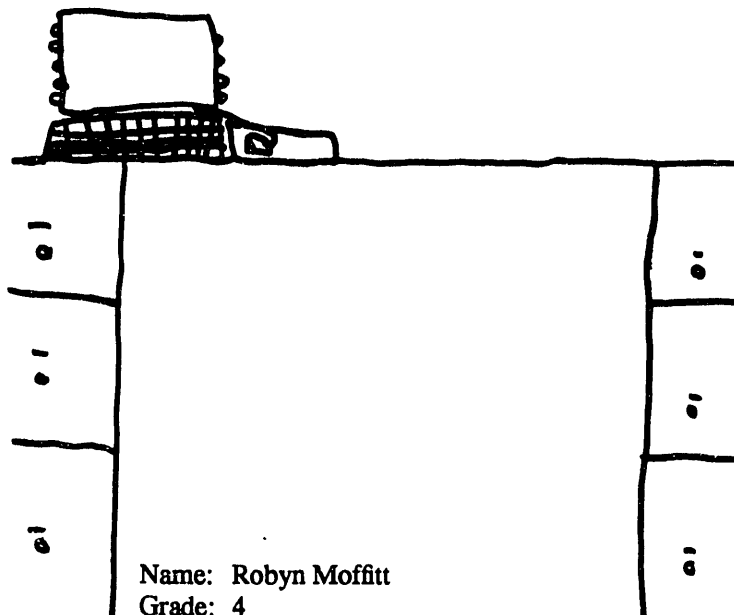
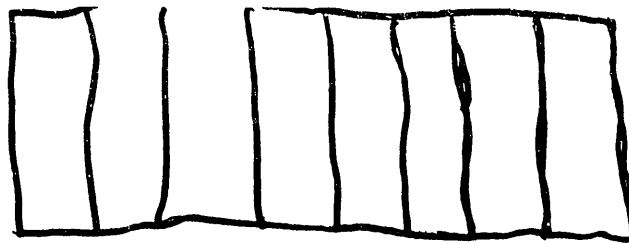
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# Texas Ethics Commission

The Texas Ethics Commission is authorized by Texas Civil Statutes, Article 6252-9d.1, §1.29, to issue advisory opinions in regard to the following statutes: Texas Civil Statutes, Article 6252-9b; the Government Code, Chapter 302; the Government Code, Chapter 305; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39.

Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

## Opinions

**EAO-143.** Whether a corporation makes a political contribution by contracting to provide a carnival for a political fundraiser. (AOR-158).

**Summary of Opinion.** A candidate may contract with a carnival corporation for the corporation to present a carnival at the candidate's fundraiser and remit a portion of the proceeds to the candidate in exchange for the candidate's provision of land and services if such an arrangement reflects the usual and normal practice in the carnival industry for contracts with non-political as well as political entities. Purchases of carnival tickets would be reportable political contributions, and so could not be made by corporations or labor unions.

**EAO-144.** The application of the ethics laws to the production of a television program. (AOR-136).

**Summary of Opinion.** A commercial sponsor who provided funding for a television program for a state representative with the intent that the state representative use the time to explain his position on legislative matters would be making an officeholder contribution. Because officeholder contributions from corporations and certain other entities are generally prohibited, these entities could not sponsor such a program. If a paid television broadcast supports or opposes a candidate for nomination or election to a public office or supports or opposes a public officer, the show must include the information required by the Election Code, §255.001.

**EAO-145.** Reconsideration of Ethics Advisory Opinion Number 32 (1992). (AOR-139 and AOR-146).

**Summary of Opinion.** Ethics Advisory Opinion Number 32 (1992) is overruled. A general-purpose committee is not required to include the name of a legal entity in its name simply because the legal entity contributes money for the establishment or administration of the committee. A general-purpose committee must include in its name the name of a legal entity that plays a role in the decision-making process of a general-purpose committee.

**EAO-146.** Whether a state representative may use political contributions to reimburse

himself for payments from personal funds on a condominium in Austin that the state representative purchased in 1992. (AOR-147).

**Summary of Opinion.** A state representative may use political contributions to reimburse himself for payments from personal funds on a condominium that the state representative purchased in 1991. Reimbursements may be made for payments made after January 1, 1992, only if the state representative complied with the reporting requirements set out in the Election Code, §253.035(h).

**EAO-147.** Whether it is permissible for a state employee to use a state-issued credit card to pay for a hotel bill, even if the total bill exceeds the amount reimbursable by the state. (AOR-149).

**Summary of Opinion.** A public servant's use of a state-issued credit card for any type of expense other than a state business expense is a misapplication of state property and may violate the Penal Code, §39.01. It is not a misapplication of state property to use a state-issued credit card for a state business expense in accordance with rules established by agencies authorized to control the card's use.

**EAO-148.** Whether a state legislator may receive a salary for working for a city, and whether a state legislator may receive a fee from a state college or university for teaching if the fee comes from a private, rather than a public, funding source. (AOR-164).

**Summary of Opinion.** As long as a state legislator is providing services to a city in a capacity other than as a legislator and as long as the prohibition on honoraria is not applicable, a state legislator may accept a salary for working for a city. Whether funds come from a public or private source is irrelevant to the application of the honorarium provision. Under the prohibition on honoraria, a legislator could not accept a fee for teaching if the legislator would not have been asked to speak but for his position as a legislator, regardless of whether the payment comes from a public or private source.

**EAO-149.** Whether a successful candidate may use political contributions left over after a campaign to make a donation to a tax-exempt, nonprofit organization serving physically, mentally, and developmentally challenged individuals. (AOR-166).

**Summary of Opinion.** An officeholder may use political contributions left over from a campaign to make a donation to a tax-exempt, nonprofit organization serving physically, mentally, and developmentally challenged citizens without violating the prohibition on conversion of political contributions to personal use.

**EAO-150.** Whether an educational institution may make a donation to a charity in honor of a state senator who is invited to give an address on education issues (AOR-168).

**Summary of Opinion.** A state senator may not request that a payment be made to a third party in consideration for a speech by the senator. Nor may a state senator agree that a payment will be made to a third party in consideration for a speech by the senator. A third party may make a charitable donation in a state senator's name in appreciation for a speech by the state legislator as long as the payment is not the result of an express or implied agreement with the legislator.

**EAO-151.** Permissible use of political contributions accepted before September 1, 1983. (AOR-169)

**Summary of Opinion.** Political contributions accepted before September 1, 1983, are not subject to the prohibition on personal use of political contributions.

**EAO-152.** Whether a hearings examiner for a state agency may accept transportation and meals in connection with a presentation to a group whose members may have contested cases pending before the hearings examiner's agency. (AOR-172).

**Summary of Opinion.** A hearings examiner is not prohibited from accepting transportation and meals in connection with a substantive presentation to provide information about the hearings examiner's agency, regardless of whether individual members of the group attending the presentation may have contested cases pending before the agency.

**EAO-153.** Application of the lobby law to an employer's payment of travel expenses for a member of the Advisory Commission on State Emergency Communications. (AOR-173).

**Summary of Opinion.** A member of the Advisory Commission on State Emergency

Communications who is a registered lobbyist is not required to report as a lobbyist expenditure his employer's payment of his travel expenses to attend commission meetings.

**EAO-154.** Whether the Texas Commission on the Arts is a "regulatory agency" for purposes of the revolving door provision in Texas Civil Statutes, Article 6252-9b. (AOR-177).

**Summary of Opinion.** The Commission on the Arts is a regulatory agency for purposes of Texas Civil Statutes, Article 6252-9b, §7A.

**EAO-155.** Whether a private association may hire a state legislator as an employee. (AOR-178).

**Summary of Opinion.** A legislator may not accept a salary from a private association for carrying or "killing" bills in the legislature. The restrictions set out in Texas Civil Statutes, Article 6252-9b, §7, apply to a legislator's representation of a person in a grievance proceeding before a public university, but not to a legislator's representation of a person in a grievance proceeding before a public junior college.

**EAO-156.** Whether it is permissible, under the laws subject to interpretation by the Texas Ethics Commission, for a law firm of which a legislator is a member to contract with another law firm to assist with the collection of delinquent property taxes for various local taxing units. (AOR-179).

**Summary of Opinion.** The provisions subject to interpretation by the Ethics Commission

do not prohibit a legislator or his law firm from entering into a contract to assist with the collection of delinquent property taxes for a local taxing authority.

**EAO-157.** Whether a state representative may use political contributions to pay for Spanish lessons. (AOR-181).

**Summary of Opinion.** A state representative whose district has a large Hispanic population may use political contributions to pay for Spanish lessons in order to communicate with his or her constituency. Such expenditures would not constitute a prohibited personal use of political contributions under the Election Code, §253.035.

The Texas Ethics Commission is authorized by Texas Civil Statutes, Article 6252-9d, §1.29, to issue advisory opinions in regard to the following statutes: (1) Texas Civil Statutes, Article 6252-9b; (2) Government Code, Chapter 302; (1) Government Code, Chapter 305; (3) Election Code, Title 15; (5) Penal Code, Chapter 36; and (6) Penal Code, Chapter 39.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Issued in Austin, Texas, on June 30, 1993.

TRD-9325070

Sarah Woelk  
Director, Advisory Opinions  
Texas Ethics Commission

Filed: June 30, 1993

For further information, please call: (512) 463-5800

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# Proposed Sections

Before an agency may permanently adopt a new or amended section, or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive sections, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

**Symbology in proposed amendments.** New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

## TITLE 4. AGRICULTURE

### Part III. Texas Animal Health Commission

#### Chapter 35. Brucellosis

##### Subchapter A. Eradication of Brucellosis in Cattle

###### • 4 TAC §35.4

The Texas Animal Health Commission proposes an amendment to §35.4, concerning entry and change of ownership.

The proposed amendment requires a brucellosis test on all sexually intact cattle at the port of entry under supervision of the port veterinarian before the cattle move into the state. If these cattle move to a quarantined feedlot they must be "S"-banded before entry into the state and be moved in sealed trucks. The post-entry test for cattle entering to a destination other than slaughter or quarantined feedlot has been extended to no less than 120 days after entry rather than 60 days. The requirement for adult vaccination of non-vaccinated females over 12 months of age after they arrive in this state from another state or country will be deleted.

Bill Hayden, director of administration, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Robert L. Daniel, director of program records, has determined that for each year of the first five years the rule is in effect the public benefit anticipated is to advise the public that all cattle entering the United States either be from a foreign country that has a brucellosis status comparable to that of the United States or meet additional restrictions or testing requirements. There will be no adult vaccination requirement for non-vaccinated females over 12 months of age entering the state. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Jo Anne Conner, Texas Animal Health Commission, P.O. Box 12966, Austin, Texas 78711.

The amendment is proposed under the Agriculture Code, Texas Civil Statutes, Chapters 51 and 163, which provide the commission with authority to adopt rules and sets forth the duties of this commission to control disease.

#### §35.4. Entry and Change of Ownership.

(a) Requirements for cattle from foreign countries without comparable brucellosis status that enter and remain in Texas. (Note: Cattle from foreign countries with comparable brucellosis status would enter by meeting the requirements for a state with similar status.)

(1) (No change).

(2) Branding requirements.

(A) Sexually intact cattle destined for a quarantined feedlot must be "S"-branded prior to entry into the state.

(B) Spayed heifers shall be spade-branded prior to entry as specified in §35.1 of this chapter (relating to Definitions).

[(2) Spayed heifer requirement. Spayed heifers shall be spade branded prior to entry as specified in §35.1 of this title (relating to Definitions). Spayed heifers from Mexico shall also be identified with an "M" brand prior to moving to a destination in Texas.]

(3) Vaccination requirement. Nonvaccinated sexually intact female cattle between 4 and 12 months of age entering for purposes other than immediate slaughter or feeding for slaughter in a quarantined feedlot shall be placed under quarantine on arrival and officially brucellosis vaccinated as outlined in §35.2(m) of this title (relating to General Requirements).

[(A) Calfhood vaccination. Females between the ages of four and 12 months of age shall be calfhood vaccinated.]

[(B) Adult vaccination. Females 12 months and older must be adult vaccinated on arrival and held for later testing at 60 to 180 days after entry. Each animal may be released following its negative classification.]

(4) Testing [Postentry testing] requirements for bulls entering for purposes other than immediate slaughter or feeding in a quarantined feedlot. Bulls

entering for purposes other than immediate slaughter or feeding in a quarantined feedlot shall be tested at the port of entry into Texas under the supervision of the port veterinarian, and placed under quarantine and retested 120 [60] to 180 days after arrival. The quarantine will be released following a negative brucellosis test.

(5) [Postentry testing requirement] Testing requirements for females entering for purposes other than immediate slaughter or feeding in a quarantined feedlot. All sexually intact female cattle entering for purposes other than immediate slaughter or feeding for slaughter in a quarantined feedlot shall be tested at the port of entry into Texas under the supervision of the port veterinarian, and placed under quarantine on arrival and retested for brucellosis in no less than 120 [60] days nor more than 180 days after arrival for release of the quarantine. The releasing negative test shall not be sooner than 30 days after the animal has had its first calf.

(6) Testing requirements for sexually intact cattle entering for feeding in a quarantined feedlot. All sexually intact cattle destined for feeding for slaughter in a quarantined feedlot must be tested at the port of entry into Texas under the supervision of the port veterinarian. These cattle must be "S"-branded prior to entry into the state, and may move into and out of the quarantined feedlot only in sealed trucks with a permit issued by TAHC or USDA personnel.

(7)[(6)] Responsibility for costs. All costs of calfhood vaccination, testing, and retesting shall be borne by the owner.

(b) Requirements for cattle entering Texas from other states.

(1) Vaccination. All female cattle between [born after January 1, 1983, and] 4 and 12 months of age [and older entering] shall be officially vaccinated prior to entry. Exceptions to these vaccination requirements:

(A) female cattle entering for purposes of shows, fairs, and exhibitions;

(B) female cattle moving within commuter herds;

(C) spayed heifers;

(D) nonvaccinated female cattle between 4 and 12 months of age [under test age] consigned from an out-of-state farm of origin will be accompanied by a waybill to a Texas market, quarantined feedlot, or slaughter. Upon arrival at the livestock market, they [the nonvaccinated female cattle under 12 months of age] may be vaccinated at no expense to the state, and be sold and moved freely. If these cattle are not vaccinated upon arrival [or are older than 12 months,] then they shall be consigned from the market only to a quarantined feedlot or slaughter, accompanied by an "S" permit;

(E) nonvaccinated female cattle between 4 and 12 months of age [under test age] consigned from an out-of-state livestock market to a Texas livestock market, quarantined feedlot or slaughter will be accompanied by an "S" permit or certificate of veterinary inspection. Individual identification is not required. Upon arrival at the Texas livestock market, they [the nonvaccinated female cattle under 12 months of age] may be vaccinated at no expense to the state, be sold and moved freely. If these cattle are not vaccinated upon arrival [or are older than 12 months,] then they shall be consigned from the market only to a quarantined feedlot or slaughter, accompanied by an "S" permit;

(F)[(H)] nonvaccinated female cattle between 4 and 12 months of age moving may enter on a calfhood vaccination permit and must be vaccinated at no expense to the state within 14 days after arriving at the premise of destination;

[(F)] nonvaccinated female cattle 18 months of age or older shall be individually identified with an "S" brand, backtag or other recognized identification either prior to entry or at a livestock market and consigned to slaughter or quarantined feedlot accompanied with an "S" permit;

[(G)] female cattle over 12 months of age may enter on an adult vaccination permit to the destination stated in the permit where they shall remain quarantined until released. Prior to an "AV" permit being granted, the buyer will co-sign a herd plan with a state-federal veterinarian to acknowledge the requirements following adult vaccination of cattle. Within 14 days of reaching the destination stated in the permit, such cattle shall be adult vaccinated.]

(2) (No change.)

(c) (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 June 18, 1993.

TRD-9325063 Terry Beals, DVM  
Executive Director  
Texas Animal Health  
Commission

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 479-6697

## Chapter 41. Fever Ticks

### • 4 TAC §41.1

The Texas Animal Health Commission proposes an amendment to §41.1, concerning entry and change of ownership.

The proposed amendment is necessary to require that all Mexican cattle entering Texas for movement to a Texas destination shall be "M"-branded prior to movement. Metal eartags which are applied in Mexico are prohibited from removal from the animal.

Bill Hayden, director of administration, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Robert L. Daniel, director of program records, also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to advise the public that all Mexican cattle entering the United States from Mexico will be identified with an "M"-brand and not to remove eartags that distinguish the origin of the cattle. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Jo Anne Conner, Texas Animal Health Commission, P.O. Box 12966, Austin, Texas 78711.

The amendment is proposed under the Agriculture Code, Texas Civil Statutes, Chapter 161, which provides the commission with authority to adopt rules and sets forth the duties of this commission to control disease.

#### §41.1. Tick Eradication.

(a)-(m) (No change.)

(n) Regulations on cattle and products imported from Mexico.

(1) All cattle moved into Texas from Mexico shall be identified with an "M"-brand prior to moving to a destination in Texas. Metal eartags applied in Mexico must not be removed from the animals.

[(1)] All livestock moved into Texas from Mexico must be identified in a

manner so that their Mexico origin can be determined.]

(2)-(4) (No change.)

(o) (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 June 18, 1993.

TRD-9325064 Terry Beals, DVM  
Executive Director  
Texas Animal Health  
Commission

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 479-6697

## Chapter 43. Tuberculosis

### Subchapter A. Cattle

#### • 4 TAC §43.1

The Texas Animal Health Commission proposes an amendment to §43.1, concerning cattle, dairy and beef animals.

The proposed amendment is necessary to define a tuberculosis quarantined feedlot.

Bill Hayden, director of administration, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Robert L. Daniel, director of program records, has determined that for each year of the first five years the rule is in effect the public benefit anticipated is to advise the public that a person may apply for and establish a tuberculosis quarantined feedlot to accept cattle which have restricted movement under the tuberculosis regulations. These cattle are to be held for feeding for slaughter pursuant to restrictions set forth in the regulation. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Jo Anne Conner, Texas Animal Health Commission, P.O. Box 12966, Austin, Texas 78711.

The amendment is proposed under the Agriculture Code, Texas Civil Statutes, Chapter 161, which provides the commission with authority to adopt rules and sets forth the duties of this commission to control disease.

#### §43.1. Cattle (All Dairy and Beef Animals, (genus Bos) and Bison, (genus Bison)).

(a)-(s) (No change.)

(t) A Tuberculosis Quarantined Feedlot is a feedlot under a plan of restricted movement, approved by the Commission, in which cattle are classified as exposed to tuberculosis. All cattle moving to the feedlot must be "S"

branded prior to movement and must move under permit. All cattle leaving the feedlot must go under permit directly to slaughter or another tuberculosis quarantined feedlot. Community notification will be accomplished as set in §35.2 of this title, (relating to General Requirements).

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 June 18, 1993.

TRD-9325065

Terry Beals, DVM  
Executive Director  
Texas Animal Health  
Commission

Earliest possible date of adoption: August 9, 1993

For further information, please call. (512) 479-6697

## Subchapter A. Cattle

### • 4 TAC §43.2

The Texas Animal Health Commission proposes an amendment to §43.2, concerning interstate movement requirements.

The proposed amendment is necessary to require a tuberculosis (TB) test at the port of entry under the supervision of the port veterinarian on all steers and spayed heifers that have not been tested within 60 days prior to arrival at the port. These steers and spayed heifers may enter the state without further restrictions following a negative test at the port. Since steers and spayed heifers arriving at the port with a test of less than 60 days old could not be tested at the port, they can only enter for movement to a TB-quarantined feedlot in sealed trucks after being "S"-branded prior to entering the state. The amendment would further require a negative TB test at the port of entry under the supervision of the port veterinarian for all sexually intact cattle entering the state. If these cattle move from the port to a TB quarantined feedlot in Texas they must be "S"-branded prior to entry and be moved in sealed trucks. If they enter to any other destination in Texas they will be held for retest not less than 120 days after arrival rather than 60 days.

Bill Hayden, director of administration, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Robert L. Daniel, director of program records, has determined that for each year of the first five years the rule is in effect the public benefit anticipated is to advise the public that all sexually intact cattle entering the United States from a foreign country without a comparable status to that of the United States will be tested for TB under the supervision of the port veterinarian and be held for testing at the premise of destination unless they are consigned to slaughter or "S"-branded before entering the state and moved to a TB-

quarantined feedlot in sealed trucks. The public would further benefit by knowing that steers and spayed heifers would either be tested negative under supervision of the port veterinarian and enter unrestricted or be "S"-branded and consigned to a TB-quarantined feedlot in sealed trucks if they had a negative TB test within 60 days before arriving at the port of entry. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Jo Anne Conner, Texas Animal Health Commission P.O. Box 12966, Austin, Texas 78711.

The amendment are proposed under the Agriculture Code, Texas Civil Statutes, Chapter 161, which provides the commission with authority to adopt rules and sets forth the duties of this commission to control disease.

### §43.2. Interstate Movement Requirements.

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

(c) Cattle from any foreign country or part thereof with no recognized comparable tuberculosis status may enter as follows.

(1) All sexually intact cattle to be held for purposes other than for immediate slaughter or feeding for slaughter in a tuberculosis-quarantined feedlot shall be tested at the port of entry into Texas under the supervision of the port veterinarian, and be held under quarantine on the first premise of destination in Texas pending a negative tuberculosis test no earlier than 120 days and no later than 180 days after arrival. The test will be performed at the owner's expense.

(2) All sexually intact cattle destined for feeding for slaughter in a tuberculosis-quarantined feedlot, must be tested at the port of entry into Texas under the supervision of the port veterinarian. These cattle must be "S"-branded prior to entry into the state and may move into and out of the tuberculosis-quarantined feedlot only in sealed trucks with a permit issued by TAHC or USDA personnel.

(3) Steers and spayed heifers that have not been tested within 60 days prior to entry must be tested negative at the port of entry under the supervision of the port veterinarian and may enter without further restriction. Those steers and spayed heifers tested within 60 days prior to entry cannot be retested and may enter only for feeding for slaughter in a Tuberculosis Quarantined Feedlot provided they are S-branded prior to entry into the state. These cattle may move into and out of the tuberculosis-quarantined feedlot only in sealed trucks with a permit issued by TAHC or USDA personnel.

[(c) All sexually intact cattle, from any foreign country or part thereof with no recognized comparable Tuberculosis status to be held for purposes other than for immediate slaughter or feeding for slaughter in a quarantined feedlot, shall be under quarantine on the first premise of destination in Texas pending a negative tuberculosis test no earlier than 60 days and no later than six months after arrival. The test will be performed at the owner's expense.]

(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 June 18, 1993

TRD-9325066

Terry Beals, DVM  
Executive Director  
Texas Animal Health  
Commission

Earliest possible date of adoption August 9, 1993

For further information, please call (512) 479-6697

## TITLE 22. EXAMINING BOARDS

### Part X. Texas Funeral Service Commission

#### Chapter 203. Licensing and Enforcement-Specific Substantive Rules

### • 22 TAC §203.27

The Texas Funeral Service Commission proposes new §203.27 concerning continuing education. This rule requires all licensees to participate in continuing education as a condition for renewal of license(s).

Larry A. Farrow, executive director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Farrow also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to ensure that all licensees maintain and improve upon their profession skills by participating in continuing education as a condition for renewal of license(s). There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Larry A. Farrow, Executive Director, 8100 Cameron Road, Suite 550, Austin, Texas 78754-3896.

The new section is proposed under Texas Civil Statutes, Article 4582b, §5, which provide the Texas Funeral Service Commission with the authority to promulgate rules and regulations.

*§203.27. Continuing Education as a Condition for License Renewal.*

(a) Purpose. In order to ensure that all licensees maintain and improve their professional skills, each person holding a license issued by the commission is required to participate in continuing education as a condition for renewal of any licenses.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Accredited sponsor—Any person or organization conducting or sponsoring a specific program of instruction that has been approved by the commission.

(2) Approved program—A continuing education program activity that has received prior approval by the commission.

(3) Hour of continuing education—A 50-minute clock hour completed by a licensee in attendance at an approved continuing education program.

(c) Standards For Course Approval A continuing education activity will be considered for approval if the commission determines that the activity:

(1) constitutes an organized program of learning that contributes directly to the professional competence of the licensee;

(2) pertains to subject matters that relate to the practice of funeral directing, mortuary science, or related subjects; and

(3) is conducted by an individual(s) who has specialized expertise in the subject matter.

(d) Approval of Sponsors, Programs, and Activities.

(1) Any person or organization wishing to present an educational program must submit, in a form approved by the commission, an application that outlines the course content, the total hours of instruction, the date and location of training, and the name(s) and professional qualifications of the instructor(s). The application must be submitted at least 30 days before the proposed training and accompanied by a non-refundable fee in an amount set by the commission. The commission shall either approve or reject the application within 20 days of application and shall notify the applicant of the decision in writing.

(2) Any licensee who seeks credit for participation in an educational activity that did not receive prior approval by the commission may submit an application for post approval of the activity. The application shall be in a form approved by the commission and submitted within 30 days of the completion of the activity along

with a non-refundable fee in an amount set by the commission. The commission shall either approve or reject the application within 30 days of application and shall notify the applicant of the decision in writing. No applications may be accepted by the commission less than 30 days prior to the license renewal date.

(3) An appeal of denial of an application may be made, in writing, to the executive director. The appeal must be filed in the commission office within 15 days of the notification of denial, and the executive director shall rule on the appeal within 30 days of filing.

(4) The commission or its authorized representative may monitor, inspect, or review any approved continuing education activity, and upon evidence of significant variation in the program presented from the program approved, may disapprove all or any part of the approved hours granted the activity

(5) Any person or organization sponsoring or conducting an approved program shall submit, in a form approved by the commission, a sworn affidavit attesting to the attendance and satisfactory completion of training of all persons in attendance. This information shall be provided to the commission within 15 days following the presentation of material. The commission may initiate disciplinary action against any licensee who knowingly falsely certifies training or who attempts through subterfuge to by-pass the requirements listed herein.

(6) A provider of an approved continuing education activity may charge a reasonable fee to individuals registered for the activity. An individual may not be required to pay an additional fee in the form of registration for ancillary activities or events that are concurrent to the approved continuing education activity if the individual wishes only to attend the continuing education portion of the program. All fees shall be uniformly charged to all registrants; however, the authorized sponsor may exempt employees of the sponsoring organization.

(e) Continuing Education Requirements.

(1) All persons licensed by the commission shall complete a minimum of eight hours of approved continuing education in each two-year period, to coincide with the renewal date of the license, as a requirement of license renewal.

(2) Carryover credit of continuing education hours is not permitted.

(3) The maximum credit hours for participation in any course may not exceed the number approved by the commission.

(4) A licensee may not receive credit for attending the same course more than once during the same two-year period.

(5) No credit may be granted for partial completion of any continuing education activity.

(6) Two hours of credit may be granted for attendance at an entire, regularly scheduled commission meeting if the individual makes a prior request and follows commission procedures. The prohibition in paragraph(4) of this subsection does not apply to credit for regularly scheduled commission meetings.

(7) A licensed individual who conducts an approved course may receive credit for attendance at continuing education. However, the prohibition in paragraph (4) of this subsection will apply .

(f) Exemptions/Waivers.

(1) Continuing education requirements for individuals newly licensed by examination shall be waived for the first-time renewal of license.

(2) Individuals licensed in Texas but residing outside of the state are exempt from the continuing education requirements set forth in this rule. Any individual who returns to residency in this state shall, within the first full year after his or her return, meet the continuing education requirements.

(3) Persons in a "Retired, Inactive" status will be exempted from the continuing education requirement. Any person changing from the "Retired, Inactive" status to a "Retired, Active" status shall, within the first full year after his or her change in status, meet the continuing education requirement.

(4) Persons in an active military status will be exempted, upon request, from the continuing education requirement. Upon release from active duty and return to residency in the state, the individual shall, within the first full year after his or her release and return, meet the continuing education requirement.

(5) Upon request, the executive director may authorize partial or full exemption from the continuing education requirement based on personal or family hardship. This request must be made at least 30 days prior to the expiration of the license(s) and the executive director may require documentation of the hardship.

(g) Record-Keeping Procedures.

(1) It shall be the responsibility of the commission and the individual licensee to maintain accurate records of the continuing education of the individual licensee.



(2) All records pertaining to training will be retained by the sponsor for a period of not less than two years and are subject to examination by the commission.

(h) Failure to Comply. Failure by any licensee to comply fully with the continuing education requirements in this section will result in cancellation of his or her license(s) and the commission will notify the licensee of the cancellation in writing. An individual will be allowed to reinstate his or her license(s) only after application to the commission, satisfactory completion of the required continuing education, payment of a reinstatement fee of \$250, and passing of the Texas Mortuary Law Examination. An application for reinstatement may not be made prior to 30 days after notice of cancellation is mailed and shall be made in such a manner as the commission may require. This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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 June 28, 1993.

TRD-9325093

Larry A. Farrow  
Executive Director  
Texas Funeral Service  
Commission

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 834-9992

## Part XXI. Texas State Board of Examiners of Psychologists

### Chapter 461. General Rulings

#### • 22 TAC §461.11

The Texas State Board of Examiners of Psychologists proposes an amendment to §461.11, concerning continuing education. The Board is proposing to conform to continuing education requirements as required by the 73rd Legislature.

Rebecca E. Forkner, acting executive director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Forkner, also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to help insure that consumers receive quality psychological services, that licensees/certificands will be required to keep themselves abreast of current techniques and developments in their profession. There will be no effect on small

businesses. The anticipated economic cost to persons who are required to comply with the rule as proposed will vary depending upon type of continuing education selected by the individual to meet the requirements.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

#### §461.11. Continuing Education.

(a) Requirements. All certificands/licensees of the Board [All psychologists and psychological associates] are obligated to continue their professional education beyond the years of formal degree related training. Each certificand/licensee is required to obtain 12 hours of continuing education credits per year. These 12 hours must be received from programs as detailed in paragraphs (1) and (2) of this subsection with a minimum of four hours of continuing education received from a formal continuing education program as defined in paragraph (1) of this subsection.

(1) Formal Continuing Education Programs. Attendance and completion of relevant formally organized accredited workshops or courses or presentation of such a workshop or course for a one-time credit only. There must be a pre-assigned number of credit hours under the auspices of:

(A) regionally accredited institution of higher education;

(B) American Psychological Association;

(C) Regional Psychological Association;

(D) State Psychological Association;

(E) Local Psychological Associations;

(F) other recognized professional bodies or groups.

(2) Other Continuing Education Experiences. The Board will accept a maximum of eight hours of continuing education received from the five categories of continuing education experiences

found in this paragraph. The categories of continuing education experiences and the number of hours of continuing education for each category are as follows.

(A) Meetings. Registered attendance at relevant professional meetings (international, national, regional, state, local). Three hours per day.

(B) workshops seminars and courses. Registered attendance at relevant non-accredited workshops, seminars or academic courses. Number of preassigned hours.

(C) Publications. Books, articles published by applicant in relevant professional books, journals, or periodicals. Three hours in a non-refereed journal; six hours in a refereed journal.

(D) Presentations. Papers presented by applicant at relevant professional meetings (international, national, regional, state, or local). Number of clock hours for a maximum of three hours per presentation.

(E) Individual Study. Self-study of professional materials including relevant books, journals, periodicals, tapes, and other materials, and preparation of relevant lectures and talks to public groups. Preparation credit may not be claimed under this category for presentations credited under paragraph (1) of this subsection. Four hours maximum.

(3) Experiences Not Acceptable for Continuing Education. The Board will not consider personal psychotherapy, workshops for personal growth, or services to professional associations as meeting the requirements for continuing education.

(b) Banking. Continuing education hours received from formal continuing education programs (See subsection (a)(1) of this section) may be stored or banked over a three year period. For example, if a formal continuing education program offering 30 hours is taken in one year, up to 12 hours may be submitted for that year and the remaining hours saved for distribution over the next to years.

(c) Documentation. The Board will accept as documentation of continuing education:

(1) for hours received from Formal Continuing Education Programs (see subsection (a)(1) of this section), certificates of attendance/completion will be required for attendees. Copies of the pro-

gram announcement will be required from presenters;

(2) for hours received from other continuing education experiences (see subsection (a)(2) of this section) a registration receipt from the workshop, seminar, course and/or meeting will be required; the table of contents or the article in its entirety will be required for publications/presentations.

(d) **Audit.** Licensees/certificands will sign a declaration on their renewal form stating that they have met the continuing education requirements, and they will maintain continuing education records for five years. The Board will audit 10% of licensees/certificands each year for compliance with the continuing education requirements.

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 June 24, 1993.

TRD-9325105

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 835-2036

## Chapter 463. Applications

### • 22 TAC §463.3

The Texas State Board of Examiners of Psychologists proposes an amendment to §463.3, concerning date of completion of requirements. The Board is proposing to clarify the definition of the degree conferral date for the purpose of application for certification as a psychologist or psychological associate.

Rebecca E. Forkner, acting executive director, has determined that there will not be fiscal implications as a result of enforcing or administering the rule.

Ms. Forkner also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be clarifying the actual date accepted for completion of degree requirements by applicants for certified psychologist or psychological associate. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules,

not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

**§463.3. Date of Completion of Requirements.** Completion of the requirements for the degree shall be construed to be the date in which the degree is formally conferred by the university as shown on the official transcript received directly from the university.

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 June 24, 1993.

TRD-9325106

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 835-2036

### • 22 TAC §463.6

The Texas State Board of Examiners of Psychologists proposes an amendment to §463.6, concerning experience. The Board proposes to clarify the requirements for applicants in a school psychologist internship setting; to clarify the experience requirements for designation as a health service provider in psychology as granted by the Board; and to clarify the status of persons under the supervision of a psychologist under an Agreed Order or Order of the Board.

Rebecca E. Forkner, acting executive director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Forkner also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to clarify the Board's requirements for Licensure so that potential applicants will place themselves in appropriate work settings to obtain experience that will be acceptable to the Board. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

**§463.6. Experience.** Supervision may be obtained only in a full-time or half-time setting.

(1)-(10) (No change.)

(11) For applications for Licensure received after August 31, 1995, the 1 year of pre-doctoral experience must be an internship certified by the Director of Internship Training and must be satisfied by either:

(A) the successful completion of a pre-doctoral internship program accredited by the American Psychological Association; [or]

(B) the successful completion of an organized internship meeting the following criteria.

(i)-(xii) (No change.)

(xiii) Consortia may be created if they follow the guidelines of the current American Psychological Association Committee on Accreditation Handbook.

(C) for School Psychologist trainees, the successful completion of an organized pre-doctoral internship program in a school district meeting the following criteria.

(i) The internship experience shall be provided at or near the end of the formal training period.

(ii) The internship shall occur on a full-time basis over a period of 1 academic year, or on a half-time basis over a period of 2 consecutive academic years.

(iii) The internship experience shall be consistent with a written plan and shall meet the specific training objectives of the program.

(iv) The internship experience shall occur in a setting appropriate to the specific training objectives of the program.

(v) At least 600 clock hours of the internship experience shall occur in a school setting and shall provide a balanced exposure to regular and special educational programs.

(vi) The internship experience shall be provided appropriate recognition through the awarding of academic credit.

(vii) The internship shall occur under conditions of appropriate supervision. Field-based internship supervisors shall hold a valid credential as a school psychologist for the portion of the internship that is in a school setting. That

portion of the internship which appropriately may be in a non-school setting shall require supervision by an appropriate credentialed psychologist.

(viii) Field-based internship supervisors shall be responsible for no more than two interns at any given time. University internship supervisors shall be responsible for no more than 12 interns at any given time.

(ix) Field-based internship supervisors shall provide at least 2 hours per week of direct supervision for each intern. University internship supervisors shall maintain an ongoing relationship with field-based internship supervisors and shall provide at least one field-based contact per semester with each intern.

(x) The internship placement agency shall provide appropriate support for the internship experience which shall include:

(I) a written contractual agreement specifying the period of appointment and the terms of compensation;

(II) a schedule of appointments consistent with that of agency school psychologists (e.g., calendar, participation in in-service meetings, etc.);

(III) provision for participation in continuing professional development activities;

(IV) expense reimbursement consistent with policies pertaining to agency school psychologists;

(V) an appropriate work environment including adequate supplies, materials, secretarial services, and office space;

(VI) release time for internship supervisors; and

(VII) a commitment to the internship as a training experience.

(xi) The internship experience shall be systematically evaluated in a manner consistent with the specific training objectives of the program.

(xii) The internship experiences shall be conducted in a manner consistent with the current legal-ethical standards of the profession.

(xiii) The internship agency will have a minimum of two full-

time equivalent interns at the internship level during the applicant's training period.

(xiv) The internship agency will have the availability of at least two full-time equivalent psychologists as primary supervisors, at least one of whom is employed full time at the agency and is a school psychologist.

(D) Individuals enrolled in an Industrial/Organizational doctoral degree program are exempt from this paragraph.

(12) (No change.)

(13) Persons under supervision for the purpose of meeting the criteria guidelines for defining supervised experience in an organized health service training program (see §469.2 of this title (relating Criteria for Health Service Provider in Psychology)) must adhere to paragraph (11)(A) or (B) of this section relating to experience. Those individuals who have not been trained under paragraph (11)(A) or (B) of this section are not eligible to represent themselves as Health Service Providers. Those trained under paragraph (11)(C) of this section must practice only school psychology.

(14)[(13)] Experience received from a psychologist who is simultaneously under an Agreed Order or Order of the Board does not qualify for licensure consideration, regardless of setting. The psychologist must inform all supervisees of the Agreed Order or Order and assist his/her supervisees in finding appropriate alternate supervision.

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 June 24, 1993.

TRD-9325107

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
• 22 TAC §463.12

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas State Board of Examiners of Psychologists or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas State Board of Examiners of Psychologists proposes the repeal of §463.12, concerning termination of applications. The

Board is proposing to repeal this rule as it is unnecessary due to the fact that it is covered by another rule and is, therefore, redundant.

Rebecca E. Forkner, acting executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Ms. Forkner also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be repealing an unnecessary rule, therefore the Board is making the rules and regulations easier to understand and follow for certificands, licensees, and the general public. In doing so, there will be one rule to read and follow for these requirements rather than several rules. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The repeal is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§463.12. Termination of Application

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

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Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
• 22 TAC §463.21

The Texas State Board of Examiners of Psychologists proposes an amendment to §463.21, concerning Doctoral Applicants Taking Exam at Master's Level. The Board is proposing to amend this rule removing the time limit for doctoral applicants who have already taken the Examination for the Professional Practice of Psychology at the master's level.

Rebecca E. Forkner, acting executive director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Forkner also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be that amending this rule, the Board will allow qualified doctoral level applicants who have already passed the Examination for the Professional Practice of Psychology to complete their certification/licensure applications in a more timely manner, thereby allowing the consuming public to receive services from qualified professionals at the earliest possible date. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

**§463.21. Doctoral Applicants Taking Exam at Master's Level.** An applicant for certification as a psychologist who has taken the Examination for the Professional Practice of Psychology at the master's level, will not be required to retake the exam provided that:

(1) the applicant's score satisfied the Board's current minimum acceptable score for doctoral level applicants; and

[(2) no more than 6 years have elapsed between the date he or she applied for certification at the doctoral level; and]

(2)[(3)] The applicant can demonstrate that he or she has remained academically and/or professionally involved in psychology.

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 June 24, 1993.

TRD-9325109      Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 835-2036

◆      ◆      ◆  
• 22 TAC §463.22

The Texas State Board of Examiners of Psychologists proposes an amendment to §463.22, concerning applicants having taken the professional exam. The Board is proposing to change this rule to amend the designation of applicants from other states who have already

taken the Examination for the Professional Practice of Psychology.

Rebecca E Forkner, acting executive director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Forkner also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be that by amending this rule, the Board is clarifying the rules and regulations making them easier to understand for certificands, licensees and the general public, and makes the rule more in line with current statutes. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this Stat, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it

**§463 22. [Endorsement] Applicants Having Taken the Professional Examination.** An applicant for certification as a psychologist who has taken the EPPP in another state will not be required to retake the exam provided that.

(1)-(2) (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 June 24, 1993.

TRD-9325110      Rebecca E Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 835-2036

◆      ◆      ◆  
Chapter 465. Rules of Practice

• 22 TAC §465.7

The Texas State Board of Examiners of Psychologists proposes an amendment to §465.7, concerning Statutes of Psychological Associates. The Board is proposing amending this rule to more accurately reflect the Board requirements and the standards of the profession.

Rebecca E Forkner, acting executive director, has determined that for the first five-year

period the rules is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule

Ms. Forkner also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to put everyone on notice that Psychological Associates do have to be under supervision in order to perform psychological services. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonable for the proper performance of its duties and regulations of proceedings before it.

**§465.7 Status of Psychological Associates.** A psychological associate must remain under supervision and may not engage in independent practice. [may offer psychological services only as the employee of an exempt agency or a licensed psychologist, or in an employment situation where a psychological associate and a licensed psychologist who is the superior are both employed full time by an agency or institution approved by the Board An affidavit of supervision among the psychologist, the psychological associate, and the employer (if other than the psychologist) must be on file with the Board at all times. See §465.6 of this title (relating to Employment by Psychologists) §465.18 of this title (relating to Supervision Guidelines).]

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 June 24, 1993.

TRD-9325111      Rebecca E Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 835-2036

◆      ◆      ◆  
• 22 TAC §465.14

The Texas State Board of Examiners of Psychologists proposes an amendment to §465.14, concerning Display of License and Renewal Notice. The Board is proposing amend this rule to include certificands, as well as licensees, regarding the display of renewal permits rather than notices.

Rebecca E. Forkner, acting executive director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Forkner also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to clarify that the Board requires certificands, as well as licensees, to display their renewal permits, thereby allowing the consuming public to determine whether they are receiving services from a professional with a current license/certificate. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonable for the proper performance of its duties and regulations of proceedings before it.

**§465.14. Display of License/Certificate and Renewal Permit [Notice].** Each licensee/certificand must display the original license/certificate or an official duplicate issued by the Board and the current renewal permit [notice] in a conspicuous place in the principle office where the licensee/certificand [psychologist] practices. Any reproduction displayed in lieu of those cited in this section is unauthorized by the Board.

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

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TRD-9325112  
Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
• 22 TAC §465.18

*(Editor's note. The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas State Board of Examiners of Psychologists or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas State Board of Examiners of Psychologists proposes the repeal of §465.18, concerning supervision guidelines. The Board

is replacing the present supervision guidelines with a rule which more accurately reflects the Board's requirements and professional standards.

Rebecca E. Forkner, acting executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Ms. Forkner also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be licensees/certificands of the Board will no longer have to adhere to this repeal. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The repeal is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonable for the proper performance of its duties and regulations of proceedings before it.

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 June 24, 1993.

TRD-9325113  
Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
The Texas State Board of Examiners of Psychologists proposes new §465.18, concerning supervision. The Board is replacing its supervision guidelines with guidelines that more closely match the current practice of the profession.

Rebecca E. Forkner, acting executive director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Forkner also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to inform licensees/certificands of the Board, as well as the consuming public, that the licensed psychologist supervisor is responsible for the professional supervision of psychological extenders and that supervision must be provided according to accepted professional standards. There will be no effect on small businesses.

There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The new section is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonable for the proper performance of its duties and regulations of proceedings before it.

**§465.18. Supervision.** The licensed psychologist shall be responsible for the professional supervision of Certified Psychologists, Psychological Associates, and other psychological extenders. Supervision is to be provided according to accepted professional standards taking into consideration the level of training, experience, and type of psychological services offered. Accepted professional standards are the latest edition of the Texas State Board of Examiners of Psychologists' laws and rules.

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 June 24, 1993.

TRD-9325114  
Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
• 22 TAC §465.34

The Texas State Board of Examiners of Psychologists proposes an amendment to §465.34, concerning legal actions reported. The Board is amending this rule to include licensees and certificands regarding legal actions taken and the reporting of such and to clarify which legal actions need to be reported to the Board.

Rebecca E. Forkner, acting executive director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Forkner also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to help assure the ethical and legal practice and psychology by requiring licensees/certificands to report any legal actions taken against them or a licensee's practice of psychology to be reported to the Board. There will be no effect on small businesses. There is no anticipated economic

cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonable for the proper performance of its duties and regulations of proceedings before it.

**§465.34. Legal Actions Reported** Any legal action, civil or criminal in nature, taken against [involving] a licensee/certificand and/or a licensee's practice of psychology must be reported to the Board's office within 20 days of the filing of such action with the court. The initial report will contain certified copies of the documents filed in connection with the proceedings. A certified copy of documents subsequently filed will be submitted within 20 days of filing.

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 June 24, 1993.

TRD-9325115      Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 835-2036

◆      ◆      ◆  
**Chapter 469. Specialty  
Certification**

**Health Service Provider**

◆      ◆      ◆  
**• 22 TAC §469.3**

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas State Board of Examiners of Psychologists or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas State Board of Examiners of Psychologists proposes the repeal §469.3, concerning criteria guidelines for defining supervised experience in an organized health service training program. The Board is proposing the repeal of this rule to further streamline the rules and regulations and to do away with redundancy within the rules.

Rebecca E. Forkner, acting executive director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Ms. Forkner also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be to eliminate redundancy within the rules of the Board and to make them easier to follow and understand for licensees, certificands, and the general public. The anticipated economic cost to persons who are required to comply with the repeal as proposed will be applicable, as the public is relating unaffected by this repeal.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The repeal is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

◆      ◆      ◆  
**§469.3. Criteria Guidelines for Defining Supervised Experience in an Organized Health Service Training Program.**

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 June 24, 1993

TRD-9325117      Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 835-2036

◆      ◆      ◆  
**• 22 TAC §473.2**

The Texas State Board of Examiners of Psychologists proposes an amendment to §473.2, concerning fees. The Board is proposing to raise the fees for the written examinations for certification as a Psychological Associate and Certified Psychologist. The Board contracts for the use of the Examination for the Professional Practice of Psychology. Beginning with the October 1993 examination, the Board is required to pay \$250 for the examination to the Professional Examination Service.

Rebecca E. Forkner, acting executive director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Forkner also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be that the Board will generate adequate funds to function efficiently and to update the contents of the jurisprudence exam and will be able to con-

tinue administering the Examination for the Professional Practice of Psychology which is required for certification as a Psychologist and/or Psychologist Associate. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the rule as proposed will be that it will be \$200 for the jurisprudence exam and \$250 for the Examination for the Professional Practice of Psychology per applicant each time the examinations are taken.

Comments on the proposal may be submitted to Janice Alvarez, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

◆      ◆      ◆  
**§473.2. Examination Fees.**

(a) Examination for Professional Practice of Psychology [Psychological associate certification (effective through April 1989 exam)] - \$250 [\$90].

(b) Jurisprudence [Psychological associate certification (effective for October, 1989, exam)]-\$200 [\$135].

(c) Oral Examination [Psychologist certification (effective through April, 1989 exam)]-\$300 [\$90].  
[Psychologist certification (effective for October, 1989 exam)]-\$135.  
[Jurisprudence-\$100.  
[Practical (oral)-\$300.]

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 June 24, 1993.

TRD-9325117      Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 835-2036

## TITLE 28. INSURANCE

### Part I. Texas Department of Insurance

#### Chapter 7. Corporate & Financial Regulation

##### Subchapter A. Examination and Financial Analysis

- 28 TAC §§7.604, 7.606, 7.607, 7.610

The State Board of Insurance of the Texas Department of Insurance proposes amendments to §§7.604, 7.606, 7.607, and 7.610 concerning the allowance for reinsurance credit to ceding insurers. The amendments are necessary to more effectively regulate the allowance for reinsurance credit and to facilitate implementation of amendments to the Insurance Code, Articles 3.10 and 5.75-1, enacted in House Bill 2 by the 72nd Legislature of Texas. In each proposed section, references to the "State Board" are replaced with the "Texas Department" of Insurance, and the term "Division," describing the Reinsurance area in the Texas Department of Insurance, is replaced with "Activity," where appropriate. Changes to §7.604 and §7.606 in the description of insurers affected by the rules, are proposed to make the sections consistent with statutory amendments. Additional proposed amendments to §7.604 clarify the required submissions to the Department under this section. Proposed changes to §7.606 clarify the insurer affected by this section and incorporate the description of a document which had been inadvertently omitted. In §7.607, the proposal includes an additional subsection concerning a third type of trustee reinsurer, the authority for which was added to the Insurance Code, Article 5.75-1 by amendment. The proposed changes to §7.610 correct grammatical errors.

Sandra Autry, associate commissioner for the financial program, has determined that, for the first five-year period the proposed section is in effect, there is no fiscal impact on state or local government as a result of enforcing or administering this section. There will be no effect on local employment or local economy.

Ms. Autry also has determined that, for each year of the first five years this section is in effect, the public benefit anticipated as a result of enforcing this section will be more efficient administrative regulation of insurance and reinsurance. There is no anticipated difference in cost of compliance between small and large business. There is no anticipated economic cost to persons who are required to comply with the section, as proposed.

Comments on the proposal, to be considered by the State Board of Insurance must be submitted in writing within 30 days after publication of the proposed section in the *Texas Register* to Linda K. von Quintus-Dorn, Chief Clerk, Mail Code, 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comments should be submitted to M. J. (Mike) Arendall, Acting Manager, Reinsurance Activity, Mail Code 305-3A, Texas Department of

Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Request for a public hearing on this proposal should be submitted separately to the Chief Clerk's Office.

The amendments are proposed under the Insurance Code, Articles 3.10, 5.75-1, and 1.04, and Texas Civil Statutes, Article 6252-13a §4 and §5. The Insurance Code, Articles 3.10 and 5.75-1 authorize rules relating to the treatment of reinsurance agreements between insurers, set forth parameters for non-licensed insurers participating as reinsurers, and provide for the accounting and financial statement requirements for reinsurers. Article 1.04(b) , authorizes the Board to determine rules in accordance with the laws of this state for uniform application. Texas Civil Statutes, Article 6252-13a, §4 and §5 authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures, and prescribe the procedures for adoption of rules of a state administrative agency.

The following articles of the Insurance Code are affected by these rules: §7.604-7.606-The Insurance Code, Articles 3.10 and 5.75-1; §7.607-The Insurance Code, Articles 3.40 and 5.75-1; §7.610-The Insurance Code, Articles 3.10 and 5.75-1.

*§7.604. Reinsurance of Entire Business.* Any insurer licensed to do the business of insurance in this state, and while [domestic company] reinsuring its entire outstanding business to an assuming reinsurer shall submit to the commissioner of insurance through the Texas Department [State Board] of Insurance, Company License Division, with a copy to the Reinsurance Activity [Division], the written plan of reinsurance, including the reinsurance agreement, and all necessary documents to allow the commissioner of insurance to determine that the interests of all policyholders are fully protected prior to entering into the reinsurance agreement.

*§7.606. Nonlicensed Insurer May Become Accredited Reinsurer.*

(a) An assuming insurer authorized by its state of domicile to assume the kind or kinds of insurance ceded thereto, but which is not licensed to transact the business of insurance or reinsurance in this state, may apply for accreditation and such assuming insurer may be referred to as the "applicant" where appropriate in these rules. A [domestic] ceding insurer which cedes business to an accredited reinsurer may receive credit for reinsurance as either an asset or a deduction from liability the same as it would have been entitled to receive from a licensed reinsurer.

(b) Submission for accreditation, Form R-1, shall be filed with the Texas Department [State Board] of Insurance, Reinsurance Activity [Division]. The necessary forms and checklists are available upon request from the Reinsurance Activity [Di-

vision]. The appropriate documents to be filed with the submission form include:

(1) certified copy of the applicant's [company's] charter and amendments thereto;

(2) certified copy of the applicant's [company's] latest examination report issued by the domiciliary jurisdiction as filed with the applicant's [company's] state of domicile;

(3) annual financial statements, certified by the applicant's [company's] state of domicile, as filed with the applicant's [company's] state of domicile for each year of the last two years immediately preceding the year of submission;

(4) last quarterly financial statement filed by applicant, if required, with the domiciliary jurisdiction,

(5) (No change.)

(6) certification by the applicant's [company] treasurer that a surplus as regards policyholders in an amount not less than \$20 million is maintained;

(7) a list of the applicant's [company's] directors and key officers together with biographical data on each (Biographical Affidavit, Form R-2),

(8) (No change.)

(9) an affidavit signed by the applicant's [company's] president or chief executive officer which submits the assuming insurer to both this state's jurisdiction and to this state's right to examine the applicant's [company's] books and records (Form R-3); [and]

(10) a completed accredited reinsurer checklist (Form R-4); and

(11)[(10)] any other information that the commissioner may reasonably require.

(c) (No change.)

(d) The accredited reinsurer shall submit annually a certified annual financial statement, as filed with the insurance department of its state of domicile. In addition, the accredited reinsurer shall file quarterly a listing of ceding insurers with whom reinsurance agreements have been entered during that calendar quarter. The listing shall include the complete name and address of the ceding insurer. These documents shall be filed with the Reinsurance Activity [Division], Texas Department [State Board] of Insurance, by March 1 of each year for the annual statements, and March 1, May 15, August 15, and November 15 for each of the quarterly submissions.

(e) A filing fee for accreditation of reinsurers will be required annually when the annual statement is submitted to the

**Reinsurance Activity, Texas Department [State Board] of Insurance.** The filing fee amount is set forth in §7.1301 of this title (relating to Regulatory Fees).

(f) (No change.)

(g) Accreditation shall be automatically withdrawn at any time the assuming insurer fails to qualify under the Insurance Code, Article 3.10, §(b)(2), or Article 5.75-1, §(b)(2), or this subchapter. Notice of withdrawal shall be provided by certified mail to the most recent address of the accredited reinsurer according to the records of the Texas Department [State Board] of Insurance. The accredited reinsurer may request a public hearing to show compliance and seek reinstatement of accreditation.

(h) No credit shall be allowed a [domestic] ceding insurer with respect to reinsurance ceded four months after the assuming insurer's accreditation has been withdrawn and not reinstated by the commissioner. The Reinsurance Activity [Division] of the Texas Department [State Board] of Insurance will maintain a list of accredited reinsurers, updated monthly. The Reinsurance Activity [State Board of Insurance] will notify the affected [domestic] ceding insurer at the time that the assuming insurer's accreditation is withdrawn.

*§7.607 Non-licensed Insurer May Become Trusteed Reinsurer.*

(a) Credit for insurance ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution Pursuant to the Insurance Code, Article 3.10, §(b)(3), and Article 5.75-1, §(b)(3), the Texas Department [State Board] of Insurance shall allow credit for insurance ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns, and successors in interest. The assuming insurer shall report annually to the Texas Department [State Board] of Insurance information substantially the same as that required to be reported on the National Association of Insurance Commissioners (NAIC) annual statement form by licensed insurers to enable the Texas Department [State Board] of Insurance to determine the sufficiency of the trust fund.

(b) Three [Two] types of trusteed reinsurers.

(1) (No change.)

(2) The trust fund for a group of individual unincorporated underwriters shall consist of a trusteed account representing the group's liabilities attributable to business written in the United States and, in addition, include a trusteed surplus of not less than \$100 million and the group shall

make available to the Texas Department [State Board] of Insurance an annual certification by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter.

(3) The trust fund for a group of incorporated insurers under common administration which has continuously transacted an insurance business for at least three years, which is under the supervision of the Department of Trade and Industry of the United Kingdom, and which has aggregate policyholders' surplus of \$10 billion, shall consist of a trusteed account representing the group's several liabilities attributable to business written in the United States pursuant to reinsurance contracts issued in the name of the group and, in addition, include a trusteed surplus of not less than \$100 million which shall be jointly for the benefit of United States insurers ceding business to any member of the group. Each member of the group shall make available to the Texas Department of Insurance an annual certification by the member's domiciliary regulator and its independent public accountants of the solvency of each member. This specific type of trusteed reinsurer is authorized under the Insurance Code, Article 5.75-1, §(b)(3) only.

(c) Form of trust. Such trust shall be established in a form approved by the Texas Department [State Board] of Insurance and shall provide as follows:

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

(3) The trust and the assuming insurer shall be subject to examination as determined by the Texas Department [State Board] of Insurance.

(4) (No change.)

(5) Not later than February 28 of each year the trustees of the trust shall report to the Texas Department [State Board] of Insurance in writing and set forth the balance of the trust, list the trust's investments at the preceding year end, certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

(6) The grantor of the trust shall notify the Texas Department [State Board] of Insurance of any amendment(s) to the trust within ten business days of adoption of the amendment(s). If the commissioner of insurance determines subsequent to receipt of this notice that the amendment is not acceptable and is not brought into compliance with the Texas Department [State Board] of Insurance rules, the trusteed status of the reinsurer shall be automatically revoked. Notice of revocation shall be provided by certified mail to the most recent

address of the trusteed reinsurer according to the records of the Texas Department [State Board] of Insurance. The trusteed reinsurer may request a public hearing to show compliance and seek reinstatement within 20 days of notification.

*§7.610 Letter of Credit Qualified under the Insurance Code, Article 3.10, §(d)(3), or Article 5.75-1, §(d)(3).*

(a)-(g) (No change.)

(h) Reinsurance agreement provisions applicable with letters [letter] of credit shall comply with the requirements of paragraphs (1)-(4) of this subsection.

(1) The reinsurance agreement, in conjunction with [which] the letter of credit provided pursuant to applicable credit for reinsurance statutes and rules [is obtained], shall [may] contain provisions which:

(A) (No change.)

(B) stipulate that the reinsurer and ceding insurer agree that the letter of credit provided by the reinsurer, pursuant to the provisions of the reinsurance agreement, may be drawn upon at any time, notwithstanding any other provisions in such agreement, and shall be utilized by the ceding insurer or its successors in interest [only] for [one or more of] the following purposes:

(i)-(iv) (No change.)

(2) (No change.)

(3) The reinsurance agreement may, if applicable, provide for [Nothing contained in paragraph (1) of this subsection shall preclude] the ceding insurer and reinsurer to [from providing for]:

(A) make an interest payment to the assuming insurer, at a rate not in excess of the prime rate of interest on the amounts held pursuant to paragraph (1)(B)(iii) of this subsection; and/or

(B) [the] return [of] any amounts drawn down on the letters of credit in excess of the actual amounts required, or in the case of paragraph (1)(B) (iv) of this subsection any amounts that are subsequently determined not to be due.

(4) (No change.)

(i)-(u) (No change.)

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

Issued in Austin, Texas, on July 2, 1993.



Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 463-6327

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part III. Texas Air Control Board

#### Chapter 101. General Rules

##### • 31 TAC §101.1

The Texas Air Control Board (TACB) proposes an amendment to §101.1, concerning Definitions. The proposed changes to §101.1 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) by November 15, 1993. 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 non-attainment counties are Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller.

The proposed changes to §101.1 add definitions for alcohol substitutes, automotive basecoat/clearcoat system, automotive precoat, automotive pretreatment, automotive sealers, automotive specialty coatings, automotive three-stage system, batch, cleaning solution, fountain solution, hand-held lawn and garden and utility equipment, heatset, high-volume low-pressure (HVLP) spray guns, lithography, marine terminal, marine vessel, municipal solid waste facility (MSWF), municipal solid waste landfill facility (MSWLF), municipal solid waste landfill emissions, non-heatset, offset lithography, sludge, synthetic organic chemical manufacturing industry (SOCMI) batch distillation operation, SOCMI batch process, SOCMI distillation operation, SOCMI distillation unit, SOCMI reactor process, transport vessel, and utility engines.

The proposed changes to §101.1 also revise the definition of vapor recovery system to delete inappropriate and obsolete language, revise the definitions of industrial solid waste and solid waste, and revise the definition of

VOC to exclude perchloroethylene for consistency with the corresponding federal definition soon to be promulgated by EPA.

The proposed amendments are part of a series of proposed revisions to Chapter 115 (Regulation V, concerning Control of Air Pollution From Volatile Organic Compounds) and the SIP to provide the required ROP reductions in the ozone nonattainment areas as mandated by the 1990 FCAA Amendments. Since this is an interim step in attaining the ozone standard, only those controls needed to satisfy the requirement will be adopted by the November 15, 1993, deadline. 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.

The EPA has recently provided guidance which modifies in part the States' requirement to submit all rules necessary to meet the ROP reduction by November 15, 1993. Texas will submit rules to meet the ROP reduction in two phases. Phase I will consist of a core set of rules comprising at least 70% of the required reductions. This phase will be submitted by the original deadline of November 15, 1993. Phase II will consist 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. A commitment listing the rules to achieve the additional percentages and contingency measures will be submitted in conjunction with the Phase I SIP by November 15, 1993.

Lane Hartsock, deputy director of air quality planning, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Hartsock also has determined that for each year of the first five years the rule in effect the public benefit anticipated as a result of enforcing the rule 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 also no fiscal implications for facilities and small businesses affected by the definitions. There is no anticipated economic cost to persons.

Public hearings on this proposal are scheduled for the following times and places: August 4, 1993, 6:30 p.m., City of El Paso, Council Chambers, Second Floor, Two Civil Center Plaza, El Paso; August 5, 1993, 2:30 a.m., City of Arlington, Council Chambers, 101 West Abram Street, Arlington; August 5, 1993, 6:30 p.m., Houston-Galveston Area

Council, Second Floor, Conference Room A, 3555 Timmons Lane, Houston; and August 6, 1993, 11:30 p.m., John Gray Institute, 855 Florida Avenue, Beaumont.

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 TACB Central Office in Austin no later than August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Eddie Mack at (512) 908-1488.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

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

*§101.1. Definitions.* Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Board, the terms used by the Board have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Alcohol substitutes (used in offset lithographic printing) -Non-alcohol additives that contain volatile organic compounds and are used in the fountain solution. Some additives are used to reduce the surface tension of water; others (especially in the newspaper industry) are added to prevent piling (ink build-up).

Automotive basecoat/clearcoat system (used in automobile refinishing)-A topcoat system composed of a pigmented basecoat portion and a transparent clearcoat portion. The volatile organic compound (VOC) content of a basecoat (bc)/clearcoat (cc) system shall be calculated according to the following formula:

$$\text{VOC } T_{bc/cc} = \text{VOC}_{bc} + (2 \times \text{VOC}_{cc})$$

3

where:

VOC  $T_{bc/cc}$  is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, in the basecoat/clearcoat system;

VOC<sub>bc</sub> is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given basecoat; and

VOC<sub>cc</sub> is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given clearcoat.

Automotive precoat (used in automobile refinishing)-Any coating that is applied to bare metal to deactivate the metal surface for corrosion resistance to a subsequent water-based primer. This coating is applied to bare metal solely for the prevention of flash rusting.

Automotive pretreatment (used in automobile refinishing) -Any coating which contains a minimum of 0.5% acid by weight that is applied directly to bare metal surfaces to etch the metal surface for corrosion resistance and adhesion.

Automotive sealers (used in automobile refinishing) -Coatings that are formulated with resins which, when dried, are not readily soluble in typical solvents. These coatings act as a shield for surfaces over which they are sprayed by resisting the penetration of solvents which are in the final topcoat.

Automotive specialty coatings (used in automobile refinishing)-Coatings or additives which are necessary due to unusual job performance requirements. These coatings or additives prevent the

occurrence of surface defects and impart or improve desirable coating properties. These products include, but are not limited to, uniform finish blenders, elastomeric materials for coating of flexible plastic parts, coatings for non-metallic parts, jaming clear coatings, gloss flat-teners, and anti-glare/ safety coatings.

Automotive three-stage system (used in automobile refinishing)-A topcoat system composed of a pigmented basecoat portion, a semi-transparent midcoat portion, and a transparent clearcoat portion. The volatile organic compound (VOC) content of a three-stage system shall be calculated according to the following formula:

$$\text{VOC } T_{3\text{-stage}} = \text{VOC}_{bc} + \text{VOC}_{mc} + (2 \times \text{VOC}_{cc})$$

4

where:

VOC  $T_{3\text{-stage}}$  is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, in the three-stage system;

VOC<sub>bc</sub> is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given basecoat; VOC<sub>mc</sub> is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given midcoat; and

VOC<sub>cc</sub> is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given clearcoat.

Batch (used in offset lithographic printing)-A supply of fountain solution that is prepared and used without alteration until completely used or removed from the printing process.

Cleaning solution (used in offset lithographic printing) Liquids used to remove ink and debris from the operating surfaces of the printing press and its parts.

Fountain solution (used in offset lithographic printing) -A mixture of water, nonvolatile printing chemicals, and an additive (liquid) that reduces the surface tension of the water so that it spreads easily across the printing plate surface. The fountain solution wets the non-image areas so that the ink is maintained within the image areas. Isopropyl alcohol, a VOC, is the most common additive used to reduce the surface tension of the fountain solution.

Hand-held lawn and garden and utility equipment-Equipment that requires its full weight to be supported by the operator to perform its function and requires multi-positional operation.

Heatset (used in offset lithographic printing)-Any operation where heat is required to evaporate ink oil from the printing ink. Hot air dryers are used to deliver the heat.

High-volume low-pressure (HVLV) spray guns-Equipment used to apply coatings by means of a spray gun

which operates between 0.1 and 10.0 pounds per square inch gauge (psig) air pressure.

Industrial solid waste-Solid waste resulting from or incidental to any process of industry or manufacturing, or mining or agricultural operations[,], classified as follows:

(A) Class I industrial solid waste or Class I waste is any industrial solid waste designated as Class I by the Executive Director as any industrial solid waste or mixture of industrial solid wastes that because of its concentration or physical or chemical characteristics is toxic, corrosive, flammable, a strong sensitizer or irritant, a generator of sudden pressure by decomposition, heat, or other means, and may pose a substantial present or potential danger to human health or the environment when improperly processed, stored, transported, or otherwise managed, including hazardous industrial waste, as defined in §335.1 of

this title (relating to Definitions) and §335.505 of this title (relating to Class I Waste Determination).

(B) Class II industrial solid waste is any individual solid waste or combination of industrial solid wastes that cannot be described as Class I or Class III, as defined in §335.506 of this title (relating to Class II Waste Determination).

(C) Class III industrial solid waste is any inert and essentially insoluble industrial solid waste, including materials such as rock, brick, glass, dirt, and certain plastics and rubber, etc., that are not readily decomposable as defined in §335.507 of this title (relating to Class III Waste Determination).

**Lithography** (used in offset lithographic printing)-A printing process where the image and non-image areas are chemically differentiated; the image area is oil receptive and the non-image area is water receptive. This method differs from other printing methods, where the image is a raised or recessed surface.

**Marine terminal**-Any facility which receives volatile organic compounds (VOC) from a marine vessel or loads VOC into a marine vessel.

**Marine vessel**-Any tugboat, tanker, freighter, passenger ship, barge, or other boat, ship or watercraft which transports liquid bulk cargo in tanks except those used primarily for recreation.

**Municipal solid waste facility**-All contiguous land, structures, other appurtenances, and improvements on the land used for processing, storing, or disposing of solid waste. A facility may be publicly or privately owned and may consist of several processing, storage, or disposal operational units, e.g., one or more landfills, surface impoundments, or combinations of them.

**Municipal solid waste landfill**-A discrete area of land or an excavation that receives household waste and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under Code of Federal Regulation, Part 257, §257.2. A municipal solid waste landfill (MSWLF) unit also may receive other types of RCRA Subtitle D wastes, such as commercial solid waste, nonhazardous sludge, conditionally exempt small-quantity generator waste, and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit, or a lateral expansion.

**Municipal solid waste landfill emissions**-Any gas derived from a natural process through the decomposition of organic waste deposited in a municipal

solid waste disposal site or from the volatile organic compounds in the waste.

**Non-heatset** (used in offset lithographic printing)-Any operation where the printing inks are set without the use of heat. For the purposes of this rule, ultraviolet-cured and electron beam-cured inks are considered non-heatset.

**Offset lithography**-A printing process that transfers the ink film from the lithographic plate to an intermediary surface (blanket), which, in turn, transfers the ink film to the substrate.

**Sludge**-Any solid or semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant; water supply treatment plant, exclusive of the treated effluent from a wastewater treatment plant; or air pollution control equipment.

**Solid waste**-Garbage, rubbish, refuse, sludge from a waste water treatment plant, water supply treatment plant, or air pollution control equipment, and other discarded material, including solid, liquid, semisolid, or containerized gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities. The term does not include:

(A) solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued under the Water Code, Chapter 26;

(B) soil, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements; or

(C) waste materials that result from activities associated with the exploration, development, or production of oil or gas or geothermal resources and other substance or material regulated by the Railroad Commission of Texas under the Natural Resources Code, §91.101, unless the waste, substance, or material results from activities associated with gasoline plants, natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants and is hazardous waste as defined by the Administrator of the U.S. Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by Resource Conservation and Recovery Act, as amended (42 United State Code, 6901 et seq).

**Synthetic Organic Chemical Manufacturing Industry (SOCMI) batch distillation operation**-A noncontinuous

distillation operation in which a discrete quantity or batch of liquid feed is charged into a distillation unit and distilled at one time. After the initial charging of the liquid feed, no additional liquid is added during the distillation operation.

**Synthetic Organic Chemical Manufacturing Industry (SOCMI) batch process**-Any noncontinuous reactor process which is not characterized by steady-state conditions, and in which reactants are not added and products are not removed simultaneously.

**Synthetic Organic Chemical Manufacturing Industry (SOCMI) distillation operation**-An operation separating one or more feed stream(s) into two or more exit streams, each exit stream having component concentrations different from those in the feed stream(s). The separation is achieved by the redistribution of the components between the liquid and vapor-phase as they approach equilibrium within the distillation unit.

**Synthetic Organic Chemical Manufacturing Industry (SOCMI) distillation unit**-A device or vessel in which distillation operations occur, including all associated internals (including, but not limited to, trays and packing), accessories (including, but not limited to, reboilers, condensers, vacuum pumps, and stream jets), and recovery devices (such as adsorbers, carbon absorbers, and condensers) which are capable of and used for recovering chemicals for use, reuse, or sale.

**Synthetic Organic Chemical Manufacturing Industry (SOCMI) reactor process**-A unit operation in which one or more chemicals, or reactants other than air, are combined or decomposed in such a way that their molecular structures are altered and one or more new organic compounds are formed.

**Transport vessel**-Any mode of transportation (truck, rail, or boat) which has a tank used primarily to transport liquid bulk cargo.

**Utility engines**-Small four stroke and two stroke, air or liquid cooled, gasoline, diesel, or alternative fuel powered engines under 25 horsepower. They are designed for powering lawn, garden, and turf maintenance implements, timber operations, generating electricity, and pumping fluids.

**Vapor recovery system**-Any control system which utilizes vapor collection equipment to route volatile organic compounds (VOC) to a control device that reduces VOC [volatile organic compound (VOC)] emissions [such that the aggregate true partial pressure of all VOC vapors will not exceed a level of 1.5 psia (10.3 kPa) or other emission limits specified in Chapter 115 of this title (relating to Volatile Organic Compounds)].

Volatile organic compound—Any compound of carbon or mixture of carbon compounds excluding methane, ethane, 1,1,1-trichloroethane (methyl chloroform), methylene chloride (dichloromethane), perchloroethylene (tetrachloroethylene), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), trifluoromethane (FC-23), 1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113), 1, 2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115), 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123), 1,1,1, 2-tetrafluoroethane (HCFC-124), pentafluoroethane (HFC-125), 1,1,2, 2-tetrafluoroethane (HFC-134), 1,1,1,2-tetrafluoroethane (HFC-134a), 1, 1-dichloro-1-fluoroethane (HCFC-141b), 1-chloro-1,1-difluoroethane (HCFC-142b), 1,1,1-trifluoroethane (HFC-143a), 1,1-difluoroethane (HFC-152a), carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, and perfluorocarbon compounds which fall into these classes:

(A)-(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 July 5, 1993.

TRD-9325248 Lane Hartssock  
Deputy Director, Air Quality  
Planning  
Texas Air Control Board

Proposed date of adoption: November 12, 1993

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

## Chapter 115. Control of Air Pollution From Volatile Organic Compounds

### Subchapter A. Definitions

#### • 31 TAC §115.10

The Texas Air Control Board (TACB) proposes an amendment to §115.10, concerning Definitions. 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) by November 15, 1993. 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 changes to §115.10 add definitions for alcohol substitutes, automotive basecoat/clearcoat system, automotive precoat, automotive pretreatment, automotive sealers, automotive specialty coatings, automotive three-stage system, batch, cleaning solution, fountain solution, hand-held lawn and garden and utility equipment, heatset, high-volume low-pressure (HVLP) spray guns, industrial solid waste, lithography, marine terminal, marine vessel, municipal solid waste facility (MSWF), municipal solid waste landfill, municipal solid waste landfill emissions, non-heatset, offset lithography, owner or operator of a motor vehicle fuel dispensing facility, sludge, solid waste, synthetic organic chemical manufacturing industry (SOCMI) batch distillation operation, SOCMI batch process, SOCMI distillation operation, SOCMI distillation unit, SOCMI reactor process, transport vessel, and utility engines.

The proposed changes to §115.10 also revise the definition of vapor recovery system to delete inappropriate and obsolete language, and revise the definition of VOC to exclude perchloroethylene for consistency with the corresponding federal definition soon to be promulgated by EPA.

The proposed amendments are part of a series of proposed revisions to Chapter 115 (Regulation V, concerning Control of Air Pollution From Volatile Organic Compounds) and the SIP to provide the required reductions in the ozone nonattainment areas as mandated by the 1990 FCAA Amendments. Since this is an interim step in attaining the ozone standard, only those controls needed to satisfy the requirement will be adopted by the November 15, 1993, deadline. 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.

The EPA has recently provided guidance which modifies in part the States' requirement to submit all rules necessary to meet the ROP reduction by November 15, 1993. Texas will submit rules to meet the ROP reduction in two phases. Phase I will consist of a core set of rules comprising at least 70% of the required reductions. This phase will be submitted by the original deadline of November 15, 1993. Phase II will consist 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. A commitment listing the rules to achieve the additional percentages and contingency measures will be submitted in conjunction with the Phase I SIP by November 15, 1993.

Lane Hartssock, deputy director of air quality planning, has determined that for the first five-year period the rule is in effect there would be no fiscal implications for state and local government.

Mr. Hartssock also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of implementing the rule 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 also no fiscal implications for facilities and small businesses affected by the definitions. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Public hearings on this proposal are scheduled for the following times and places: August 4, 1993, 6:30 p.m., City of El Paso, Council Chambers, Second Floor, 2 Civic Center Plaza, El Paso; August 5, 1993, 2:30 a.m., City of Arlington, Council Chambers, 101 West Abram Street, Arlington; August 5, 1993, 6:30 p.m., Houston-Galveston Area Council, Second Floor, Conference Room A, 3555 Timmons Lane, Houston; and August 6, 1993, 11:30 p.m., John Gray Institute, 855 Florida Avenue, Beaumont.

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 TACB Central Office in Austin no later than August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Eddie Mack at (512) 908-1488.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

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

**§115.10. Definitions.** Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Board, the terms used by the Board have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, the following words and terms, when used in this chapter, shall

have the following meanings, unless the context clearly indicates otherwise.

Alcohol substitutes (used in offset lithographic printing) -Non-alcohol additives that contain volatile organic compounds and are used in the fountain solution. Some additives are used to re-

duce the surface tension of water; others (especially in the newspaper industry) are added to prevent piling (ink build-up).

Automotive basecoat/clearcoat system (used in automobile refinishing)-A topcoat system composed of a pigmented basecoat portion and a trans-

parent clearcoat portion. The volatile organic compound (VOC) content of a basecoat (bc)/clearcoat (cc) system shall be calculated according to the following formula:

$$\text{VOC } T_{bc/cc} = \text{VOC}_{bc} + (2 \times \text{VOC}_{cc})$$

3

where:

VOC  $T_{bc/cc}$  is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, in the basecoat/clearcoat system;

VOC<sub>bc</sub> is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given basecoat; and

VOC<sub>cc</sub> is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given clearcoat.

Automotive precoat (used in automobile refinishing)-Any coating that is applied to bare metal to deactivate the metal surface for corrosion resistance to a subsequent water-based primer. This coating is applied to bare metal solely for the prevention of flash rusting.

Automotive pretreatment (used in automobile refinishing) -Any coating which contains a minimum of 0.5% acid by weight that is applied directly to bare metal surfaces to etch the metal surface for corrosion resistance and adhesion.

Automotive sealers (used in automobile refinishing) -Coatings that are formulated with resins which, when dried, are not readily soluble in typical solvents. These coatings act as a shield for surfaces over which they are sprayed by resisting the penetration of solvents which are in the final topcoat.

Automotive specialty coatings (used in automobile refinishing)-Coatings or additives which are necessary due to unusual job performance requirements.

These coatings or additives prevent the occurrence of surface defects and impart or improve desirable coating properties. These products include, but are not limited to, uniform finish blenders, elastomeric materials for coating of flexible plastic parts, coatings for non-metallic parts, jaming clear coatings, gloss flatteners, and antiglare/safety coatings.

Automotive three-stage system (used in automobile refinishing)-A topcoat system composed of a pigmented basecoat portion, a semi-transparent midcoat portion, and a transparent clearcoat portion. The volatile organic compound (VOC) content of a three-stage system shall be calculated according to the following formula:

$$\text{VOC } T_{3\text{-stage}} = \text{VOC}_{bc} + \text{VOC}_{mc} + (2 \times \text{VOC}_{cc})$$

4

where:

VOC  $T_{3\text{-stage}}$  is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, in the three stage system;

VOC<sub>bc</sub> is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given basecoat;

VOC<sub>mc</sub> is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given midcoat; and

VOC<sub>cc</sub> is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given clearcoat.

Batch (used in offset lithographic printing)-A supply of fountain solution that is prepared and used without alteration until completely used or removed from the printing process.

Cleaning solution (used in offset lithographic printing) -Liquids used to remove ink and debris from the operating surfaces of the printing press and its parts.

Fountain solution (used in offset lithographic printing) -A mixture of water, nonvolatile printing chemicals, and an additive (liquid) that reduces the surface tension of the water so that it spreads easily across the printing plate surface. The fountain solution wets the

non-image areas so that the ink is maintained within the image areas. Isopropyl alcohol, a volatile organic compound, is the most common additive used to reduce the surface tension of the fountain solution.

Hand-held lawn and garden and utility equipment-Equipment that requires its full weight to be supported by the operator to perform its function and requires multi-positional operation.

Heatset (used in offset lithographic printing)-Any operation where heat is required to evaporate ink oil from the printing ink. Hot air dryers are used to deliver the heat.

**High-volume low-pressure (HVLV) spray guns**—Equipment used to apply coatings by means of a spray gun which operates between 0.1 and 10.0 pounds per square inch gauge (psig) air pressure.

**Industrial solid waste**—Solid waste resulting from or incidental to any process of industry or manufacturing, or mining or agricultural operations, classified as follows:

(A) **Class I industrial solid waste or Class I waste** is any industrial solid waste designated as Class I by the Executive Director as any industrial solid waste or mixture of industrial solid wastes that because of its concentration or physical or chemical characteristics is toxic, corrosive, flammable, a strong sensitizer or irritant, a generator of sudden pressure by decomposition, heat, or other means, and may pose a substantial present or potential danger to human health or the environment when improperly processed, stored, transported, or otherwise managed, including hazardous industrial waste, as defined in §335.1 of this title (relating to Definitions) and §335.505 of this title (relating to Class I Waste Determination).

(B) **Class II industrial solid waste** is any individual solid waste or combination of industrial solid wastes that cannot be described as Class I or Class III, as defined in §335.506 of this title (relating to Class II Waste Determination).

(C) **Class III industrial solid waste** is any inert and essentially insoluble industrial solid waste, including materials such as rock, brick, glass, dirt, and certain plastics and rubber, etc., that are not readily decomposable as defined in §335.507 of this title (relating to Class III Waste Determination).

**Lithography (used in offset lithographic printing)**—A printing process where the image and non image areas are chemically differentiated; the image area is oil receptive and the non-image area is water receptive. This method differs from other printing methods, where the image is a raised or recessed surface.

**Marine terminal**—Any facility which receives volatile organic compounds (VOC) from a marine vessel or loads VOC into a marine vessel.

**Marine vessel**—Any tugboat, tanker, freighter, passenger ship, barge, or other boat, ship or watercraft which transports liquid bulk cargo in tanks except those used primarily for recreation.

**Municipal solid waste facility**—All contiguous land; structures, other appur-

tenances, and improvements on the land used for processing, storing, or disposing of solid waste. A facility may be publicly or privately owned and may consist of several processing, storage, or disposal operational units, e.g., one or more landfills, surface impoundments, or combinations of them.

**Municipal solid waste landfill**—A discrete area of land or an excavation that receives household waste and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 Code of Federal Regulations, Part 257, §257.2. A municipal solid waste landfill (MSWLF) unit also may receive other types of RCRA Subtitle D wastes, such as commercial solid waste, nonhazardous sludge, conditionally exempt small-quantity generator waste, and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit, or a lateral expansion.

**Municipal solid waste landfill emissions**—Any gas derived from a natural process through the decomposition of organic waste deposited in a municipal solid waste disposal site or from the volatile organic compounds in the waste.

**Non-heatset (used in offset lithographic printing)**—Any operation where the printing inks are set without the use of heat. For the purposes of this rule, ultraviolet-cured and electron beam-cured inks are considered non-heatset.

**Offset lithography**—A printing process that transfers the ink film from the lithographic plate to an intermediary surface (blanket), which, in turn, transfers the ink film to the substrate.

**Owner or operator of a motor vehicle fuel dispensing facility** (as used in §§115.241-115.249 of this title, relating to Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities—Any person who owns, leases, operates, or controls the motor vehicle fuel dispensing facility.

**Sludge**—Any solid or semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant; water supply treatment plant, exclusive of the treated effluent from a wastewater treatment plant; or air pollution control equipment.

**Solid waste**—Garbage, rubbish, refuse, sludge from a waste water treatment plant, water supply treatment plant, or air pollution control equipment, and other discarded material, including solid, liquid, semisolid, or containerized gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities. The term does not include:

(A) solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued under the Water Code, Chapter 26;

(B) soil, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements; or

(C) waste materials that result from activities associated with the exploration, development, or production of oil or gas or geothermal resources and other substance or material regulated by the Railroad Commission of Texas under the Natural Resources Code, §91.101, unless the waste, substance, or material results from activities associated with gasoline plants, natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants and is hazardous waste as defined by the Administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by Resource Conservation and Recovery Act, as amended (42 United States Code, 6901 et seq).

**Synthetic Organic Chemical Manufacturing Industry (SOCMI) batch distillation operation**—A noncontinuous distillation operation in which a discrete quantity or batch of liquid feed is charged into a distillation unit and distilled at one time. After the initial charging of the liquid feed, no additional liquid is added during the distillation operation.

**Synthetic Organic Chemical Manufacturing Industry (SOCMI) batch process**—Any noncontinuous reactor process which is not characterized by steady-state conditions, and in which reactants are not added and products are not removed simultaneously.

**Synthetic Organic Chemical Manufacturing Industry (SOCMI) distillation operation**—An operation separating one or more feed stream(s) into two or more exit streams, each exit stream having component concentrations different from those in the feed stream(s). The separation is achieved by the redistribution of the components between the liquid and vapor-phase as they approach equilibrium within the distillation unit.

**Synthetic Organic Chemical Manufacturing Industry (SOCMI) distillation unit**—A device or vessel in which distillation operations occur, including all associated internals (including, but not limited to, trays and packing), accessories (including, but not limited to, reboilers, condensers, vacuum pumps, and stream

jets), and recovery devices (such as adsorbers, carbon absorbers, and condensers) which are capable of and used for recovering chemicals for use, reuse, or sale.

**Synthetic Organic Chemical Manufacturing Industry (SOCMI) reactor process**—A unit operation in which one or more chemicals, or reactants other than air, are combined or decomposed in such a way that their molecular structures are altered and one or more new organic compounds are formed.

**Transport vessel**—Any mode of transportation (truck, rail, or boat) which has a tank used primarily to transport liquid bulk cargo.

**Utility engines**—Small four stroke and two stroke, air or liquid cooled, gasoline, diesel, or alternative fuel powered engines under 25 horsepower. They are designed for powering lawn, garden, and turf maintenance implements, timber operations, generating electricity, and pumping fluids.

**Vapor recovery system**—Any control system which utilizes vapor collection equipment to route volatile organic compounds (VOC) to a control device that reduces VOC [volatile organic compound (VOC)] emissions [such that the aggregate true partial pressure of all VOC vapors will not exceed a level of 1.5 psia (10.3 kPa) or other emission limits specified in Chapter 115 of this title (relating to Volatile Organic Compounds)].

**Volatile organic compound**—Any compound of carbon or mixture of carbon compounds excluding methane, ethane, 1,1,1-trichloroethane (methyl chloroform), methylene chloride (dichloromethane), perchloroethylene (tetrachloroethylene), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), trifluoromethane (FC-23), 1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113), 1, 2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115), 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123), 1,1,1, 2-tetrafluoroethane (HCFC-124), pentafluoroethane (HFC-125), 1,1,2, 2-tetrafluoroethane (HFC-134), 1,1,1,2-tetrafluoroethane (HFC-134a), 1, 1-dichloro-1-fluoroethane (HCFC-141b), 1-chloro-1,1-difluoroethane (HCFC-142b), 1,1,1-trifluoroethane (HFC-143a), 1,1-difluoroethane (HFC-152a), carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, and perfluorocarbon compounds which fall into these classes:

(A)-(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 July 5, 1993.

TRD-9325246

Lane Hartsock  
Deputy Director  
Texas Air Control Board

Proposed date of adoption: November 12, 1993

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

## Subchapter B. General Volatile Organic Compound Sources Vent Gas Control

### • 31 TAC §§115.121-115.123, 115.126, 115.127, 115.129

The Texas Air Control Board (TACB) proposes amendments to §§115.121-115.123, 115.126, 115.127, and 115.129, concerning Vent Gas Control. 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 (CAAA) for states to develop and adopt the Rate of Progress (ROP) State Implementation Plan (SIP) by November 15, 1993. 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 amendments to §115.121, concerning Emission Specifications, add emission limitations for synthetic organic chemical manufacturing industry (SOCMI) reactor processes, and SOCMI distillation operations. The proposed amendments to §115.122, concerning Control Requirements, specify that emission control equipment for SOCMI reactor processes and SOCMI distillation operations shall have a destruction efficiency of at least 98% or control the vent gas stream to a VOC emission rate of no more than 20 parts per million.

The proposed amendments to §115.121 and §115.122 also clarify the existing control requirements for air oxidation synthetic organic chemical manufacturing processes, liquid phase polypropylene manufacturing processes, liquid phase slurry high-density polyethylene manufacturing processes, and continuous polystyrene manufacturing processes which specify that emission control equipment must have a destruction efficiency of at least 98% or control the vent gas stream to a VOC emission rate of no more than 20 parts per million.

The proposed amendments to §115.123, concerning Alternate Control Requirements, establish the availability of an alternative reasonably available control technology (ARACT) determination for situations in which a vent gas stream control device with a control efficiency of at least 90% was installed

prior to the effective date of a vent gas rule which requires a higher control efficiency.

The proposed amendments to §115.126, concerning Monitoring and Recordkeeping Requirements, update a cross-reference to the emission specifications and delete a reference to carbon adsorption breakthrough. The proposed amendments to §115.127, concerning Exemptions, specify the exemptions for SOCMI reactor processes, and distillation operations.

The proposed amendments to §115.127 also clarify a cross-reference in §115.127(a)(1) in response to a petition for rule-making submitted by the Texas Chemical Council. The proposed amendments to §115.129, concerning Counties and Compliance Schedules, specify the applicable counties and the compliance date for the new requirements, and delete obsolete paragraphs. The proposed amendments to §§115.121, 115.127, and 115.129 also extend the compliance date for some previous requirements from July 31, 1994 to May 31, 1995, in order to provide the regulated community sufficient time to comply.

The proposed amendments are part of a series of proposed revisions to Chapter 115 (Regulation V, concerning Control of Air Pollution From Volatile Organic Compounds) and the SIP to provide the required reductions in the ozone nonattainment areas as mandated by the 1990 CAAA Amendments. Since this is an interim step in attaining the ozone standard, only those controls needed to satisfy the requirement will be adopted by the November 15, 1993, deadline. 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.

The EPA has recently provided guidance which modifies in part the States' requirement to submit all rules necessary to meet the ROP reduction by November 15, 1993. Texas will submit rules to meet the ROP reduction in two phases. Phase I will consist of a core set of rules comprising at least 70% of the required reductions. This phase will be submitted by the original deadline of November 15, 1993. Phase II will consist 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. A commitment listing the rules to achieve the additional percentages and contingency measures will be submitted in conjunction with the Phase I SIP by November 15, 1993.

Lane Hartsock, deputy director of air quality planning, has determined that for each year of the first five-year period the proposed sections are in effect, the annual cost to state and local governments associated with additional enforcement requirements is estimated at \$10,000 for SOCMI reactor/distillation

which would primarily be the result of hiring additional personnel to inspect and monitor these new requirements.

Mr. Hartsock has also 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. Economic costs to small businesses, persons, and businesses required to implement the proposed measures may vary from no cost if the facility already has add-on control equipment to \$240,000 per year for SOCM I reactor processes and distillation operations, based upon a ten-year life for the equipment. All estimates are stated in 1993 dollars with no adjustments for inflation and assume continuing costs equal to those incurred during 1993-1997.

Public hearings on this proposal are scheduled for the following times and places: August 4, 1993, 6:30 p.m., City of El Paso, Council Chambers, Second Floor, Two Civic Center Plaza, El Paso; August 5, 1993, 2:30 a.m., City of Arlington, Council Chambers, 101 West Abram Street, Arlington; August 5, 1993, 6:30 p.m., Houston-Galveston Area Council, Second Floor, Conference Room A, 3555 Timmons Lane, Houston; and August 6, 1993, 11:30 a.m., John Gray Institute, 855 Florida Avenue, Beaumont.

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. 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 TACB central office in Austin no later than August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Eddie Mack at (512) 908-1488.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

The amendments are proposed for adoption 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.

#### *§115.121. 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), the following emission specifications shall apply.

(1) Until May 31, 1995, [July 31, 1994] in Brazoria, El Paso, Galveston, Jefferson, and Orange Counties, no person may allow a vent gas stream to be emitted from any process vent containing one or more of the following volatile organic compounds (VOC) or classes of VOC, unless the vent gas stream is burned properly in accordance with §115.122(a)(1) of this title (relating to Control Requirements):

(A)-(C) (No change.)

(2) In Dallas, Harris, and Tarrant Counties, and after May 31, 1995 [July 31, 1994] in ozone nonattainment counties other than Dallas, Harris, and Tarrant, no person may allow a vent gas stream containing VOC to be emitted from any process vent, unless the vent gas stream is burned properly in accordance with §115.122(a)(1) of this title.

(3) In Harris County, and after May 31, 1995, [July 31, 1994] in ozone nonattainment counties other than Harris, no person may allow a vent gas stream to be emitted from any air oxidation synthetic organic chemical manufacturing process, any liquid phase polypropylene manufacturing process, any liquid phase slurry high-density polyethylene manufacturing process, or any continuous polystyrene manufacturing process, unless the vent gas stream is controlled to a VOC emission rate of no more than 20 parts per million or is burned properly in accordance with §115.122(a)(2) of this title.

(4) After May 31, 1995, no person may allow a vent gas stream to be emitted from any synthetic organic chemical manufacturing industry (SOCMI) reactor process or distillation operation, as defined in §115.10 of this title, unless the vent gas stream is controlled to a VOC emission rate of no more than 20 parts per million or is burned properly in accordance with §115.122(a)(2) of this title.

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

#### *§115.122. Control Requirements.*

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

(1) (No change.)

(2) Any vent gas streams affected by §115.121(a)(3)-(4) [§115.121(a)(3)] of this title must be controlled to a volatile organic compound (VOC) emission rate of no more than 20 parts per million, or burned properly in a

smokeless flare or a direct-flame incinerator which has [with] a destruction efficiency of at least 98%.

(3) Any vent gas stream that becomes subject to the provisions of paragraphs (1) or (2) of this subsection by exceeding provisions of §115.127(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.

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

#### *§115.123. Alternate Control Requirements.*

(a) For all persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston Areas. [.]

(1) Alternate [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. Direct-flame incineration specified for vent gas control in this undesignated head (relating to Vent Gas Control) is not intended as an exclusive emission control method for volatile organic compounds (VOC). In no event shall a vent gas stream be direct-flame incinerated without heat recovery if the incineration will have no practical effect in reducing the emission of air contaminants or will result in an actual degradation of air quality. Alternate vapor recovery systems which achieve the percent reduction efficiencies equivalent to direct-flame incinerators, as stated in §115.122(a) of this title (relating to Control Requirements), do not require Executive Director approval.

(2) The owner or operator of a vent gas stream control device with a control efficiency of at least 90% which was installed prior to the effective date of the applicable paragraphs of this undesignated head (relating to Vent Gas Control) may request an alternate reasonably available control technology (ARACT) determination. The Executive Director shall approve the ARACT if it is determined to be economically unreasonable to replace the control device with a new control device meeting the requirements of the applicable rule(s). Each ARACT approved by the Executive Director shall include a requirement that the control device be operated at its maximum efficiency. Each ARACT shall only apply for ten years from the original installation date of the control device. Any request for an ARACT determination must be submitted to the Executive Director no later than May 31, 1994.



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

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

**§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)-(4) [§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)-(B) (No change.)

(C) continuous monitoring 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;

(D)-(E) (No change.)

(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)-(B) (No change.)

(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)-(E) (No change.)

**§115.127. Exemptions.**

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

(1) A vent gas stream from a low-density polyethylene plant is exempt from the requirements of §115.121(a)(1) and (2) [§115.121(a)(1)] of this title (relating to Emission Specifications) if no more than 1.1 pounds of ethylene per 1,000 pounds (1.1 kg/1000 kg) of product are emitted from all the vent gas streams associated with the formation, handling, and storage of solidified product.

(2) Until May 31, 1995 [July 31, 1994] in Brazoria, El Paso, Galveston, Jefferson, and Orange Counties, the following vent gas streams are exempt from the requirements of §115.121(a)(1) of this title:

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

(3) In Dallas, Harris, and Tarrant Counties, and after May 31, 1995 [July 31, 1994] in ozone nonattainment counties other than Dallas, Harris, and Tarrant, the following vent gas streams are exempt from the requirements of §115.121(a)(2) of this title:

(A) (No change.)

(B) until May 31, 1995 [July 31, 1994] in Harris County, a vent gas stream specified in §115.121(a)(2) of this title with a concentration of VOC less than 0.44 psia true partial pressure (30,000 ppm); and

(C) (No change.)

(4) In Harris County, and after May 31, 1995 [July 31, 1994] in ozone nonattainment counties other than Harris, the following vent gas streams are exempt from the requirements of §115.121(a)(3) of this title:

(A)-(C) (No change.)

(5) For synthetic organic chemical manufacturing industry (SOCMI) reactor processes and distillation operations.

(A) Any reactor process or distillation operation that is designed and operated in a batch mode is exempt from the requirements of §115.121(a)(4) of this title.

(B) Any reactor process or distillation operation operating in a pro-

cess unit with a total design capacity of less than 1,100 tons per year for all chemicals produced within that unit is exempt from the requirements of §115.121(a)(4) of this title.

(C) Any reactor process or distillation operation vent gas stream with a flow rate less than 0.011 standard cubic feet per minute (scfm) and a volatile organic compounds (VOC) concentration less than 0.05 weight percent is exempt from the requirements of §115.121(a)(4) of this title.

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

**§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 May 31, 1995 [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 May 31, 1995 [July 31, 1994].

(2) All persons in Brazoria, El Paso, Galveston, Jefferson, and Orange Counties affected by the provisions of §115.121(a)(2) and (3) of this title and §115.127(a)(3) of this title shall be in compliance with these sections as soon as practicable, but no later than May 31, 1995 [July 31, 1994].

(3) All persons in Harris County affected by the provisions of §115.127(a)(3)(C) of this title shall be in compliance with this section as soon as practicable, but no later than May 31, 1995 [July 31, 1994].

(4) All affected persons 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

§115.121(a)(4) of this title (relating to Emission Specifications) and §115.122(a)(2) of this title (relating to Control Requirements) as soon as practicable, but no later than May 31, 1995.

[(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 proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 5, 1993.

TRD-9325251 Lane Hartsock  
Deputy Director, Air Quality  
Planning  
Texas Air Control Board

Proposed date of adoption: November 12, 1993

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

## Industrial and Municipal Wastewater

### • 31 TAC §§115.142-115.147, 115.149

The Texas Air Control Board (TACB) proposes new §§115.142-115.147, and 115.149, concerning Industrial Wastewater. This new undesignated head will be included in existing Subchapter B, concerning General Volatile Organic Compound Sources. The new sections 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 revisions to the Rate of Progress (ROP) State Implementation Plan (SIP) by November 15, 1993. 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, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, and Waller.

The proposed §115.142, concerning Control Requirements, specifies the controls required for all components of a wastewater system and the controls required for loading or unloading from a container. The proposed §115.143, concerning Alternate Control Requirements, references §115.910 of this title (relating to Alternate Means of Control) for a procedure to receive approval for an alternative control. The proposed §115.144, concerning Inspection Requirements, specifies the frequency and type of inspection required for all covers, seals, and floating roofs. The proposed §115.145, concerning Testing Requirements, specifies the accepted test methods to show compliance with §115.142 and §115.144. The proposed §115.446, concerning Monitoring and Recordkeeping Require-

ments, specifies the frequency, detail, and scope of the recordkeeping and monitoring requirements of this section. The proposed §115.447, concerning Exemptions, specifies exemption levels. The proposed §115.449, concerning Counties and Compliance Schedules, specifies the applicable counties and the compliance date for the new requirements.

The existing sections, regarding water separation, which affect the counties affected by this proposed undesignated head will be repealed after the effective date of these proposed sections. The existing sections scheduled for future repeal include §§115.131(a), 115.132(a), 115.133(a), 115.135(a), 115.136(a), 115.137(a), and 115.139(a).

The proposed amendments are part of a series of proposed revisions to Chapter 115 (Regulation V, concerning Control of Air Pollution From Volatile Organic Compounds) and the SIP to provide the required RFP reductions in the ozone nonattainment areas as mandated by the 1990 FCAA Amendments. Since this is an interim step in attaining the ozone standard, only those controls needed to satisfy the requirement will be adopted by the November 15, 1993, deadline. 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.

The EPA has recently provided guidance which modifies in part the states' requirement to submit all rules necessary to meet the ROP reduction by November 15, 1993. Texas will submit rules to meet the ROP reduction in two phases. Phase I will consist of a core set of rules comprising at least 70% of the required reductions. This phase will be submitted by the original deadline of November 15, 1993. Phase II will consist 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. A commitment listing the rules to achieve the additional percentages and contingency measures will be submitted in conjunction with the Phase I SIP by November 15, 1993.

Lane Hartsock, deputy director of air quality planning, has determined that for the first five-year period the rules are in effect the annual cost to state and local governments are estimated at \$55,000 which would primarily be the result of hiring additional personnel to inspect and monitor these new requirements.

Mr. Hartsock also has determined that for each year of the first five year the rules are in effect the public benefit anticipated as a result of implementing the rules 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.

Economic costs to small businesses, persons, and businesses required to implement the proposed measures may vary from no cost if the facility already has or does not need add-on control equipment to the following estimated costs associated with the expanded abatement, monitoring, and recordkeeping requirements: per facility control unit -0- in 1993 and \$400,000 in 1994-1997.

Any costs continuing beyond 1997 would be operating, maintenance, and recordkeeping requirements. All estimates are stated in 1993 dollars with no adjustments for inflation and assume continuing costs equal to those incurred during 1993-1997.

Public hearings on this proposal are scheduled for the following times and places: August 4, 1993, 6:30 p.m., City of El Paso, Council Chambers, Second Floor, 2 Civic Center Plaza, El Paso; August 5, 1993, 2:30 a.m., City of Arlington, Council Chambers, 101 West Abram Street, Arlington; August 5, 1993, 6:30 p.m., Houston-Galveston Area Council, Second Floor, Conference Room A, 3555 Timmons Lane, Houston; August 6, 1993, 11:30 p.m., John Gray Institute, 855 Florida Avenue, Beaumont.

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 TACB central office in Austin no later than August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Eddie Mack at (512) 908-1488 or Chuck Mueller at (512) 908-1916.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

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

*§115.142. Control Requirements.* For the Beaumont/Port Arthur and Houston/Galveston Areas, no person shall use any component of an industrial wastewater storage, handling, transfer, or treatment facility containing volatile organic compounds (VOC)

obtained from any equipment which is processing, refining, treating, storing, or handling VOC, unless each component is controlled in one of the following ways. For this undesignated head, a component of an industrial wastewater storage, handling, transfer, or treatment facility shall include, but is not limited to, wastewater storage tanks, surface impoundments, wastewater drains, junctions boxes, lift stations, weirs, and oil-water separators:

(1) the component or container is fully covered, has all openings sealed, totally encloses the liquid contents, is equipped with a vapor recovery system which maintains a minimum control efficiency of 95%, and meets the following requirements:

(A) all gauging and sampling devices shall be vapor-tight except during gauging or sampling;

(B) any loading or unloading to or from a container is performed with a submerged fill pipe;

(C) all seals and cover connections shall not have fugitive VOC emissions greater than 500 parts per million by weight (ppmw); and

(D) the initial attempt at repair of a seal or cover connection found to be emitting VOC at greater than 500 ppmw shall be made within 5 days and completed within 15 days of detection; or

(2) the component is equipped with a floating roof or internal floating cover which meets the following requirements.

(A) All openings in an internal or external floating roof except for automatic bleeder vents and rim space vents must provide a projection below the liquid surface or be equipped with a cover, seal, or lid. Any cover, seal, or lid must be in a closed (i.e., no visible gap) position at all times except when the device is in actual use.

(B) Automatic bleeder vents are to be closed at all times except when the roof is floated off or landed on the roof leg supports.

(C) Rim vents, if provided, are to be set to open only when the roof is being floated off the roof leg supports or at the manufacturer's recommended setting.

(D) Any emergency roof drain must be provided with a slotted mem-

brane fabric cover that covers at least 90% of the area of the opening.

(E) There shall be no visible holes, tears, or other openings in any seal or seal fabric.

(F) Secondary seals shall be the rim-mounted type (the seal shall be continuous from the floating roof to the tank wall). The accumulated area of gaps that exceed 1/8 inch (0.32 cm) in width between the secondary seal and tank wall shall be no greater than 1.0 in<sup>2</sup> per foot (21 cm<sup>2</sup>/meter) of tank diameter;

(3) any component of a wastewater system that becomes subject to the provisions of paragraph (1) or (2) of this section by exceeding provisions of §115.147 of this title (relating to Exemptions) will remain subject to the provisions of this section, even if throughput or emissions later fall below the exemption limits.

*§115.143. Alternate Control Requirements.* For all persons in the Beaumont/Port Arthur 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 Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

*§115.144. Inspection Requirements.*

(a) For all persons in the Beaumont/Port Arthur and Houston/Galveston Areas, all seals and covers used to comply with §115.142(1) of this title (relating to Control Requirements) shall be inspected according to the following schedules by the owner, operator, or authorized representative to ensure compliance with §115.142(1)(C)-(D) of this title.

(1) Initially and semiannually thereafter to ensure compliance with §115.142(1)(C).

(2) Upon completion of repair to ensure compliance with §115.142(1)(C)-(D).

(b) For all persons in the Beaumont/Port Arthur and Houston/Galveston Areas, all secondary seals used to comply with §115.142(2) of this title shall be inspected according to the following schedules by the owner, operator, or authorized representative to ensure compliance with §115.142(2)(E)-(F) of this title.

(1) If the primary seal is vapor-mounted, the secondary seal gap area shall be physically measured annually to ensure

compliance with §115.142(2)(F) of this title.

(2) If the tank is equipped with a metallic-type shoe or liquid-mounted primary seal, compliance with §115.142(2)(F) of this title can be determined by visual inspection.

(3) All secondary seals shall be visually inspected semiannually to ensure compliance with §115.142(2)(E)-(F) of this title.

*§115.145. Testing Requirements.* For the Beaumont/Port Arthur and Houston/Galveston Areas, compliance with §115.142 of this title (relating to Control Requirements) shall be determined by applying the following test methods, as appropriate:

(1) Test Methods 1-4 (40 Code of Federal Regulations (CFR) 60, Appendix A) for determining flow rate, as necessary;

(2) Test Method 18 (40 CFR 60, Appendix A) for determining gaseous organic compound emissions by gas chromatography;

(3) Test Method 21 (40 CFR 60, Appendix A) for determining volatile organic compound leaks;

(4) Test Method 25 (40 CFR 60, Appendix A) for determining total gaseous nonmethane organic emissions as carbon;

(5) Test Methods 25A or 25B (40 CFR 60, Appendix A) for determining total gaseous organic concentrations using flame ionization or nondispersive infrared analysis;

(6) Test Method 25D (40 CFR 60, Appendix A) for determining VOC concentration of waste samples;

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

(8) minor modifications to these test methods approved by the Executive Director.

*§115.146. Monitoring and Recordkeeping Requirements.* For the Beaumont/Port Arthur and Houston/Galveston Areas, the following recordkeeping requirements shall apply.

(1) Any person who operates a component of a wastewater storage, handling, transfer, or treatment facility containing volatile organic compounds (VOCs) obtained from any equipment which is processing, refining, treating, storing, or handling VOCs, shall maintain complete and

up-to-date records sufficient to demonstrate continuous compliance with the applicable exemption criteria including, but not limited to, the VOC concentration of all such materials stored, processed, or handled at the affected property and any other necessary operational information.

(2) 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 VOC concentration of any carbon adsorption system exhaust gas to determine if breakthrough has occurred;

(D) the inlet and outlet VOC concentration of any steam or air stripper; and

(E) 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 inspection conducted in accordance with the provisions specified in §115.144 of this title (relating to Inspection Requirements).

(4) Affected persons shall maintain the results of any testing conducted in accordance with the provisions specified in §115.145 of this title (relating to Testing Requirements).

(5) All records shall be maintained at the affected facility for at least 2 years and be made available upon request to representatives of the Texas Air Control Board, U.S. Environmental Protection Agency, or any local air pollution control agency having jurisdiction in the area.

**§115.147. Exemptions.** For the Beaumont/Port Arthur and Houston/Galveston Areas, the following exemptions shall apply.

(1) any wastewater stream having a total flow rate greater than or equal to 1 liter per minute and a volatile organic

compound (VOC) concentration of less than 500 parts per million by weight (ppmw) at the point of generation;

(2) any wastewater stream having a total flow rate less than 1 liter per minute and a VOC concentration less than 10,000 ppmw.

**§115.149. Counties and Compliance Schedules.** All affected persons in the Beaumont/Port Arthur and Houston/Galveston Areas shall be in compliance with §115.142 of this title (relating to Control Requirements), §115.143 of this title (relating to Alternate Control Requirements), §115.144 of this title (relating to Inspection Requirements), §115.145 of this title (relating to Testing Requirements), §115.146 of this title (relating to Monitoring and Recordkeeping Requirements), and §115.147 of this title (relating to Exemptions) 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 July 5, 1993.

TRD-9325252

Lane Hartsock  
Deputy Director  
Texas Air Control Board

Proposed date of adoption: November 12, 1993

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

### Municipal Solid Waste Landfills

#### • 31 TAC §§115.152, 115.153, 115.155-155.157, 115.159

The Texas Air Control Board (TACB) proposes new §§115.152, 115.153, 115.155-115.157, and 115.159, concerning Municipal Solid Waste Landfills (MSWLFs). The proposed changes have been developed in response to a requirement by the United States Environmental Protection Agency 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) by November 15, 1993. 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 Dallas/Fort Worth ozone nonattainment area. The affected ozone nonattainment counties are Collin, Dallas, Denton, and Tarrant.

The proposed new §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 115.155, concerning Testing Requirements, delineates

procedures that provide testing guidelines and procedures to maintain compliance. 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 a series of proposed revisions to Chapter 115 (Regulation V, concerning Control of Air Pollution From VOC) 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 by the November 15, 1993, deadline. 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.

EPA has recently provided guidance which modifies in part the State's requirement to submit all rules necessary to meet the ROP reduction by November 15, 1993. Texas will submit rules to meet the ROP reduction in two phases. Phase I will consist of a core set of rules comprising at least 70% of the required reductions. This phase will be submitted by the original deadline of November 15, 1993. Phase II will consist 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. A commitment listing the rules to achieve the additional percentages and contingency measures will be submitted in conjunction with the Phase I SIP by November 15, 1993.

Lane Hartsock, deputy director of air quality planning, has determined that for the first five-year period the proposed rules are in effect, the estimated annual cost to state and local governments associated with construction, maintenance, and additional enforcement requirements would be \$1,000,000.

Mr. Hartsock has also determined that for the first five-year period the proposed rules are in effect, the public benefit anticipated as a result of implementing the proposed rules will be the satisfaction of CAA requirements, a substantial reduction of methane (CH<sub>4</sub>), which is known to collect at undesirable levels in the vicinity of landfills, carbon dioxide, and non-CH<sub>4</sub> organic compounds, some which are toxic and are known carcinogens.

Economic costs to small businesses, persons, and businesses required to implement the proposed measure may vary from \$5.00 to \$8.00 per year depending on the costs passed through to the operators or owners of MSWLFs.

Public hearings on this proposal are scheduled for the following times and places: August 4, 1993, 6:30 p.m., City of El Paso, Council Chambers, Second Floor, Two Civic Center Plaza, El Paso; August 5, 1993, 2:30 p.m., City of Arlington, Council Chambers, 101 West Abram Street, Arlington; August 5, 1993, 6:30 p.m., Houston-Galveston Area Council, Second Floor, Conference Room A, 3555 Timmons Lane, Houston; and August 6, 1993, 11:30 a.m., John Gray Institute, 855 Florida Avenue, Beaumont.

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 TACB central office in Austin no later than August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all the TACB 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) 908-1815. Requests should be made as far in advance as possible.

The new sections are proposed for adoption under the Texas Health and Safety Code, (Vernon 1990), the Texas Clean Air Act (TCAA), §382.17, which provides the TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

#### §115.152. Control Requirements.

(a) For the 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 it is controlled in one of the following ways:

(1) the landfill is equipped with a control device which reduces volatile organic compounds emissions by 98% or to less than 20 parts per million by volume; or

(2) the landfill gas is routed to a gas collection and treatment system which processes the collected gas for subsequent use or sale.

(b) Any MSWLF that becomes subject to the provisions of subsection (a)(1) or

(2) of this section by exceeding provisions of §115.156 of this title (relating to Exemptions) will remain subject to the provisions of this subsection, even if capacity or emissions later fall below the exemption limits.

§115.153. *Alternate Control Requirements.* For all persons in the 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.

§115.155. *Testing Requirements.* Compliance with §115.152 of this title (relating to Control Requirements) shall be determined by applying the following test methods, as appropriate:

(1) Test Methods 1-4 (40 Code of Federal Regulation 60, Appendix A) for determining flow rate, as necessary;

(2) Test Method 18 (40 Code of Federal Regulation 60, Appendix A) for determining gaseous organic compound emissions by gas chromatography;

(3) Test Method 21 (40 Code of Federal Regulation 60, Appendix A) for determining volatile organic compound leaks;

(4) Test Method 25 (40 Code of Federal Regulation 60, Appendix A) for determining total gaseous non-CH<sub>4</sub> organic emissions as carbon;

(5) Test Methods 25A or 25B (40 Code of Federal Regulation 60, Appendix A) for determining total gaseous organic concentrations using flame ionization or nondispersive infrared analysis;

(6) Test Method 25C (40 Code of Federal Regulation 60, Appendix A) for determining non-CH<sub>4</sub> organic compound in landfill gases;

(7) determination of true vapor pressure using American Society for Testing and Materials Test Methods D323-89, D2879, D4953, D5190, or D5191 for the measurement of Reid vapor pressure, adjusted for actual storage temperature in accordance with American Petroleum Institute Publication 2517, Third Edition, 1989; or

(8) minor modifications to these test methods approved by the Executive Director.

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

(1) Any person who owns or operates a municipal solid waste landfill, shall maintain complete and up-to-date records sufficient to demonstrate compliance with the applicable exemption criteria including, but not limited to, an annual calculation of the volatile organic compound (VOC) emissions rate, at the affected property and any other necessary operational information.

(2) Persons affected 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 down-stream of any direct-flame incinerator;

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

(C) the VOC concentration of any carbon adsorption system exhaust gas 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) Persons affected shall annually submit an emissions inventory report as required by §101.10 of this title (relating to Emissions Inventory Requirements). This report shall include:

(A) a map or plot of the landfill, providing the size and location, and identifying all areas where waste may be landfilled according to the provisions of the permit;

(B) the maximum design capacity;

(C) notification of any increase in the size of the landfill. The increase may result from:

(i) an increase in the permitted area or depth of the landfill;

(ii) a change in the operating procedures; or

(iii) any other means which will increase the maximum design capacity of the landfill;

(D) notification of closure.

(i) For purposes of this subchapter, closure means that:

(I) waste is no longer being placed in the landfill; and

(II) no additional wastes will be placed in the landfill without filing a notification of modification as prescribed by the Texas Water Commission.

(ii) Landfills that are closed permanently between reporting periods shall report as directed by §101.10 of this title and continue reporting until the landfill emissions are below 150 megagrams per year (167 tons per year).

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

(1) any municipal solid waste landfill (MSWLF) having a total emission rate equal to or less than 150 megagrams (Mgs) per year (167 tons per year);

(2) any MSWLF with a capacity of less than 50,000 Mgs (55,500 tons);

(3) any MSWLF which closed or stopped receiving waste prior to November 8, 1987 and does not have the capacity to receive anymore waste.

**§115.159. Counties and Compliance Schedule.** All affected municipal solid waste landfills (MSWLFs) in the Collin, Dallas, Denton, 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 July 5, 1993.

TRD-9325253 Lane Hartsack  
Deputy Director, Air Quality  
Planning  
Texas Air Control Board

Proposed date of adoption: November 12, 1993

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

## Subchapter C. Volatile Organic Compound Transfer [Marketing] Operations

### Loading and Unloading of Volatile Organic Compounds

#### • 31 TAC §§115.211, 115.212, 115.214-115.217, 115.219

The Texas Air Control Board (TACB) proposes amendments to §§115.211, 115.212, 115.214-115.217, and 115.219, concerning Loading and Unloading of Volatile Organic Compounds. The proposed changes have been developed in response to a requirement by the United States 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) by November 15, 1993. The ROP SIP is required to achieve and maintain a volatile organic compounds (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 amendments to §115.211, concerning Emission Specifications, reduce the emission limitation for gasoline terminals to 0.09 pound of VOC from the vapor recovery system vent per 1,000 gallons of gasoline transferred and clarify the applicability of existing requirements. The proposed amendments to §115.212, concerning Control Requirements, specify a minimum vapor recovery system control efficiency, move requirements for loading operations and unloading operations into separate paragraphs, reduce the applicability level from a VOC vapor pressure of 1.5 pounds per square inch absolute (psia) to 0.5 psia, require transport vessels to be kept vapor-tight at all times, delete an exemption for gauging and sampling, extend the "once-in, always-in" requirements for gasoline terminals and bulk plants to include all VOC loading and unloading operations, and clarify the applicability of existing requirements.

For consistency, the proposed amendments to §115.212 also add language to the existing requirements for Aransas, Bexar, Calhoun, Gregg, Matagorda, Nueces, San Patricio, Travis, and Victoria Counties which specifies a minimum vapor recovery system control efficiency, moves requirements for loading operations and unloading operations into separate paragraphs, reduces the applicability level from a VOC vapor pressure of 1.5 psia to 0.5 psia, requires transport vessels to be kept vapor-tight at all times, and deletes an exemption for gauging and sampling.

The proposed amendments to §115.214, concerning Inspection Requirements, expand the inspection requirements to include railcars and clarify the applicability of existing requirements. The proposed amendments to §115.215, concerning Testing Requirements,

update the test methods for determining true vapor pressure. For consistency, the proposed amendments to §115.215 also apply to Gregg, Nueces, and Victoria Counties.

The proposed amendments to §115.216, concerning Monitoring and Recordkeeping Requirements, update cross-references, clarify existing requirements, and add recordkeeping requirements for VOC loading and unloading operations other than gasoline terminals and gasoline bulk plants. For consistency, the proposed recordkeeping requirements are also proposed for Gregg, Nueces, and Victoria Counties.

The proposed amendments to §115.217, concerning Exemptions, reduce the exemption level from a VOC vapor pressure of 1.5 psia to 0.5 psia, eliminate the exemptions for crude oil and condensate, update cross-references, and clarify the applicability of existing requirements. For consistency, the proposed amendments to §115.217 also add language to the existing requirements for Aransas, Bexar, Calhoun, Gregg, Matagorda, Nueces, San Patricio, Travis, and Victoria Counties which reduces the exemption level from a VOC vapor pressure of 1.5 psia to 0.5 psia, updates cross-references, and clarifies the applicability of existing requirements.

The proposed §115.219, concerning Counties and Compliance Schedules, specify the applicable counties and the compliance dates for the new requirements. The TACB also proposes to change the title of Subchapter C from Volatile Organic Compound Marketing Operations to Volatile Organic Compound Transfer Operations to more accurately reflect the content of this subchapter.

The proposed amendments are part of a series of proposed revisions to Chapter 115 (Regulation V, concerning Control of Air Pollution From Volatile Organic Compounds) and the SIP to provide the required reductions in the ozone nonattainment areas as mandated by the 1990 FCAA Amendments. Since this is an interim step in attaining the ozone standard, only those controls needed to satisfy the requirement will be adopted by the November 15, 1993, deadline. 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.

The EPA has recently provided guidance which modifies in part the States' requirement to submit all rules necessary to meet the ROP reduction by November 15, 1993. Texas will submit rules to meet the ROP reduction in two phases. Phase I will consist of a core set of rules comprising at least 70% of the required reductions. This phase will be submitted by the original deadline of November 15, 1993. Phase II will consist 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. A commitment listing the rules to achieve the additional percentages and contingency measures will be submitted in conjunction with the Phase I SIP by November 15, 1993.

Lane Hartsock, deputy director of air quality planning, has determined that for each year of the first five-year period the proposed rules are in effect, the annual cost to state and local governments is estimated at \$30,000, which would primarily be the result of hiring additional personnel to inspect and monitor under the new requirements.

Mr. Hartsock has also determined that for each year of the first five-year period the proposed rules are in effect, the public benefit anticipated as a result of implementing the rules will be satisfaction of FCAA Amendments and EPA requirements, VOC emission reductions in ozone nonattainment areas which are necessary for the timely attainment of the ozone standard, and reduced public exposure to benzene and other air toxics. Economic costs to small businesses, persons, and businesses required to implement the proposed measures may vary from no cost if the facility already has add-on control equipment to about \$890,000 plus the cost of fuel for a combustion device or \$1,435,000, minus the value of product recovered, for a carbon adsorption system. These costs estimates include monitoring equipment. Many of the gasoline terminals already meet the 10.8 mg/liter emission limitation recommended in this proposed revision. Any costs continuing beyond 1997 would be operating, maintenance, and recordkeeping requirements. All estimates are stated in 1993 dollars with no adjustments for inflation and assume continuing costs equal to those incurred during 1993-1997.

Public hearings on this proposal are scheduled for the following times and places: August 4, 1993, 6:30 p.m., City of El Paso Council Chambers, Second Floor, 2 Civic Center Plaza, El Paso; August 5, 1993, 6:30 p.m., Houston-Galveston Area Council Second Floor, Conference Room A, 3555 Timmons Lane, Houston; August 5, 1993, 2:30 p.m., City of Arlington Council Chambers, 101 West Abram Street, Arlington; August 6, 1993, 11:30 a.m., John Gray Institute, 855 Florida Avenue, Beaumont.

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 TACB Central Office in Austin no later than August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Eddie Mack at (512) 908-1488.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

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

#### *§115.211. 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), the following emission specifications shall apply.

(1) Emission limitations for gasoline terminals [Gasoline terminal], as defined in §115.10 of this title, [emission limitations] are as follows:

(A) until January 31, 1994, in Brazoria, El Paso, Galveston, Jefferson, and Orange Counties, volatile organic compound (VOC) vapors from gasoline terminals shall be reduced to a level not to exceed 0.67 pounds of VOC from the vapor recovery system vent per 1,000 gallons (80 mg/liter) of gasoline transferred; [and]

(B) in Dallas, Harris, and Tarrant Counties, and after January 31, 1994, in ozone nonattainment counties other than Dallas, Harris, and Tarrant, VOC vapors from gasoline terminals shall be reduced to a level not to exceed 0.33 pound of VOC from the vapor recovery system vent per 1,000 gallons (40 mg/liter) of gasoline transferred; and

(C) after May 31, 1995, VOC emissions from gasoline terminals shall be reduced to a level not to exceed 0.09 pound of VOC from the vapor recovery system vent per 1,000 gallons (10.8 mg/liter) of gasoline transferred.

(2) In Harris County, and after January 31, 1994, in ozone nonattainment counties other than Harris, the maximum loss of VOC due to product transfer at a gasoline bulk plant, as defined in §115.10 of this title, is 1.2 pounds per 1,000 gallons (140 mg/liter) of gasoline transferred.

(b) For all persons in Gregg, Nueces, and Victoria Counties, [volatile organic compound (VOC) vapors] VOC emissions from gasoline terminals shall be reduced to a level not to exceed 0.67 pounds of VOC from the vapor recovery system vent per 1,000 gallons (80 mg/liter) of gasoline transferred.

#### *§115.212. Control Requirements.*

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

(1) Until May 31, 1995, at volatile organic compound (VOC) loading or unloading operations other than gasoline terminals, gasoline bulk plants, and marine terminals no [No] person shall permit the loading [or unloading] of [volatile organic compounds (VOC)] VOC with a true vapor pressure greater than or equal to 1.5 psia under actual storage conditions to transport vessels [to or from any facility other than gasoline terminals] unless the vapors are processed by a vapor recovery system as defined in §115.10 of this title (relating to Definitions). The vapor recovery system must maintain a control efficiency of at least 90%.

(2) After May 31, 1995, at VOC loading or unloading operations other than gasoline terminals, gasoline bulk plants, and marine terminals no person shall permit the loading of VOC with a true vapor pressure greater than or equal to 0.5 psia under actual storage conditions to transport vessels unless the vapors are processed by a vapor recovery system, as defined in §115.10 of this title. The vapor recovery system must maintain a control efficiency of at least 90%.

(3) Until May 31, 1995, no person shall permit the unloading of VOC with a true vapor pressure greater than or equal to 1.5 psia under actual storage conditions from any transport vessel, excluding marine vessels, unless the transport vessel is kept vapor-tight at all times until the vapors remaining in the transport vessel after unloading are discharged to a vapor recovery system if the transport vessel is refilled, degassed, and/or cleaned in one of the counties in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston Areas.

(4) After May 31, 1995, no person shall permit the unloading of VOC with a true vapor pressure greater than or equal to 0.5 psia under actual storage conditions from any transport vessel, excluding marine vessels, unless the transport vessel is kept vapor-tight at all times until the vapors remaining in the transport vessel after unloading are discharged to a vapor recovery system if the transport vessel is refilled, degassed, and/or cleaned in one of the counties in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston Areas.

(5)[(2)] All loading and unloading of VOC shall be conducted such

that: [When loading or unloading is effected through the hatches of a tank-truck or trailer or railroad tank car with a loading arm equipped with a vapor collection adapter, then pneumatic, hydraulic, or other mechanical means shall be provided to force a vapor-tight seal between the adapter and the hatch. A means shall be provided to prevent liquid drainage from the loading device when it is removed from the hatch of any tanktruck, trailer, or railroad tank car, or to accomplish complete drainage before such removal. When loading or unloading is effected through means other than hatches, all]

(A) All liquid [loading] and vapor lines shall be:

(i)[(A)] equipped with fittings which make vapor-tight connections and which close automatically when disconnected; or

(ii)[(B)] equipped to permit residual VOC in the loading line after loading is complete to discharge into a recovery or disposal system which routes all VOC emissions to a vapor recovery system [after loading is complete. All gauging and sampling devices shall be vapor-tight except for necessary gauging and sampling].

(B) There are no VOC leaks, as defined in §115.10 of this title, when measured with a hydrocarbon gas analyzer, and no liquid or vapor leaks, as detected by sight, sound, or smell, from any potential leak source in the transport vessel and transfer system (including, but not limited to, liquid lines, vapor lines, hatch covers, pumps, and valves, including pressure relief valves).

(6) When loading is effected through the hatches of a transport vessel with a loading arm equipped with a vapor collection adapter, then pneumatic, hydraulic, or other mechanical means shall be provided to force a vapor-tight seal between the adapter and the hatch. A means shall be provided which prevents liquid drainage from the loading device when it is removed from the hatch of any transport vessel, or which routes all VOC emissions to a vapor recovery system.

(7)[(3)] No person shall permit the loading of gasoline to a transport vessel from a gasoline terminal unless the vapors are processed by a vapor recovery system as defined in §115.10 of this title. Vapor recovery systems and loading equipment at gasoline terminals must be designed and operated such that [to meet the following conditions].

[(A)] Gauge pressure must not exceed 18 inches of water (4.5 kPa) and vacuum must not exceed six inches of water (1.5 kPa) in the gasoline tank-truck [.]

[(B)] No VOC leaks, as defined in §115.10 of this title (relating to Definitions), shall be allowed from any potential leak source when measured with a portable combustible gas detector.

[(C)] No avoidable liquid or gaseous leaks, as detected by sight, sound, or smell, shall exist during loading and unloading operations].

(8)[(4)] In Dallas, El Paso, Harris, and Tarrant Counties, and after January 31, 1994, in ozone nonattainment counties other than Dallas, El Paso, Harris, and Tarrant, no person shall permit the transfer of gasoline from a transport vessel into a gasoline bulk plant storage tank, unless the following requirements are met:

(A) (No change.)

[(B)] there are no leaks, as detected by sight, sound, or smell, in the transfer system, which includes liquid lines, vapor lines, hatch covers, and pumps, or in the transport vessel's pressure-vacuum relief valves resulting from emergency situations when pressures exceed the specifications in paragraph (5)(D) of this subsection;]

(B)[(C)] the only atmospheric emission during gasoline transfer is through the storage tank's pressure-vacuum relief valve resulting from emergency situations when pressures exceed the specifications in paragraph (9)(C) [(5)(D)] of this subsection; and

[(D)] all gauging and sampling devices are vaportight except during necessary gauging and sampling; and]

(C)[(E)] the transport vessel is kept vaportight at all times [(except when gauging)] until the [captured] vapors remaining in the transport vessel are discharged to a vapor recovery system, if the transport vessel is refilled, degassed, and/or cleaned in one of the counties in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/ Galveston Areas [properly during the transport vessel's next refill].

(9)[(5)] In Dallas, El Paso, Harris, and Tarrant Counties, and after January 31, 1994, in ozone nonattainment counties other than Dallas, El Paso, Harris, and Tarrant, no person shall permit the transfer

of gasoline from a gasoline bulk plant into a transport vessel [delivery tank-truck tank], unless the following requirements are met:

(A) the transport vessel [tank-truck tank], if equipped for top loading, has a submerged fill pipe;

[(B)] there are no gasoline leaks, as detected by sight, sound, or smell, between the storage tank connections and the delivery truck;]

(B) [(C)] a vapor return line is installed from the transport vessel [delivery truck] to the storage tank;

(C)[(D)] gauge pressure does not exceed 18 inches of water (4.5 kPa) and vacuum does not exceed six inches of water (1.5 kPa) in the gasoline tank-truck tank; and

[(E)] there are no vapor leaks, as detected by sight, sound, or smell, in the transfer system, which includes liquid lines, vapor lines, hatch covers, and pumps or in the delivery truck's pressure-vacuum relief valves;]

(D)[(F)] the only atmospheric emission during gasoline transfer is through the storage tank pressure-vacuum relief valves resulting from emergency situations when pressures exceed the specification in subparagraph (C) [(D)] of this paragraph. [; and

[(G)] all gauging and sampling devices are vaportight except during gauging or sampling.]

(10)[(6)] Any loading or unloading operation [gasoline terminal or bulk plant] that becomes subject to the provisions of [(a)(1), (2), (3), (4), or (5) of] this subsection by exceeding provisions of §115.217(a) of this title (relating to Exemptions) will remain subject to the provision of this subsection, even if throughput or emissions later fall below exemption limits.

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

(1) Until May 31, 1995 at VOC loading or unloading operations other than gasoline terminals, no [No] person shall permit the loading [or unloading] of VOC with a true vapor pressure greater than or equal to 1.5 psia under actual storage conditions to a transport vessel [to or from any facility other than gasoline terminals,] unless the vapors are processed by a vapor recovery system as defined in §115.10 of this title. The vapor



recovery system must maintain a control efficiency of at least 90%.

(2) After May 31, 1995 at VOC loading or unloading operations other than gasoline terminals, no person shall permit the loading of VOC with a true vapor pressure greater than or equal to 0.5 psia under actual storage conditions to a transport vessel unless the vapors are processed by a vapor recovery system as defined in §115.10 of this title. The vapor recovery system must maintain a control efficiency of at least 90%.

(3) Until May 31, 1995, no person shall permit the unloading of VOC with a true vapor pressure greater than or equal to 1.5 psia under actual storage conditions from any transport vessel unless the transport vessel is kept vapor-tight at all times until the vapors remaining in the transport vessel after unloading are discharged to a vapor recovery system if the transport vessel is refilled, degassed, and/or cleaned in Gregg, Nueces, or Victoria Counties.

(4) After May 31, 1995, no person shall permit the unloading of VOC with a true vapor pressure greater than or equal to 0.5 psia under actual storage conditions from any transport vessel unless the transport vessel is kept vapor-tight at all times until the vapors remaining in the transport vessel after unloading are discharged to a vapor recovery system if the transport vessel is refilled, degassed, and/or cleaned in Gregg, Nueces, or Victoria Counties.

(5)[(2)] All loading and unloading of VOC shall be conducted such that: [When loading or unloading is effected through the hatches of a tank-truck or trailer or railroad tank car with a loading arm equipped with a vapor collection adapter, then pneumatic, hydraulic, or other mechanical means shall be provided to force a vapor-tight seal between the adapter and the hatch. A means shall be provided to prevent liquid drainage from the loading device when it is removed from the hatch of any tanktruck, trailer, or railroad tank car, or to accomplish complete drainage before such removal. When loading or unloading is effected through means other than hatches, all]

(A) All liquid [loading] and vapor lines shall be:

(i)[(A)] equipped with fittings which make vapor-tight connections and which close automatically when disconnected; or

(ii)[(B)] equipped to permit residual VOC in the loading line after loading is complete to discharge into a recovery or disposal system which routes

all VOC emissions to a vapor recovery system [after loading is complete. All gauging and sampling devices shall be vapor-tight except for necessary gauging and sampling].

(B) There are no VOC leaks, as defined in §115.10 of this title, when measured with a hydrocarbon gas analyzer, and no liquid or vapor leaks, as detected by sight, sound, or smell, from any potential leak source in the transport vessel and transfer system (including, but not limited to, liquid lines, vapor lines, hatch covers, pumps, and valves, including pressure relief valves).

(6) When loading is effected through the hatches of a transport vessel with a loading arm equipped with a vapor collection adapter, then pneumatic, hydraulic, or other mechanical means shall be provided to force a vapor-tight seal between the adapter and the hatch. A means shall be provided which prevents liquid drainage from the loading device when it is removed from the hatch of any transport vessel, or which routes all VOC emissions to a vapor recovery system.

(7)[(3)] No person shall permit the loading of gasoline to a transport vessel from a gasoline terminal unless the vapors are processed by a vapor recovery system as defined in §115.10 of this title. Vapor recovery systems and loading equipment at gasoline terminals must be designed and operated such that [to meet the following conditions:

[(A)] gauge pressure must not exceed 18 inches of water (4.5 kPa) and vacuum must not exceed six inches of water (1.5 kPa) in the gasoline tank-truck [;]

[(B)] no VOC leaks, as defined in §115.10 of this title (relating to Definitions), shall be allowed from any potential leak source when measured with a portable combustible gas detector; and

[(C)] no avoidable liquid or gaseous leaks, as detected by sight, sound, or smell, shall exist during loading and unloading operations].

(c) For all persons in Aransas, Bexar, Calhoun, Hardin, Matagorda, Montgomery, San Patricio, and Travis Counties, the following requirements shall apply.

(1) Until May 31, 1995, at VOC loading or unloading operations other than gasoline terminals, no [No] person shall permit the loading [or unloading] of VOC with a true vapor pressure greater than or equal to 1.5 psia under actual storage conditions to a transport

vessel [to or from any loading facility of VOC.] unless the vapors are processed by [such facility is equipped with] a vapor recovery system as defined in §115.10 of this title. The vapor recovery system must maintain a control efficiency of at least 90%.

(2) After May 31, 1995, at VOC loading or unloading operations other than gasoline terminals, no person shall permit the loading of VOC with a true vapor pressure greater than or equal to 0.5 psia under actual storage conditions to a transport vessel unless the vapors are processed by a vapor recovery system as defined in §115.10 of this title. The vapor recovery system must maintain a control efficiency of at least 90%.

(3) Until May 31, 1995, no person shall permit the unloading of VOC with a true vapor pressure greater than or equal to 1.5 psia under actual storage conditions from any transport vessel unless the transport vessel is kept vapor-tight at all times until the vapors remaining in the transport vessel after unloading are discharged to a vapor recovery system if the transport vessel is refilled, degassed, and/or cleaned in Aransas, Bexar, Calhoun, Hardin, Matagorda, Montgomery, San Patricio, or Travis Counties.

(4) After May 31, 1995, no person shall permit the unloading of VOC with a true vapor pressure greater than or equal to 0.5 psia under actual storage conditions from any transport vessel unless the transport vessel is kept vapor-tight at all times until the vapors remaining in the transport vessel after unloading are discharged to a vapor recovery system if the transport vessel is refilled, degassed, and/or cleaned in Aransas, Bexar, Calhoun, Hardin, Matagorda, Montgomery, San Patricio, or Travis Counties.

(5) All loading and unloading of VOC shall be conducted such that:

(A) all liquid and vapor lines shall be:

(i) equipped with fittings which make vaportight connections and which close automatically when disconnected; or

(ii) equipped to permit residual VOC in the loading line after loading is complete to discharge into a recovery or disposal system which routes all VOC emissions to a vapor recovery system;

(B) there are no VOC leaks, as defined in §115.10 of this title, when measured with a hydrocarbon gas

analyzer, and no liquid or vapor leaks, as detected by sight, sound, or smell, from any potential leak source in the transport vessel and transfer system (including, but not limited to, liquid lines, vapor lines, hatch covers, pumps, and valves, including pressure relief valves).

(6)[(2)] When loading [or unloading] is effected through the hatches of a transport vessel [tank-truck or trailer or railroad tank car] with a loading arm equipped with a vapor collection [collecting] adapter, then pneumatic, hydraulic, or other mechanical means shall be provided to force a vapor-tight seal between the adapter and the hatch. A means shall be provided which prevents [to prevent] liquid drainage from the loading device when it is removed from the hatch of any transport vessel [tank-truck, trailer, or railroad tank car], or which routes all VOC emissions to a vapor recovery system [to accomplish complete drainage before such removal.

(3) When loading or unloading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings which make vapor-tight connections and which close automatically when disconnected or shall be equipped to permit residual VOC in the loading line to discharge into a recovery or disposal system after loading is complete.

(4) All gauging and sampling devices shall be vaportight except for necessary gauging and sampling.]

#### *§115.214. Inspection Requirements.*

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

(1) Inspection for visible liquid leaks, visible fumes, or significant odors resulting from volatile organic compound (VOC) dispensing operations shall be conducted during each transfer by the owner or operator of the VOC loading and unloading operation [facility] or the owner or operator of the transport vessel [tank-truck].

(2) (No change.)

(3) In Dallas, El Paso, Harris, and Tarrant Counties, gasoline tank-truck tanks being loaded must have been leak tested within one year, in accordance with the requirements of §§115.234-115.237 and §115.239 of this title [the undesignated head] (relating to Control of Volatile Organic Compound Leaks From Transport Vessels [Gasoline Tank-Trucks]), as evidenced by prominently displayed certification, affixed near the Department of Transportation certification plate.

(4) After January 31, 1994, in ozone nonattainment counties other than

Dallas, El Paso, Harris, and Tarrant, gasoline tank-truck tanks being loaded must have been leak tested within one year, in accordance with the requirements of §§115.234-115.237 and §115.239 of this title [the undesignated head] (relating to Control of Volatile Organic Compound Leaks From Transport Vessels [Gasoline Tank-Trucks]), as evidenced by prominently displayed certification, affixed near the Department of Transportation certification plate.

(5) After May 31, 1995, all tank-truck tanks loading or unloading VOC having a true vapor pressure greater than or equal to 0.5 pounds per square inch absolute under actual storage conditions must have been leak tested within one year in accordance with the requirements of §§115.234-115.237 and §115.239 of this title (relating to Control of Volatile Organic Compound Leaks From Transport Vessels) as evidenced by prominently displayed certification affixed near the Department of Transportation certification plate.

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

(1) Inspection for visible liquid leaks, visible fumes, or significant odors resulting from VOC dispensing operations shall be conducted during each transfer by the owner or operator of the VOC loading and unloading operation [facility] or the owner or operator of the transport vessel [tank-truck].

(2) (No change.)

#### *§115.215. Testing Requirements.*

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston Areas, compliance with §115.211(a) of this title (relating to Emission Specifications) and §115.212(a) of this title (relating to Control Requirements) shall be determined by applying the following test methods, as appropriate:

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

(7) determination of true vapor pressure using ASTM Test Methods D323-89, D2879, D4953, D5190, or D5191 [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

(8) (No change.)

(b) For Gregg, Nueces, and Victoria Counties, compliance with §115.211(b) of this title and §115.212(b) of this title shall be determined by applying the following test methods, as appropriate:

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

(7) determination of true vapor pressure using ASTM Test Methods D323-89, D2879, D4953, D5190, or D5191 [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

(8) (No change.)

#### *§115.216. Monitoring and Recordkeeping Requirements.*

(a) For volatile organic compound (VOC) loading or unloading operations [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 plant as defined by its Texas Air Control Board (TACB) account number [facility] for at least two years and shall make such information available upon request to representatives of the TACB [Texas Air Control Board (TACB)], United States Environmental Protection Agency (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 plant as defined by its Texas Air Control Board (TACB) account number [facility];

(2) for vapor recovery systems:

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

(C) continuous monitoring and recording 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]; and

(D) (No change.)

(3) for gasoline terminals:

(A) a comprehensive record of all tank-trucks loaded, including the certification number of the tank-truck [delivery vessel] and the date of the last leak testing required by §115.214(a)(3)-(5) [§115.214(a)(3)] of this title (relating to Inspection Requirements);

(B) a daily record of the certification number of all tank-trucks [delivery vessels] loaded at the affected terminal;

(C) a daily record of the number of transport [delivery] vessels

loaded at the terminal and the quantity of gasoline loaded to each transport [delivery] vessel; and

(D) (No change.)

(4) for gasoline bulk plants in Dallas, El Paso, Harris, and Tarrant Counties, and after January 31, 1994 in ozone nonattainment counties other than Dallas, El Paso, Harris, and Tarrant:

(A) a comprehensive record of all tank-trucks loaded, including the certification number of the tank-truck [delivery vessel] and the date of the last leak testing required by §115.214(a)(3)-(5) [§115.214(a)(3)] of this title;

(B) a daily record of the certification number of all tank-trucks [delivery vessels] loaded at the affected bulk plant;

(C) a daily record of the number of transport [delivery] vessels loaded at the bulk plant and the quantity of gasoline loaded to each transport [delivery] vessel; and

(D) (No change.)

(5) for VOC loading or unloading operations other than gasoline terminals, gasoline bulk plants, and marine terminals, a daily record of each transport vessel loaded or unloaded, including:

(A) the certification number of each tank-truck loaded or unloaded and the date of the last leak testing required by §115.214(a)(5) of this title;

(B) the volume of VOC loaded to or unloaded from each transport vessel; and

(C) the vapor pressure of the VOC loaded to or unloaded from each transport vessel.

(6)[(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 VOC loading or unloading operations [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 plant as defined by its TACB account number [facility] for at

least two years and shall make such information available upon request to representatives of the 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 plant as defined by its Texas Air Control Board (TACB) account number [facility];

(2) for vapor recovery systems:

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

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

(D) (No change.)

(3) for gasoline terminals:

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

(B) (No change.)

(4) (No change.)

(5) for VOC loading or unloading operations other than gasoline terminals, gasoline bulk plants, and marine terminals, a daily record of each transport vessel loaded or unloaded, including:

(A) the volume of VOC loaded to or unloaded from each transport vessel; and

(B) the vapor pressure of the VOC loaded to or unloaded from each transport vessel.

#### §115.217. Exemptions.

(a) For all persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston Areas, the following exemptions apply:

(1) Until May 31, 1995, all [Any facility for] loading and [or] unloading of volatile organic compounds (VOC) with a true vapor pressure less than 1.5 pounds per square inch absolute (psia) (10.3 kPa) under actual storage conditions is exempt from the requirements of §115.212(a) of this title (relating to Control Requirements) [this undesignated head (relating to Loading and Unloading of Volatile Organic Compounds)].

(2) After May 31, 1995, all loading and unloading of VOC with a true vapor pressure less than 0.5 psia under actual storage conditions is exempt from the requirements of §115.212(a) of this title.

[(2)] Any facility, excluding gasoline bulk plants, having less than 20,000 gallons (75,708 liters) throughput of VOC per day (averaged over any consecutive 30-day period) is exempt from the requirements of this undesignated head (relating to Loading and Unloading of Volatile Organic Compounds).]

(3) Until May 31, 1995, any plant, as defined by its Texas Air Control Board (TACB) account number, excluding gasoline bulk plants, having less than 20,000 gallons (75,708 liters) throughput of VOC per day (averaged over any consecutive 30-day period) with a true vapor pressure greater than or equal to 1.5 psia under actual storage conditions is exempt from the requirements of §115.212(a) of this title.

(4) After May 31, 1995, any plant, as defined by its TACB account number, excluding gasoline bulk plants, having less than 20,000 gallons (75,708 liters) throughput of VOC per day (averaged over any consecutive 30-day period) with a true vapor pressure greater than or equal to 0.5 psia under actual storage conditions is exempt from the requirements of §115.212(a) of this title.

(5)[(3)] Until January 31, 1994, gasoline terminals located in Harris County and having less than 500,000 gallons (1,892,706 liters) throughput per day (averaged over any consecutive 30-day period) are exempt from the requirements of §115.211(a)(1)(B) [§115.211(1)(B)] of this title (relating to Emission Specifications).

(6) [(4)] Until January 31, 1994, gasoline terminals located in Dallas and Tarrant Counties and having less than 100,000 gallons (378,541 liters) throughput per day (averaged over any consecutive 30-day period) are exempt from the requirements of §115.211(a)(1)(B) [§115.211(1)(B)] of this title.

(7)[(5)] All loading and unloading of [facilities for crude oil and condensate, for] ships and barges, and all loading and unloading of [for] liquefied petroleum gas only (regulated by the Safety Rules of the Liquefied Petroleum Gas Division of the Texas Railroad Commission) is [are] exempt from the requirements of §115.212(a) of this title (relating to Control Requirements).

(8) Until May 31, 1995, all loading and unloading of crude oil and condensate is exempt from the requirements of §115.212(a) of this title (relating to Control Requirements).

(9)[(6)] Gasoline bulk plants which have a gasoline throughput less than 4,000 gallons (15,142 liters) per day averaged over any consecutive 30-day period are exempt from the provisions of §115.211(a)(2) of this title, §115.212(a)(9) [§115.212(a)(5)] of this title [(relating to Control Requirements)], and §115.216(a)(4) of this title (relating to Monitoring and Recordkeeping Requirements).

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

(1) Until May 31, 1995, all [Any facility for] loading and [or] unloading of volatile organic compounds (VOC) with a true vapor pressure less than 1.5 psia (10.3 kPa) under actual storage conditions is exempt from the requirements of §115.212(b) of this title [this undesignated head (relating to Loading and Unloading of Volatile Organic Compounds)].

(2) After May 31, 1995, all loading and unloading of VOC with a true vapor pressure less than 0.5 psia under actual storage conditions is exempt from the requirements of §115.212(b) of this title.

[(2) Any facility having less than 20,000 gallons (75,708 liters) throughput of VOC per day (averaged over any consecutive 30-day period) is exempt from the requirements of this undesignated head (relating to Loading and Unloading of Volatile Organic Compounds).]

(3) Until May 31, 1995, any plant, as defined by its TACB account number, having less than 20,000 gallons (75,708 liters) throughput of VOC per day (averaged over any consecutive 30-day period) with a true vapor pressure greater than or equal to 1.5 psia under actual storage conditions is exempt from the requirements of §115.212(b) of this title.

(4) After May 31, 1995, any plant, as defined by its TACB account number, having less than 20,000 gallons (75,708 liters) throughput of VOC per day (averaged over any consecutive 30-day period) with a true vapor pressure greater than or equal to 0.5 psia under actual storage conditions is exempt from the requirements of §115.212(b) of this title.

(5)[(3)] All loading and unloading of [facilities for] crude oil and condensate, all loading and unloading of [for] ships and barges, and all loading and unloading of [for] liquefied petroleum gas only (regulated by the Safety Rules of the Liquefied Petroleum Gas Division of the Texas Railroad Commission) are exempt from the requirements of §115.212(b) of this title.

(c) For all persons in Aransas, Bexar, Calhoun, Hardin, Matagorda, Montgomery, San Patricio, and Travis Counties, the following exemptions apply.

(1) Until May 31, 1995, all [Any facility for] loading and [or] unloading of VOC with a true vapor pressure less than 1.5 psia (10.3 kPa) under actual storage conditions is exempt from the requirements of §115.212(c) of this title [this undesignated head (relating to Loading and Unloading of Volatile Organic Compounds)].

(2) After May 31, 1995, all loading and unloading of VOC with a true vapor pressure less than 0.5 psia under actual storage conditions is exempt from the requirements of §115.212(c) of this title.

[(2) Any facility having less than 20,000 gallons (75,708 liters) throughput of VOC per day (averaged over any consecutive 30-day period) is exempt from the requirements of this undesignated head (relating to Loading and Unloading of Volatile Organic Compounds).]

(3) Until May 31, 1995, any plant, as defined by its TACB account number, having less than 20,000 gallons (75,708 liters) throughput of VOC per day (averaged over any consecutive 30-day period) with a true vapor pressure greater than or equal to 1.5 psia under actual storage conditions is exempt from the requirements of §115.212(c) of this title.

(4) After May 31, 1995, any plant, as defined by its TACB account number, having less than 20,000 gallons (75,708 liters) throughput of VOC per day (averaged over any consecutive 30-day period) with a true vapor pressure greater than or equal to 0.5 psia under actual storage conditions is exempt from the requirements of §115.212(c) of this title.

(5) [(3)] All loading and unloading of [facilities for] crude oil and condensate, all loading and unloading of [for] ships and barges, and all loading and unloading of [for] liquefied petroleum gas only (regulated by the Safety Rules of the Liquefied Petroleum Gas Division of the Texas Railroad Commission) are exempt from the requirements of §115.212(c) 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)-(3) (No change.)

(4) All affected persons in Brazoria, Galveston, Jefferson, and Orange Counties shall be in compliance with §115.212(a)(8) and (9) [§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) All affected persons in Harris County shall be in compliance with §115.217(a)(5) [§115.217(a)(3)] of this title as soon as practicable, but no later than January 31, 1994.

(6) All affected persons in Dallas and Tarrant Counties shall be in compliance with §115.217(a)(6) [§115.217(a)(4)] of this title as soon as practicable, but no later than January 31, 1994.

(7) All affected persons shall be in compliance with §115.211(a)(1)(C) of this title; §115.212(a)(2) and (4) of this title; §115.214(a)(5) of this title; and §115.217(a)(2) and (4) of this title as soon as practicable, but no later than May 31, 1995.

(8) All loading and unloading of crude oil and condensate shall be in compliance with §115.211(a) of this title; §115.212(a) of this title; §115.213(a) of this title; §115.214(a) of this title; §115.215(a) of this title; §115.216(a) of this title; and §115.217(a) of this title as soon as practicable, but no later than May 31, 1995.

(9) All persons affected by the deletion of the allowance for nonvapor-tight conditions during sampling and gauging shall be in compliance as soon as practicable, but no later than May 31, 1994.

(10) All affected persons shall be in compliance with §115.216(a)(5) of this title as soon as practicable, but no later than May 31, 1994.

(b) All affected persons in Gregg, Nueces, and Victoria Counties shall be in compliance in accordance with the following schedules.

(1) All affected persons shall be in compliance with §115.211(b)(2) of this title; §115.212(b)(2) and (4) of this title; and §115.217(b)(2) and (4) of this title as soon as practicable, but no later than May 31, 1995.

(2) All affected persons shall be in compliance with §115.216(b)(5) of this title as soon as practicable, but no later than May 31, 1994.

(3) All persons affected by the deletion of the allowance for nonvapor-tight conditions during sampling and gauging shall be in compliance as soon as

practicable, but no later than May 31, 1994.

(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.]

(c) All affected persons in Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis Counties shall be in compliance in accordance with the following schedules.

(1) All affected persons shall be in compliance with §115.212(c)(2) and (4) of this title as soon as practicable, but no later than May 31, 1995.

(2) All persons affected by the deletion of the allowance for nonvapor-tight conditions during sampling and gauging shall be in compliance as soon as practicable, but no later than May 31, 1994.

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 July 5, 1993.

TRD-9325254

Lane Hartsock  
Deputy Director  
Texas Air Control Board

Proposed date of adoption: November 12, 1993

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

## Subchapter C. Volatile Organic Compound Marketing Operations

### Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities

#### • 31 TAC §§115.222, 115.226, 115.227, 115.229

The Texas Air Control Board (TACB) proposes amendments to §§115.222, 115.226, 115.227, and 115.229, concerning Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities in order to bring the existing Stage I requirements into alignment with the Stage II vapor recovery requirements and to improve enforceability. 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 counties. In concurrent action, the TACB is amending §§115.242-115.249, concerning Stage II Vapor Recovery, for all 16 ozone nonattainment counties to clarify and improve enforceability of existing Stage II requirements and update the California Air Resources Board (CARB) certification date. The TACB also proposes to

change the title of Subchapter C from Volatile Organic Compound Marketing Operations to Volatile Organic Compound Transfer Operations to more accurately reflect the content of this subchapter.

The proposed changes to §115.222, concerning Control Requirements, add a requirement that the path through a submerged fill pipe to the bottom of a storage tank shall not be obstructed by a screen, grate, or similar device, in order to facilitate an inspector's determination of whether or not the fill pipe extends to no more than six inches from the bottom of the tank; revise the requirements for gasoline storage tank vents at facilities equipped with Stage II vapor recovery systems for consistency with the requirements of CARB Executive Orders for Stage II systems; require that the delivery vessel be kept vapor-tight at all times until the captured vapors are discharged to a vapor recovery system, if the delivery vessel is refilled, degassed, or cleaned in an ozone nonattainment county; require the use of non-coaxial Stage I connections at tanks installed or modified after November 15, 1993; add a 90-day compliance schedule for facilities which exceed the gasoline exemption throughput limits; and add the availability of an exemption for throughput exceedances associated with natural disasters or emergency conditions.

The proposed changes to §115.226, concerning Recordkeeping Requirements, add a requirement that copies of monthly gasoline throughput records for each calendar month since January 1, 1991, be kept at the facility site until the facility installs a Stage II gasoline vapor recovery system, and extend the period for retention of records from one year to two years.

The proposed changes to §115.227, concerning Exemptions, eliminate the exemption from Stage I requirements for facilities which dispense less than 120,000 gallons of gasoline per year and for which construction began after November 15, 1992. This change is necessary because these facilities are required to comply with Stage II vapor recovery requirements regardless of gasoline throughput, and compliance with Stage I is critical to the successful operation of Stage II. The proposed changes to §115.227 also expand the exemption from Stage I requirements to include containers used exclusively for the fueling of aircraft or marine vessels.

The proposed changes to §115.229, concerning Counties and Compliance Schedules, specify that facilities in Chambers, Collin, Denton, Fort Bend, Hardin, Jefferson, Liberty, Montgomery, Orange, and Waller counties must comply with Stage I no later than the installation of a Stage II vapor recovery system, or January 31, 1994, whichever occurs first. The proposed changes to §115.229 also require facilities for which construction began prior to November 15, 1992, and which have dispensed more than 10,000 gallons of gasoline in any calendar month after January 1, 1991, but less than 120,000 gallons of gasoline per year, to comply with Stage I no later than the installation of a Stage II vapor recovery system or January 31, 1994, whichever occurs first.

Lane Hartsock, Deputy Director of Air Quality Planning, has determined that for each year of the first five-year period the proposed sections are in effect, there would be no fiscal implications for state and local governments.

Mr. Hartsock 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 elimination of inconsistencies between the existing Stage I and Stage II vapor recovery requirements, improved enforceability, and reduced public exposure to benzene and other air toxics.

Economic costs to small businesses, persons, and businesses required to implement the proposed measures are associated with leak testing, abatement, and recordkeeping requirements associated with the addition of Stage I in conjunction with previously-required Stage II and are estimated as follows: Per Tank-Truck-\$1,000 in 1994, \$1,000 in 1995, \$1,000 in 1996, and \$1,000 in 1997; and Per Storage Tank-\$2,500 in 1994.

Any costs continuing beyond 1997 would be related to operating, maintenance, and recordkeeping requirements. All estimates are stated in 1993 dollars with no adjustments for inflation and assume continuing costs equal to those incurred during 1993-1997.

Public hearings on this proposal are scheduled for the following times and places: August 4, 1993, 6:30 p.m., City of El Paso Council Chambers, Second Floor, 2 Civic Center Plaza, El Paso; August 5, 1993, 6:30 p.m., Houston-Galveston Area Council, Second Floor, Conference Room A, 3555 Timmons Lane, Houston, August 5, 1993, 2:30 p.m., City of Arlington Council Chambers, 101 West Abram Street, Arlington, and August 6, 1993, 11:30 a.m., John Gray Institute, 855 Florida Avenue, Beaumont.

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 TACB Central Office in Austin no later than August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all the TACB regional offices. For further information, contact Eddie Mack at (512) 908-1488.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

The amendments are proposed under the Texas Health and Safety Code (Vernon

1990), Texas Clean Air Act (TCAA), §302.017, which provides the TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

**§115.222. Control Requirements.** For all affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, a vapor balance system will be assumed to comply with the specified emission limitation of §115.221 of this title (relating to Emission Specifications) if the following conditions are met:

(1) the container is equipped with a submerged fill pipe as defined in §115.10 of this title (relating to Definitions). The path through the fill pipe to the bottom of the tank shall not be obstructed by a screen, grate, or similar device;

(2)-(4) (No change.)

(5) until the installation of a Stage II vapor recovery system as required by §§115.241-115.249 of this title (relating to Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities), the only atmospheric emission during gasoline transfer into the storage container is through a storage container vent line equipped either with an orifice no greater than 3/4 inch (1.9 cm) internal diameter or a pressure-vacuum relief valve set to open at a pressure of no less than eight ounces per square inch (3.4 kPa);

(6) after the installation of a Stage II vapor recovery system as required by §§115.241-115.249 of this title, the only atmospheric emission during gasoline transfer into the storage container is through a storage container vent line equipped with a pressure-vacuum relief valve set to open at a pressure of no more than eight ounces per square inch (3.4 kPa) or in accordance with the facility's Stage II system as defined in the California Air Resources Board (CARB) Executive Order(s) for the facility;

(7) [(6)] the delivery vessel is kept vapor-tight at all times [(except when gauging)] until the captured vapors are discharged to a [loading facility with] vapor recovery system [equipment], if the delivery vessel is refilled, degassed, and/or cleaned in one of the counties in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston Areas;

(8)[(7)] the gauge pressure in the tank-truck tank does not exceed 18 inches of water (4.5 kPa) or vacuum exceed six inches of water (1.5 kPa);

(9)[(8)] no leak, as defined in §115.10 of this title [(relating to Definitions)], exists from potential leak sources when measured with a combustible gas detector; and

(10) Any storage tank installed after November 15, 1993, which is required to install Stage I control equipment shall be equipped with a non-coaxial Stage I vent connection. In addition, any modification to a storage tank existing prior to November 15, 1993, requiring excavation of the top of the storage tank shall be equipped with a non-coaxial Stage I vent connection.

(11)[(9)] Any motor vehicle fuel dispensing facility that becomes subject to the provisions of paragraphs (1)-(10) [(1)-(8)] of this section by exceeding the throughput limits [provisions] of §115.227 of this title (relating to Exemptions) shall have 90 days to come into compliance and will remain subject to the provisions of this subsection, even if its gasoline throughput [throughput or emissions] later falls [fall] below exemption limits. However, if gasoline throughput exceeds the exemption limit due to a natural disaster or emergency condition for a period not to exceed one month, upon written request the Executive Director may grant a facility continued exempt status.

**§115.226. 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 section shall [maintain the following records for at least one year]:

(1) maintain the following records at the site, for a period of at least two years:

(A) a record of the dates on which gasoline was delivered to the dispensing facility and the leak test certification number, required by §115.224(2) of this title (relating to Inspection Requirements), of each delivery vessel from which gasoline was transferred to the facility; and

(B) a record of the results of any testing conducted at the motor vehicle fuel dispensing facility in accordance with the provisions specified in §115.225 of this title (relating to Testing Requirements);

(2) maintain a record of gasoline throughput for each calendar month since January 1, 1991, until such time as the facility installs a Stage II vapor recovery system as required by §§115.241-115.249 of this title (relating to Stage II Vapor Recovery).

[(1)] a record of the dates on which gasoline was Delivered to the dispensing facility;

[(2)] the leak test certification number, required by §115.224(2) of this title (relating to Inspection Requirements), of each delivery vessel from which gasoline was transferred to the facility; and

[(3)] a record of the results of any testing conducted at the motor vehicle fuel dispensing facility in accordance with the provisions specified in §115.225 of this title (relating to Testing Requirements).]

**§115.227. Exemptions.** For all affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston Areas, the following exemptions shall apply.

(1) Stationary gasoline storage containers with a nominal capacity less than or equal to 1,000 gallons (3,785 liters) at facilities for which construction began prior to November 15, 1992, are exempt from §115.221 of this title (relating to Emission Specifications) and §115.222 of this title (relating to Control Requirements) [this undesignated head (relating to Stage I Filling of Gasoline Storage Vessels)].

(2) Transfers to stationary storage tanks located at a facility which has dispensed no more than 10,000 gallons of gasoline in any calendar month after January 1, 1991, and for which construction began prior to November 15, 1992, are exempt from §115.221 of this title and §115.222 of this title.

(3)[(2)] Transfers to the following stationary receiving containers are exempt from the requirements of this undesignated head (relating to Stage I Filling of Gasoline Storage Vessels):

(A) containers used exclusively for the fueling of aircraft, marine vessels, or implements of agriculture; and

(B) storage tanks equipped with external floating roofs, internal floating roofs, or their equivalent. [; and]

[(C)] stationary storage tanks located at a facility which dispenses less than 120,000 gallons (454,249 liters) of gasoline per year.]

**§115.229. Counties and Compliance Schedules.**

(a) All affected persons in Chambers, Collin, Denton, Fort Bend, Hardin, Jefferson, Liberty, Montgomery, Orange, and Waller Counties shall be in compliance with this undesignated head (relating to Stage I Filling of Gasoline Storage Vessels) as soon as practicable, but no later than the installation of a Stage II vapor recovery

system as required by §§115.241-115.249 of this title (relating to Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities) or January 31, 1994, whichever occurs first.

(b) All affected facilities in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller Counties which have dispensed more than 10,000 gallons of gasoline in any calendar month after January 1, 1991, but less than 120,000 gallons of gasoline per year, and for which construction began prior to November 15, 1992 shall be in compliance with this undesignated head (relating to Stage I Filling of Gasoline Storage Vessels) as soon as practicable, but no later than the installation of a Stage II vapor recovery system as required by §§115.241-115.249 of this title or January 31, 1994, whichever occurs first.

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 July 5, 1993.

TRD-9325255

Lane Hartssock  
Deputy Director  
Texas Air Control Board

Proposed date of adoption: November 12, 1993

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

### Subchapter C. Volatile Organic Compound Transfer [Marketing] Operations

#### Control of Volatile Organic Compound Leaks From Transport Vessels [Gasoline Tank-Trucks]

##### • 31 TAC §§115.234-115.237, 115.239

The Texas Air Control Board (TACB) proposes amendments to §§115.234-115.236, 115.239, and new §115.237, concerning Control of Volatile Organic Compound Leaks from Gasoline Tank-Trucks. The TACB proposes to change the title of the undesignated head to Control of Volatile Organic Compound Leaks from Transport Vessels and also proposes to change the title of Subchapter C from Volatile Organic Compound Marketing Operations to Volatile Organic Compound Transfer Operations to more accurately reflect the content of this subchapter.

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 (FCAA) for states to de-

velop and adopt the Rate of Progress (ROP) State Implementation Plan (SIP) by November 15, 1993. 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 changes to §115.234, concerning Inspection Requirements; §115.235, concerning Testing Requirements; and §115.236, concerning Recordkeeping Requirements, extend the requirement that gasoline tank-trucks pass an annual leak-tightness test to include all tank-trucks transporting VOC with a true vapor pressure greater than or equal to 0.5 pounds per square inch absolute (psia). The proposed §115.237, concerning Exemptions, establishes exemptions for tank-trucks used exclusively to transport VOC with a true vapor pressure less than 0.5 psia and for transport vessels other than tank-trucks. The proposed changes to §115.239, concerning Counties and Compliance Schedules, specify the applicable counties and the compliance dates for the new requirements.

The proposed amendments are part of a series of proposed revisions to Chapter 115 (Regulation V, concerning Control of Air Pollution From Volatile Organic Compounds) and the SIP to provide the required reductions in the ozone nonattainment areas as mandated by the 1990 FCAA Amendments. Since this is an interim step in attaining the ozone standard, only those controls needed to satisfy the requirement will be adopted by the November 15, 1993, deadline. 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.

EPA has recently provided guidance which modifies in part the States' requirement to submit all rules necessary to meet the RFP reduction by November 15, 1993. Texas will submit rules to meet the RFP reduction in two phases. Phase I will consist of a core set of rules comprising at least 70% of the required reductions. This phase will be submitted by the original deadline of November 15, 1993. Phase II will consist 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. A commitment listing the rules to achieve the additional percentages and contingency measures will be submitted in conjunction with the Phase I SIP by November 15, 1993.

Mr. Lane Hartssock, Deputy Director of Air Quality Planning, has determined that for each year of the first five-year period the proposed sections are in effect, there would be no fiscal implications for state and local governments.

Mr. Hartssock 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, VOC emission reductions in ozone nonattainment areas which are necessary for the timely attainment of the ozone standard, and reduced public exposure to benzene and other air toxics. Economic costs to small businesses, persons, and businesses required to implement the proposed measures are associated with leak testing and record-keeping requirements and are estimated as follows: Per Transport Vessel-\$1,000, in 1994; \$1,000 in 1995; \$1,000 in 1996; and \$1,000 in 1997.

Any costs continuing beyond 1997 would be related to operating, maintenance, and recordkeeping requirements. All estimates are stated in 1993 dollars with no adjustments for inflation and assume continuing costs equal to those incurred during 1993-1997.

Public hearings on this proposal are scheduled for the following times and places: August 4, 1993, 6:30 p.m., City of El Paso Council Chambers, Second Floor, 2 Civic Center Plaza, El Paso; August 5, 1993, 6:30 p.m., Houston-Galveston Area Council; Second Floor, Conference Room A, 3555 Timmons Lane, Houston; August 5, 1993, 2:30 p.m., City of Arlington Council Chambers, 101 West Abram Street, Arlington; August 6, 1993, 11:30 a.m., John Gray Institute, 855 Florida Avenue, Beaumont.

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 TACB Central Office in Austin no later than August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Eddie Mack at (512) 908-1488.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

The amendments and new section are proposed for adoption under the Texas Health and Safety Code (Vernon 1990), the Texas

Clean Air Act (TCAA), §382. 017, which provides the TACB with the authority to adopt rules consistent with the policy and purposes of the TCAA.

**§115.234. Inspection Requirements.** No person 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), shall allow a [gasoline] tank-truck tank to be filled with or emptied of volatile organic compounds having a true vapor pressure greater than or equal to 0.5 pounds per square inch absolute under actual storage conditions at any facility affected by the undesignated head relating to Loading and Unloading of Volatile Organic Compounds, [or] the undesignated head relating to Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities, or the undesignated head relating to Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities unless the tank being filled or emptied has passed a leak-tight test within the past year as evidenced by a prominently displayed certification affixed near the Department of Transportation certification plate which:

(1) shows the date the [gasoline] tank-truck tank last passed the leak-tight test required by §115.235 of this title (relating to Testing Requirements); and

(2) shows the identification number of the [gasoline] tank-truck tank.

**§115.235. Testing Requirements.** For all affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston Areas, the following testing requirements shall apply.

(1) The owner or operator of any [gasoline] tank-truck which loads or unloads at any gasoline terminal, gasoline bulk plant, [or] motor vehicle fuel dispensing facility, or other volatile organic compound loading or unloading facility shall cause each such tank to be tested annually to ensure that the tank is vapor-tight.

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

**§115.236. Recordkeeping Requirements.** 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) The owner or operator of each [a gasoline] tank-truck subject to this undesignated head (relating to Control of Volatile Organic Compound Leaks from Transport Vessels) [regulation] shall maintain records of all certification testing and repairs. The records must be maintained for

at least two years after the date the testing or repair was completed.

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

**§115.237. Exemptions.** For all affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston Areas, the following exemptions shall apply.

(1) Any tank-truck tank which is used exclusively to transport volatile organic compounds (VOC) with a true vapor pressure less than 0.5 pounds per square inch absolute under actual storage conditions is exempt from the requirements of this undesignated head (relating to Control of Volatile Organic Compound Leaks from Transport Vessels).

(2) Until May 31, 1995, any tank-truck tank which is used exclusively to transport VOC other than gasoline is exempt from the requirements of this undesignated head (relating to Control of Volatile Organic Compound Leaks from Transport Vessels).

(3) Transport vessels other than tank-trucks are exempt from the requirements of this undesignated head (relating to Control of Volatile Organic Compound Leaks from Transport Vessels).

**§115.239. Counties and Compliance Schedules.**

(a) All affected gasoline tank-trucks [persons] in Chambers, Collin, Denton, Fort Bend, Hardin, Liberty, Montgomery, and Waller Counties shall be in compliance with §115.234 of this title (relating to Inspection Requirements); §115.235 of this title (relating to Testing Requirements); [and] §115.236 of this title (relating to Recordkeeping Requirements); and §115.237 of this title (relating to Exemptions) as soon as practicable, but no later than January 31, 1994.

(b) All affected tank-trucks which are used to transport volatile organic compounds other than gasoline 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 §115.234 of this title, §115.235 of this title, §115.236 of this title, and §115.237 of this title 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 July 5, 1993.

TRD-9325258

Lane Hartsack  
Deputy Director  
Texas Air Control Board

Proposed date of adoption: November 12, 1993

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

## Subchapter C. Volatile Organic Compound Transfer [Marketing] Operations

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

#### • 31 TAC §§115.241-115.249

The Texas Air Control Board (TACB) proposes amendments to §§115. 241-115.249, concerning Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities. The existing Stage II gasoline vapor recovery requirements will continue to apply to 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). However, the existing Stage II requirements for Collin, Dallas, Denton, and Tarrant Counties are being repropose pursuant to the Texas Health and Safety Code, §382.019(d), and subsequent to a recent federal appeals court ruling (NRDC v. EPA, CA DC, Number 92-1137, January 22, 1993). The TACB is specifically soliciting comments on whether the volatile organic compounds (VOC) emission reductions obtained from Stage II are necessary for attainment of the federal ozone ambient air quality standard in the Dallas/Fort Worth ozone nonattainment area in 1996.

In addition, the TACB proposes amendments to §§115.242, 115.243, 115. 244, 115.245, 115.246, 115.247, 115.248, and 115.249 for all 16 ozone nonattainment counties in order to clarify and improve enforceability of existing Stage II requirements and update the California Air Resources Board (CARB) certification date. Concurrently, the TACB proposes amendments to §§115.221-115.229, concerning Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities, in order to bring the existing Stage I requirements into alignment with the Stage II requirements and to improve enforceability. The TACB also proposes to change the title of Subchapter C from Volatile Organic Compound Marketing Operations to Volatile Organic Compound Transfer Operations to more accurately reflect the content of this subchapter. In addition, the TACB concurrently proposes amendments to the Stage II SIP to reflect the proposed amendments to §§115.242, 115.243, 115. 244, 115.245, 115.246, 115.247, 115.248, and 115.249.

The proposed §115.241, concerning Emission Specifications, specifies a required control efficiency of 95%. The proposed §115.242, concerning Control Requirements, specifies that Stage II vapor recovery systems selected for installation must be certified



by CARB; requires that the Stage II vapor recovery system be maintained in proper operating condition and specifies prohibited defects that would impair the effectiveness of the system; prohibits gasoline leaks in the system; requires defective equipment to be taken out of service; specifies gasoline dispensing pump labeling requirements; prohibits unauthorized modifications or tampering; and specifies that once a facility is required to install Stage II equipment, the control requirements will always apply.

In addition, proposed changes to §115.242(1) update the reference to the CARB Executive Orders and clarify that the restriction against installation of Stage II systems which include remote vapor check valves applies only to balance systems with vapor check valves in a location other than the nozzle. Proposed changes to §115.242(2) and (3) add a requirement that installers of underground Stage II piping must be licensed by the Texas Water Commission (TWC), add piping specifications which are consistent with TWC and fire marshal requirements, add a requirement that the Stage II system be maintained in proper operating condition as specified in any applicable CARB Executive Order, and clarify prohibited system defects. The proposed change to §115.242(4) extends the prohibition against gasoline leaks, as detected by sight, sound, or smell, in the Stage II system to include leaks detected by sampling, such as with a hand-held organic vapor analyzer. Additional proposed changes to §115.242(5) and (6) clarify the requirement that Stage II equipment for which vapor recovery has been impaired must be removed from service, and add requirements for notification that the impaired equipment has been repaired and returned to service. Other proposed changes to §115.242 modify the gasoline dispensing pump labeling requirements to require posting of the TACB Stage II Vapor Recovery Hotline phone number, add a 120-day compliance schedule for facilities which exceed the gasoline throughput limits, add the availability of an exemption for throughput exceedances associated with natural disasters or emergency conditions, add a compliance schedule for instances in which a CARB Executive Order is rescinded or decertified, and add a Stage II installation notification requirement.

The proposed §115.243, concerning Alternate Control Requirements, specifies that alternate control requirements may be approved by the Executive Director. The proposed change to §115.243 deletes the reference to §115.910 (relating to Alternate Methods of Control) in order to expedite Executive Director approval of requests for alternate control requirements. The proposed §115.244, concerning Inspection Requirements, requires daily inspections of the Stage II equipment. The proposed change to §115.244, concerning Inspection Requirements, updates a cross-reference to §115.242.

The proposed §115.245, concerning Testing Requirements, requires performance testing of Stage II equipment within ten days of installation and retesting at least every five years or upon major system replacement or modification. The proposed changes to §115.245 delete the reference to the EPA guidance document and add a reference to

test procedures in CARB Executive Orders and the TACB Stage II Test Procedures Handbook, add a notification requirement for cancellation of a scheduled test, add a requirement for annual pressure decay performance testing of Stage II equipment, extend the definition of major system replacement or modification to include the replacement of an existing CARB-certified Stage II vapor recovery system with a system certified by CARB under a different CARB Executive Order, add a requirement that performance testing must be conducted by a third party (other than the installer of the Stage II vapor recovery system), specify the conditions under which the TACB may remove an individual from the registry of testers, require the owner or operator to submit test results within ten working days of the completion of testing, and add a requirement that testing must be initiated between the hours of 7:00 a.m. and 5:00 p.m. in order to afford the TACB a reasonable opportunity to observe the testing.

The proposed §115.246, concerning Recordkeeping Requirements, requires that maintenance, inspection, training, and testing records be maintained. In addition, proposed changes to §115.246 add a requirement that copies of alternate control requirement requests be kept at the facility site, and that copies of performance testing results and any alternate control requirement approval be kept indefinitely at the facility site.

The proposed §115.247, concerning Exemptions, specifies the exemptions from Stage II requirements. In addition, proposed changes to §115.247 add a requirement for annual submission of the monthly gasoline throughput records. The proposed §115.248, concerning Training Requirements, specifies a mandatory training program. The proposed changes to §115.248 specify that the training certification will be valid for two years, clarify the content of the training program, and specify the conditions under which the TACB may remove or revoke approval of a training course.

The proposed §115.249, concerning Counties and Compliance Schedules, specifies the applicable counties and the compliance dates for the requirements. The proposed changes to §115.249 clarify the compliance date for facilities with an initial start-up date after May 15, 1993, clarify the calculation of monthly gasoline throughput, and add a requirement that independent small business marketers of gasoline (ISBMG) for which a compliance date extension has been approved must submit monthly gasoline throughput records on an annual basis.

Lane Hartssock, Deputy Director of Air Quality Planning, has determined that for each year of the first five-year period the proposed sections are in effect, the estimated annual cost to state and local governments associated with enforcement requirements resulting from the reproposal of existing Stage II rules for the Dallas/Fort Worth ozone nonattainment area is \$1,000,000. There is no annual cost to state and local governments, small businesses, persons, and businesses in the Beaumont/Port Arthur, El Paso, and Houston/Galveston nonattainment areas associated with the reproposal of existing Stage II rules for the Dallas/Fort Worth nonattainment area.

Mr. Hartssock 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 volatile organic compounds emission reductions in the Dallas/Fort Worth ozone nonattainment area which are necessary for attainment of the federal ozone ambient air quality standard in 1998, clarification and improved enforceability of existing Stage II requirements, and reduced public exposure to benzene and other air toxics.

Economic costs to small businesses, persons, and businesses in the Dallas/Fort Worth nonattainment area required to implement the repropoed Stage II measures are associated with the abatement, inspection, and recordkeeping requirements and are estimated as follows: Per Facility—\$20,000 in 1993; \$2,000 in 1994; \$2,000 in 1995; \$2,000 in 1996; and \$2,000 in 1997.

Any costs continuing beyond 1997 would be operating, maintenance, and recordkeeping requirements. All estimates are stated in 1993 dollars with no adjustments for inflation and assume continuing costs equal to those incurred during 1993-1997.

Economic costs to small businesses, persons, and businesses in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston nonattainment areas required to implement new Stage II measures are associated with conducting annual pressure decay testing and attending the biennial training course and are estimated to be \$300 per year for the pressure decay testing and \$50 per year for the training course. Any costs beyond 1997 would be associated with the ongoing testing and training requirements. All estimates are stated in 1993 dollars with no adjustments for inflation and assume continuing costs equal to those incurred during 1993-1997. Public hearings on this proposal are scheduled for the following times and places: August 4, 1993, 6:30 p.m., City of El Paso Council Chambers, Second Floor, 2 Civic Center Plaza, El Paso; August 5, 1993, 6:30 p.m., Houston-Galveston Area Council, Second Floor, Conference Room A, 3555 Timmons Lane, Houston; August 5, 1993, 2:30 p.m., City of Arlington Council Chambers, City of Arlington Council Chambers, 101 West Abram Street, Arlington; August 6, 1993, 11:30 a.m., John Gray Institute, 855 Florida Avenue, Beaumont.

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 TACB central office in Austin no later than August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further informa-

tion, contact Brad Toups at (512) 908-1872 or Eddie Mack at (512) 908-1488.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

The amendments are proposed 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.

**§115.241. Emission Specifications.** No person 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) shall transfer or allow the transfer of gasoline from any stationary storage container into a motor vehicle fuel tank, unless an approved Stage II vapor recovery system has been installed which is certified to reduce the emissions of volatile organic compounds [(VOC)] to the atmosphere by at least 95%.

**§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 August 1993 [April 1992], except that:

(A) Stage II vapor recovery balance systems which include [remote] vapor check valves [and/or dual-hang hoses] in a location other than the nozzle shall not be installed; and

(B) Stage II vapor recovery systems which include dual-hang (non-coaxial) hoses shall not be installed.

(2) All underground piping must be installed by a person holding a valid License A as defined by Texas Water Commission (31 TAC Subchapter I, §§334.401-334.428, relating to Underground Storage Tank Contractor Registration and Installer Licensing). Piping specifications shall be in compliance with the applicable CARB Executive Order(s) for the Stage II vapor recovery system.

For any facility newly constructed after November 15, 1993, or at any facility undergoing a major modification to the Stage II vapor recovery system after November 15, 1993, the following requirements shall apply where piping specifications are not provided in the applicable CARB Executive Order(s).

(A) All underground piping shall be constructed of rigid material and conform to the technical standards for new piping defined by the Texas Water Commission under 31 TAC §334.45(c)(1)(A)-(C) and (c)(3)(c) (relating to Technical Standards for New Piping), and §334.45(e)(1) (relating to Technical Standards for Other New UST System Equipment).

(B) Non-corrosive piping or cathodically protected metallic piping shall be used. In the event metallic piping is used, the applicable portions of the general requirements for corrosion protection defined by the Texas Water Commission under 31 TAC §§334.49(a)(1)-(5) and (c)(1)-(4) (relating to Corrosion Protection) shall apply.

(C) Minimum slope on vapor piping shall be one-eighth of an inch per foot from the dispenser to the storage tank.

(D) Vapor piping on balance systems shall be not less than two inches in diameter, and when there are more than four fueling points connected to one vapor line, the minimum vapor piping size shall be three inches in diameter. For the purposes of this paragraph a single nozzle dispenser shall constitute one fueling point and a multi-nozzle dispenser shall constitute two fueling points.

(E) Riser piping shall have a minimum inside diameter of one inch.

(F) If a fire protection agency with jurisdiction requires a vapor shear valve on the vapor return line at the base of a dispenser, the shear valve shall be CARB-certified and/or UL listed.

(3)[(2)] The owner or operator shall maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), 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 back pressure [drop] through the vapor system [hose] exceeds [by a factor of two or more] the value as certified in the approved system's CARB Executive Order(s) [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 shut-off 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 decay and/or dynamic backpressure [drop] through the line exceeds [by a factor of two or more] the value as certified in the approved system's CARB Executive Order(s) [system];

(H) a vapor processing unit that is inoperative or defective;

(I) a vacuum producing device that is inoperative or defective;

(J) pressure/vacuum relief valves, vapor check valves, or Stage I dry breaks that are inoperative or defective; 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.

(4)[(3)] No gasoline leaks, as detected by sampling, sight, sound, or smell, exist anywhere in the dispensing

equipment or Stage II vapor recovery system.

(5)[(4)] Upon identification of any of the defects described in paragraphs (3) and (4) [(2) and (3)] of this section, the owner or operator shall remove from service [shall place a dated "Out-of-Order" tag on] all dispensing equipment for which vapor recovery has been impaired. The impaired [tagged] equipment shall remain out of service until such time as the [not be used and the tag shall not be removed until the defective] equipment has been properly repaired, replaced, or adjusted, as necessary. Once repaired, the equipment may be returned to service by the owner or operator or his representative.

(6) Upon identification of any of the defects described in paragraphs (3) and (4) of this section, any inspector with jurisdiction shall tag the impaired equipment out-of-order. The out-of-order tag shall state "use of this device is prohibited under state law and unauthorized removal of this tag or use of this equipment will constitute a violation of the law punishable by a maximum civil penalty of up to \$25,000 per day or a maximum criminal penalty of \$50,000 and/or up to 180 days in jail." The impaired equipment shall remain out of service until such time as the equipment has been properly repaired, replaced, or adjusted, as necessary. Once repaired, the "Out-of-Order" tag may be removed and the equipment shall be returned to service by the certified owner or operator or certified facility representative upon notification to the agency that originally tagged the equipment out of service in the following manner: verbal notification prior to placing the equipment back in service followed by written notification received by the agency within ten days of placing the equipment back in service.

(7)[(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.

(8)[(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.

(9)[(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 Stage II Vapor Recovery Hotline (1-800-533-3AIR) [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.

(10)[(8)] Any motor vehicle fuel dispensing facility that becomes subject to the provisions of this undesignated head by exceeding the throughput [exemption] limits of §115.247 of this title (relating to Exemptions) or §115.249(3) of this title (relating to Counties and Compliance Schedules) shall have 120 days to come into compliance and will remain subject to the provisions of this undesignated head even if its gasoline throughput later falls below throughput [exemption] limits. However, if gasoline throughput exceeds the throughput limit due to a natural disaster or emergency condition for a period not to exceed one month, upon written request the Executive Director may grant a facility continued exempt status.

(11) Any facility having installed Stage II vapor recovery system(s) or component(s) previously certified by CARB via an Executive Order for which certification has been revoked by CARB as of August 1993 must install and have operational a different approved system(s) or component(s) as referenced in §115.242(1) of this title (relating to Emission Specifications) as soon as practicable, but no later than three years from the date that CARB revoked the certification.

(12) After November 15, 1993, the owner or operator shall provide written notification of any Stage II vapor recovery system installation to the appropriate TACB Regional Office and any local air pollution program at least 30 days prior to start of construction. The information in the notification shall include, but is not limited to:

(A) facility name, location (physical and mailing address); name, address, and phone number of owner(s) and operator(s); name and phone number of owner's representative; name, ad-

dress and phone number of contractor(s); Texas Water Commission Facility ID number and Owner ID number (if known);

(B) proposed start date; and

(C) type of Stage II system to be installed, including CARB Executive Order number(s) and the number of gasoline nozzles at the facility.

§115.243. *Alternate 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), alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements in this undesignated head may be approved by the Executive Director [in accordance with §115.910 of this title (relating to Alternate Means of Control)] if:

(1) emission reductions are demonstrated to be substantially equivalent; and

(2) the Stage II vapor recovery system has been certified by the California Air Resources Board.

§115.244. *Inspection 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 conduct daily inspections of the Stage II vapor recovery system for the defects specified in §115.242(3) and (4) [§115.242(2) and (3)] of this title (relating to Control Requirements).

§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, pressure decay testing, dynamic backpressure testing, [leak check testing,] and all other related tests for automatic shutoff and flow prohibiting mechanisms, as applicable, shall be conducted in accord-

ance 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] Texas Air Control Board (TACB) Stage II Test Procedures Handbook in effect as of August 1993. California Air Resources Board (CARB) Executive Orders requiring specific test procedures shall supersede these test procedure(s) as applicable. The owner or operator shall provide written notification to the appropriate TACB [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 ten days in advance of the date the testing will occur]. The notification must be postmarked or hand delivered at least ten working days in advance of the test, and the notification must contain the information and be in the format as found in the TACB Stage II Test Procedure Handbook as of July 1993. The owner or operator shall give at least 24-hour notification to the appropriate TACB Regional Office and any local air pollution program with jurisdiction if a scheduled test is cancelled.

(2) Pressure decay testing shall be conducted annually and in accordance with the test procedures referenced in §115.245(1) of this title (relating to Testing Requirements).

(3)[(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 ten days in advance of the date the testing will occur]. The notification must be post-marked or hand delivered at least ten working days in advance of the test, and the notification must contain the information and be in the format as found in the TACB Stage II Test Procedure Handbook as of July 1993. Initiation of testing shall occur between the hours of 7:00 a.m. and 5:00 p.m.. The owner or operator shall give at least 24-hour notification to the appropriate TACB Regional Office and any local air pollution program with jurisdiction if a scheduled test is cancelled. 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 replacement of an existing CARB-certified Stage II vapor recovery system with a system certified by CARB under a different CARB Executive Order; or

(C)[(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.

(4)[(3)] Minor modifications of these test methods may be approved by the Executive Director.

(5) All required tests conducted after November 15, 1993, shall be conducted by a third party tester other than the installer of the Stage II vapor recovery system who is registered with the TACB by passing a TACB proficiency test relating to Stage II Test Procedures and Methods. The TACB may remove an individual from the registry of testers for any of the following causes:

(A) the TACB can demonstrate that the individual has failed to conduct the test(s) properly in at least three separate instances; or

(B) the individual falsifies test results for tests conducted to fulfill the requirements of §115.245 of this title (related to Testing Requirements).

(6) The owner or operator shall submit the results of all tests required by §115.245 of this title to the appropriate TACB Regional Office and any local air pollution control program with jurisdiction within ten working days of the completion of the test(s) using the format as specified in the TACB Stage II Test Procedure Handbook as of July 1993.

*§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(s) [Order] for the Stage II vapor recovery system and any related components installed at the facility;

(2) a copy of any owner or operator request for Executive Director approval pursuant to §115.243 of this title (relating to Alternate Control Requirements) and any Executive Director approval issued pursuant to §115.243 of this title;

(3)[(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 or nozzle number, etc.), and a description of the problem;

(4)[(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;

(5)[(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);

(6)[(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

(7)[(6)] all records shall be maintained at the facility site for at least two years, except that the CARB Executive Order(s) [Order] specified in paragraph (1) of this section, any applicable alternate control requirement approval specified in paragraph (2) of this section, and testing results specified in paragraph (5) 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.

*§115.247. Exemptions.* For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston Areas, the following are exempt from the requirements of this undesignated head (relating to Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities):

(1) gasoline dispensing equipment used exclusively for the fueling of aircraft, marine vessels, or implements of agriculture; and

(2) any motor vehicle fuel dispensing facility for which construction began prior to November 15, 1992, and which has a monthly throughput of less than 10,000 gallons of gasoline. For the purposes of this paragraph, the monthly throughput shall be based on the maximum monthly gasoline throughput for any [each] calendar month after [beginning] January 1, 1991. To maintain a facility's exempt status under this paragraph, the owner or operator must submit the facility's monthly gasoline throughput on an annual basis no later than January 31 of each year to the appropriate Texas Air Control Board (TACB) Regional Office and 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 (TACB). Such successful completion shall constitute certification of the facility representative. 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) Facility representative training certification shall be valid for two years from the date of issuance. If the facility representative who received the approved 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, or a previously trained and currently certified facility representative may be hired within three months of the departure of the previously trained employee.

(3) A TACB approved training course [Training] will include, but is not limited to, the following:

(A) federal and state Stage I and Stage II statutes and regulations, and vapor recovery health benefits [purposes and effects of the Stage II vapor recovery system program, including health effects];

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

(C) general overview of maintenance schedules and requirements for Stage II vapor recovery [the facility's] equipment;

(D) general overview of structure and content of California Air Resources Board (CARB) Executive Orders; and

(E) recordkeeping and inspection requirements for Stage I and Stage II Vapor Recovery systems.

[(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.]

(4) The TACB may revoke approval of a training course if the training provider:

(A) fails to administer the training course as proposed in the application made to the TACB to provide such training; or

(B) fails to notify the TACB of upcoming courses in writing at least 21 days prior to the date of the training as to the date, time, and place the training is to be held, or in the event of a scheduled course cancellation, fails to notify the TACB at least 24 hours in advance of the cancellation.

**§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, or upon initial start-up, whichever is later, 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 maximum monthly gasoline throughput for any [each] calendar month after [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 gasoline (ISBMG), 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 maximum monthly gasoline throughput for any [each] calendar month after [beginning] January 1, 1991. In order for the station to maintain ISBMG compliance date extension status under this paragraph, the facility shall not exceed the 50,000 gallons per month gasoline throughput limit, and the owner or operator shall submit the facility's monthly gasoline throughput on an annual basis no later than January 31 of each year to the appropriate TACB Regional Office and any local air pollution control program with jurisdiction until such time as the Stage II vapor recovery system is installed; 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 proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 5, 1993.

TRD-9325257

Lane Hartsock  
Deputy Director  
Texas Air Control Board

Proposed date of adoption: November 12, 1993

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

## Subchapter D. Petroleum Refining and Petrochemical Processes

### Fugitive Emission Control in Petrochemical Refining and Petrochemical Processes

#### • 31 TAC §§115.352-115.357, 115.359

The Texas Air Control Board (TACB) proposes new §§115.352-115.357 and 115.359, concerning Fugitive Emission Control in Petroleum Refining and Petrochemical Processes. This new undesignated head will be included in existing Subchapter D, concerning Petroleum Refining and Petrochemical Processes. The new sections 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 (FCAA) for states to develop and adopt the Rate of Progress (ROP) State Implementation Plan (SIP) by November 15, 1993.

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, El Paso, Fort Bend, Galveston, Gregg, Hardin, Harris, Jefferson, Liberty, Montgomery, Nueces, Orange, Victoria, and Waller.

The proposed §115.352, concerning Control Requirements; §115.353, concerning Alternate Control Requirements; §115.354, concerning Inspection Requirements; §115.355, concerning Testing Requirements; §115.356, concerning Recordkeeping Requirements; §115.357, concerning Exemptions; and §115.359, concerning Counties and Compliance Schedules, standardize the requirements for fugitive monitoring programs for petroleum refineries; synthetic organic chemical, polymer, resin, and methyl tert-butyl ether (MTBE) manufacturing processes; and natural gas/gasoline processing operations and apply a more stringent level of control to all of these industries.

The existing sections regarding fugitive emission controls will be repealed after the compliance date of these proposed sections. The existing sections scheduled for future repeal include §§115.322-115.329, concerning Fugitive Emissions Control in Petroleum Refineries; §§115.332-115.339, concerning Fugitive Emission Control in Synthetic Organic Chemical, Polymer, Resin, and Methyl Tert-Butyl Ether Manufacturing Processes; and §§115.342-115.349, concerning Fugitive Emission Control in Natural Gas/Gasoline Processing Operations.

The proposed rules are part of a series of proposed revisions to Chapter 115 (Regulation V, concerning Control of Air Pollution From Volatile Organic Compounds) and the SIP to provide the required ROP reductions in the ozone nonattainment areas as mandated by the 1990 FCAA Amendments. Since this is an interim step in attaining the ozone standard, only those controls needed to satisfy the requirement will be adopted by the November 15, 1993, deadline. 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.

The EPA has recently provided guidance which modifies in part the States' requirement to submit all rules necessary to meet the ROP reduction by November 15, 1993. Texas will submit rules to meet the ROP reduction in two phases. Phase I will consist of a core set of rules comprising at least 70% of the required reductions. This phase will be submitted by the original deadline of November 15, 1993. Phase II will consist 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. A commitment listing the rules to achieve the additional percentages and contingency measures will be submitted in conjunction with the Phase I SIP by November 15, 1993.

Lane Hartsock, deputy director of air quality planning, has determined that for each year of the first five-year period the proposed sections are in effect, there will be no annual cost to state and local governments associated with additional enforcement requirements.

Mr. Hartsock also has determined that for each year of 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.

Economic costs to small businesses, persons, and businesses required to implement the proposed measures are associated with the expanded monitoring, and recordkeeping requirements. Cost per affected component for each required monitoring action will be \$1.00 in 1994; \$1.00 in 1995; \$1.00 in 1996; and \$1.00 in 1997.

Any costs continuing beyond 1997 would be operating, maintenance, and recordkeeping requirements. All estimates are stated in 1993 dollars with no adjustments for inflation and assume continuing costs equal to those incurred during 1993-1997.

Public hearings on this proposal are scheduled for the following times and places: Au-

gust 4; 1993, 6:30 p.m., City of El Paso Council, Chambers, Second Floor, Two Civil Center Plaza, El Paso, August 5, 1993, 6:30 p.m., Houston-Galveston Area Council, Second Floor, Conference Room A, 3555 Timmons, Houston, August 5, 1993, 2:30 p.m., City of Arlington Council, Chambers, 101 West Abram Street, Arlington; August 6, 1993, 11:30 a.m., John Gray Institute, 855 Florida Avenue, Beaumont.

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 TACB central office in Austin no later than August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Eddie Mack at (512) 908-1488.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

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

**§115.352. Control Requirements.** For the Beaumont/Port Arthur, El Paso, and Houston/Galveston Areas as defined in §115.10 of this title (relating to Definitions), and for Gregg, Nueces, and Victoria Counties, no person shall operate a petroleum refinery; a synthetic organic chemical, polymer, resin, or methyl tert-butyl ether manufacturing process; or a natural gas/gasoline processing operation as defined in §115.10 of this title, without complying with the following requirements.

(1) No component shall be allowed to have a volatile organic compound (VOC) leak with a VOC concentration greater than 500 parts per million by volume or the dripping or exuding of process fluid based on sight, smell, or sound.

(2) All technically feasible repairs to a leaking component, as specified in paragraph (1) of this section, shall be made within 15 days after the leak is found. If the repair of a component would require a unit shutdown which would create more emissions than the repair would eliminate, the repair may be delayed until the next

shutdown. Repairs to leaking components shall consist of the repair and maintenance of components assisted simultaneously by the use of an approved gas analyzer such that a minimum concentration of leaking VOC is obtained for each component being maintained.

(3) All leaking components, as defined in paragraph (1) of this section, which cannot be repaired until the unit is shutdown for turnaround shall be identified for such repair by tagging. The Executive Director, at his discretion, may require early unit turnaround or other appropriate action based on the number and severity of tagged leaks awaiting turnaround.

(4) Except for safety pressure relief valves, no valves shall be installed or operated at the end of a pipe or line containing VOC unless the pipe or line is sealed with a second valve, a blind flange, a plug, or a cap. The sealing device may be removed only while a sample is being taken or during maintenance operations, and when closing the line, the upstream valve shall be closed first.

(5) Pipeline valves and pressure relief valves in gaseous VOC service shall be marked in some manner that will be readily obvious to monitoring personnel.

(6) All new and replacement pumps and compressors shall be equipped with a shaft sealing system that prevents or detects emissions of VOC from the seal.

(7) Construction of new and reworked piping, valves, and pump and compressor systems shall conform to applicable American National Standards Institute, American Petroleum Institute, American Society of Mechanical Engineers, or equivalent codes.

(8) New and reworked underground process pipelines shall contain no buried valves such that fugitive emission monitoring is rendered impractical.

(9) To the extent that good engineering practice will permit, new and reworked valves and piping connections shall be so located to be reasonably accessible for leak-checking during plant operation. Nonaccessible valves shall be identified in a list to be made available upon request.

(10) New and reworked piping connections shall be welded or flanged. Screwed connections are permissible only on piping smaller than two-inch diameter. No later than the next scheduled quarterly monitoring after initial installation or replacement, all new or reworked connections shall be gas tested or hydraulically tested at no less than normal operating pressure and adjustments made as necessary to obtain leak-free performance.

(11) For valves equipped with

rupture discs, a pressure gauge shall be installed between the relief valve and rupture disc to monitor disc integrity. All leaking discs shall be replaced at the earliest opportunity but no later than the next process shutdown.

*§115.353. Alternate Control Requirements.* For all affected persons in the Beaumont/Port Arthur, El Paso, and Houston/Galveston Areas, and for Gregg, Nueces, and Victoria Counties, any 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.

*§115.354. Inspection Requirements.* All affected persons in the Beaumont/Port Arthur, El Paso, and Houston/Galveston Areas, and for Gregg, Nueces, and Victoria Counties, shall conduct a monitoring program consistent with the following provisions.

(1) Measure yearly (with a hydrocarbon gas analyzer) the emissions from all:

(A) process drains; and

(B) all valves elevated more than two meters above any permanent structure.

(2) Measure quarterly (with a hydrocarbon gas analyzer) the emissions from all:

(A) compressor seals;

(B) pump seals;

(C) accessible valves in liquid service;

(D) accessible valves in gaseous service; and

(E) pressure relief valves in gaseous service.

(3) Inspect weekly, by visual, audible, and/or olfactory means, all flanges and pump seals.

(4) Measure (with a hydrocarbon gas analyzer) the emissions from any component whenever a potential leak is detected by sight, sound, or smell.

(5) Measure (with a hydrocarbon gas analyzer) emissions from any relief

valve which has vented to the atmosphere within 24 hours.

(6) Measure (with a hydrocarbon gas analyzer) the emissions from any component that was found leaking. The repair and maintenance of components shall include the simultaneous use of a hydrocarbon gas analyzer such that a minimum concentration of leaking VOC is obtained for each component being repaired or maintained.

(7) Upon the detection of a leaking component, affix to the leaking component a weatherproof and readily visible tag, bearing an identification number and the date the leak was detected. This tag shall remain in place until the leaking component is repaired.

(8) The monitoring schedule of paragraphs (1)-(3) of this section may be modified to require an increase in the frequency of monitoring in a given process area if the Executive Director of the Texas Air Control Board (TACB) determines that there is an excessive number of leaks in that process area.

*§115.355. Testing Requirements.* For all affected persons in the Beaumont/Port Arthur, El Paso, and Houston/Galveston Areas, and for Gregg, Nueces, and Victoria Counties, compliance with this undesignated head (relating to Fugitive Emission Control in Petroleum Refining and Petrochemical Processes) shall be determined by applying the following test methods, as appropriate:

(1) Test Method 21 (40 Code of Federal Regulation 60, Appendix A) for determining volatile organic compound leaks;

(2) determination of true vapor pressure using American Society for Testing and Materials Test Methods D323-89, D2879, D4953, D5190, or D5191 for the measurement of Reid vapor pressure, adjusted for 68 degree Fahrenheit (20 degree Celsius) in accordance with API Publication 2517, Third Edition, 1989; or

(3) minor modifications to these test methods approved by the Executive Director.

*§115.356. Monitoring and Recordkeeping Requirements.* All affected persons in the Beaumont/Port Arthur, El Paso and Houston/Galveston Areas, and for Gregg, Nueces, and Victoria Counties, shall have the following recordkeeping requirements:

(1) maintain a leaking-components monitoring log for all leaks as defined by §115.352(a)(1) of this title (relating to Control Requirements) and detected by the monitoring program required

by §115.324 of this title (relating to Inspection Requirements). This log shall contain, at a minimum, the following data:

(A) the name of the process unit where the component is located;

(B) the type of component (e.g., valve or seal);

(C) the tag number of the component;

(D) the date the component was monitored;

(E) the results of the monitoring (in parts per million);

(F) a record of the calibration of the monitoring instrument;

(G) if a component is found leaking:

(i) the date on which a leaking component is discovered;

(ii) the date on which a leaking component is repaired;

(iii) the date and instrument reading of the recheck procedure after a leaking component is repaired; and

(iv) those leaks that cannot be repaired until turnaround;

(H) the total number of components checked and the total number of components found leaking; and

(I) the test method used;

(2) retain copies of the monitoring log for a minimum of two years after the date on which the record was made or the report prepared;

(3) maintain all monitoring records for at least two years and make them available for review upon request by authorized representatives of the TACB, United States Environmental Protection Agency, or local air pollution control agencies.

**§115.357. Exemptions.** For all affected persons in the Beaumont/Port Arthur, El Paso, and Houston/Galveston Areas, and for Gregg, Nueces, and Victoria Counties, the following exemptions shall apply.

(1) Components which contact a process liquid containing Volatile Organic Compounds (VOCs) having a true vapor pressure equal to or less than 0.044 pounds per square inch absolute (0.3 kPa) at 68

degree Fahrenheit (20 degree Celsius) are exempt from the requirements of §115.324 of this title (relating to Inspection Requirements) if the components are inspected visually according to the inspection schedules specified within this same section.

(2) Sealless/leakless valves (including but not limited to bellows and diaphragm valves), pressure relief valves equipped with a rupture disc or venting to a control device, components in continuous vacuum service, and valves that are not externally regulated (such as in-line check valves) are exempt from the monitoring requirements of §115.324 of this title.

(3) Compressors in hydrogen service are exempt from the requirements of §115.324 of this title if the owner or operator demonstrates that the percent hydrogen content can be reasonably expected to always exceed 50% by volume.

(4) All pumps and compressors which are equipped with a shaft sealing system that prevents or detects emissions of VOC from the seal are exempt from the monitoring requirement of §115.324 of this title. These seal systems may include, but are not limited to, dual pump seals with barrier fluid at higher pressure than process pressure, seals degassing to vent control systems kept in good working order, or seals equipped with an automatic seal failure detection and alarm system. Submerged pumps or sealless pumps (including but not limited to diaphragm, canned or magnetic driven pumps) may be used to satisfy the requirements of this paragraph.

**§115.359. Counties and Compliance Schedules.** All affected persons in Brazoria, Chambers, El Paso, Fort Bend, Galveston, Gregg, Hardin, Harris, Jefferson, Liberty, Montgomery, Nueces, Orange, Victoria, and Waller Counties shall be in compliance with §115.352 of this title (relating to Control Requirements); §115.353 of this title (relating to Alternate Control Requirements); §115.354 of this title (relating to Inspection Requirements); §115.355 of this title (relating to Testing Requirements); §115.356 of this title (relating to Monitoring and Recordkeeping Requirements); and §115.357 of this title (relating to Exemptions) as soon as practicable, but no later than July 31, 1994.

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 July 5, 1993.

TRD-9325258 Lane Hartscock  
Deputy Director, Air Quality  
Planning  
Texas Air Control Board

Proposed date of adoption: November 12, 1993

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

## Subchapter E. Solvent-Using Processes

### Surface Coating Processes

• 31 TAC §§115.421, 115.422, 115.426, 115.427, 115.429

The Texas Air Control Board (TACB) proposes amendments to §§115.421, 115.422, 115.426, 115.427, and 115.429, concerning Surface Coating Processes. 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 (FCAA) for states to develop and adopt the Rate of Progress (ROP) State Implementation Plan (SIP) by November 15, 1993. 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 changes to §115.421, concerning Emission Specifications, deletes obsolete language, revises the VOC emission limit for primers and primer surfacers, and adds VOC emission limits for precoat, pretreatment, single-stage topcoats, basecoat/clearcoat topcoat systems, three-stage topcoat systems, specialty coatings, and sealers used in automobile refinishing in Dallas and Tarrant Counties.

The proposed changes to §115.421 and §115.422, concerning Control Requirements, extend the automobile refinishing control requirements currently applicable in Dallas and Tarrant Counties to Brazoria, Chambers, Collin, Denton, El Paso, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties. The proposed changes to §115.422 also require automobile refinishing operations to use coating application equipment with a transfer efficiency of at least 65%.

The proposed changes to §115.426, concerning Monitoring and Recordkeeping Requirements, expand the existing coating and solvent recordkeeping requirements to include maintenance of records of all coating and solvent usage for improved enforceability of existing rules, and delete a reference to carbon adsorption breakthrough. The proposed changes to §115.427, concerning Exemptions, remove obsolete language, add exemptions for architectural coatings manufactured prior to the compliance date or sold for shipment outside of the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston Areas or for shipment to other manufacturers for repackaging, add exemptions for automobile refinishing and delete exemptions for sealants applied over bare metal during automobile refinishing for the



prevention of flash rusting. The proposed changes to §115.429, concerning Counties and Compliance Schedules, specify the applicable counties and the compliance date for the new requirements, and delete obsolete paragraphs.

The proposed amendments are part of a series of proposed revisions to Chapter 115 (Regulation V, concerning Control of Air Pollution From Volatile Organic Compounds) and the SIP to provide the required reductions in the ozone nonattainment areas as mandated by the 1990 FCAA Amendments. Since this is an interim step in attaining the ozone standard, only those controls needed to satisfy the requirement will be adopted by the November 15, 1993, deadline. 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.

The EPA has recently provided guidance which modifies in part the States' requirement to submit all rules necessary to meet the ROP reduction by November 15, 1993. Texas will submit rules to meet the ROP reduction in two phases. Phase I will consist of a core set of rules comprising at least 70% of the required reductions. This phase will be submitted by the original deadline of November 15, 1993. Phase II will consist 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. A commitment listing the rules to achieve the additional percentages and contingency measures will be submitted in conjunction with the Phase I SIP by November 15, 1993.

Lane Hartsock, Deputy Director of Air Quality Planning, has determined that for each year of the first five-year period the rules are in effect, the annual cost to state and local governments is estimated at architectural coatings, \$90,000; and auto body shops, \$45,000. Economic costs to state, county, and city units of government, required to implement the proposed traffic markings control measures are associated with the conversion of paint striping trucks for water-based coatings and are estimated to be approximately \$20,000 per truck conversion.

Mr. Hartsock also has determined that for each year of the first five years period the rules are in effect the public benefit anticipated as a result of implementing the rules 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.

Economic costs to small businesses, persons, or businesses required to implement the proposed control measures may vary from no cost if the facility has already imple-

mented compliant coatings and compliant coating application equipment to approximately \$1,000 per high-volume low-pressure (HVLV) spray gun or equivalent.

Public hearings on this proposal are scheduled for the following times and places: August 4, 1993, 6:30 p.m., City of El Paso, Council Chambers, Second Floor, 2 Civic Center Plaza, El Paso; August 5, 1993, 2:30 a.m., City of Arlington, Council Chambers, 101 West Abram Street, Arlington; August 5, 1993, 6:30 p.m., Houston-Galveston Area Council, Second Floor, Conference Room A, 3555 Timmons Lane, Houston; and August 6, 1993, 11:30 p.m., John Gray Institute, 855 Florida Avenue, Beaumont.

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 TACB Central Office in Austin no later than August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Eddie Mack at (512) 908-1488.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. 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 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 §115.10 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 supplied, sold, [or] offered for sale, applied, solicited for application, or manufactured,

blended, and/or repackaged for use in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, or Houston/Galveston Areas.

(1)-(7) (No change.)

(8) Automobile and light-duty truck coating.

(A) (No change.)

(B) Until July 31, 1994, in [In] Dallas and Tarrant Counties, VOC emissions from the coatings or solvents used in automobile and truck refinishing shall be based on an assumed 65% transfer efficiency from all application equipment, unless otherwise specified in an alternate means of control approved by the Executive Director in accordance with §115.910 of this title (relating to Alternate Means of Control), and shall not exceed the following limits, as delivered to the application system:

(i) 5.0 pounds per gallon (0.60 kg/liter) [2.1 pounds per gallon (0.25 kg/liter)] of coating (minus water and exempt solvent) for primers or primer/surfacers;

(ii)-(vii) (No change.)

(C) After July 31, 1994, VOC emissions from the coatings or solvents used in automobile and truck refinishing shall not exceed the following limits, as delivered to the application system:

(i) 5.0 pounds per gallon (0.60 kg/liter) of coating (minus water and exempt solvent) for primers or primer/surfacers;

(ii) 5.5 pounds per gallon (0.66 kg/liter) of coating (minus water and exempt solvent) for precoat;

(iii) 6.5 pounds per gallon (0.66 kg/liter) of coating (minus water and exempt solvent) for pretreatment;

(iv) 5.0 pounds per gallon (0.60 kg/liter) of coating (minus water and exempt solvent) for single-stage topcoats;

(v) 5.0 pounds per gallon (0.60 kg/liter) of coating (minus water and exempt solvent) for basecoat/clearcoat systems, as defined in §115.10 of this title;

(vi) 5.0 pounds per gallon (0.60 kg/liter) of coating (minus water and exempt solvent) for three-stage systems, as defined in §115.10 of this title;

(vii) 7.0 pounds per gallon (0.84 kg/liter) of coating (minus water and exempt solvent) for specialty coatings;

(viii) 6.0 pounds per gallon (0.72 kg/liter) of coating (minus water and exempt solvent) for sealers; and

(ix) 1.4 pounds per gallon (0.17 kg/liter) of wipe-down solutions.

(D) [(C)] Additional control requirements for automobile and truck refinishing operations are referenced in §115.422 of this title (relating to Control Requirements).

(9)-(10) (No change.)

(11) Architectural coatings. [In Dallas and Tarrant Counties, and after July 31, 1993 in counties other than Dallas and Tarrant, the] [VOC content of any] Any coating sold or offered for sale as an architectural coating shall have the date of manufacture clearly marked on each container, and the VOC content shall not exceed the following limits:

(A)-(I) (No change.)

(12) (No change.)

(b) (No change.)

§115.422. *Control Requirements.* For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston Areas, the following control requirements shall apply.

(1) In Dallas and Tarrant Counties, and after July 31, 1994 in ozone nonattainment counties other than Dallas and Tarrant, any automobile refinishing operation shall minimize volatile organic compound emissions during equipment clean-up by the following procedures:

(A)-(C) (No change.)

(2) After July 31, 1994, automobile and truck refinishing operations shall use coating application equipment with a transfer efficiency of at least 65%, unless otherwise specified in an alternate means of control approved by the Executive Director in accordance with §115.910 of this title (relating to Alternate Means of Control). High-volume low-pressure (HVLV) spray guns, as defined in §115.10 of this title (relating to Definitions), are assumed to comply with the 65% transfer efficiency requirement.

(3)[(2)] Any surface coating operation that becomes subject to the provisions of §115.421(a) of this title (relating to Emission Specifications) by exceeding the provisions of §115.427(a) of this title (relating to Exemptions) shall remain subject to the provisions in §115.421(a) of this title, even if throughput or emissions later fall below exemption limits.

§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) Any person affected by §115.421(a) of this title (relating to Emission Specifications) shall satisfy the following recordkeeping requirements.

(A) (No change.)

(B) Records shall be maintained of the quantity and type of each coating and solvent consumed during the specified averaging period [if any of the coatings, as delivered to the coating application system, exceed the applicable control limits]. Such records shall be sufficient to calculate the applicable weighted average of VOC for all coatings.

(C)-(D) (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)-(ii) (No change.)

(iii) continuous monitoring of carbon adsorption bed exhaust [to determine if breakthrough has occurred]; and

(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) Any person affected by §115.421(b) of this title shall satisfy the following recordkeeping requirements:

(A) (No change.)

(B) Records shall be maintained of the quantity and type of each coating and solvent consumed during the specified averaging period [if any of the coatings, as delivered to the coating appli-

cation system, exceed the applicable control limits]. Such records shall be sufficient to calculate the applicable weighted average of VOC for all coatings.

(C)-(D) (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) -(ii) (No change.)

(iii) continuous monitoring of carbon adsorption bed exhaust [to determine if breakthrough has occurred]; and

(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) Until July 31, 1993, in Brazoria, Galveston, Jefferson, or Orange Counties, surface coating operations located at any facility which, when uncontrolled, will emit a combined weight of volatile organic compounds (VOC) less than 550 pounds (249.5 kg) in any continuous 24-hour period are exempt from the provisions of §115.421(a) of this title (relating to Emission Specifications).]

(1)[(2)] The following coating operations are exempt from the application of §115.421(a)(9) of this title (relating to Emission Specifications):

(A) (No change.)

(B) automobile refinishing, except [in Dallas and Tarrant Counties,] as required by §115.421(a)(8)(B)-(D) [§115.421(a)(8)(B) and (C)] of this title;

(C)-(E) (No change.)

(2)[(3)] The following coating operations are exempt from the application of §115.421(a)(10) of this title:

(A)-(C) (No change.)

[(4) In counties other than Dallas and Tarrant, architectural coatings are exempt from the provisions of §115.421(a)(11) of this title if manufactured before July 31, 1992.]

(3)[(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] 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 and automobile and truck refinishing controlled by §115.421(a)(8)(B) and (C) of this title.

(A)-(C) (No change.)

(4)[(6) The following architectural 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; [.]

(D) architectural coatings sold for shipment outside of the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston Areas or for shipment to other manufacturers for repackaging; and

(E) in ozone nonattainment counties other than Dallas and Tarrant, architectural coatings manufactured before July 31, 1992.

(5) Automobile refinishing facilities in Hardin, Jefferson, and Orange Counties, are exempt from the requirements of §115.421(a)(8)(C) of this title and §115.422(1)(2) of this title.

(6) Until July 31, 1994, automobile refinishing facilities in Brazoria, Chambers, Collin, Denton, El Paso, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties are exempt from the requirements of §115.421(a)(8)(C) of this title and §115.422(1)(2) of this title.

[(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) All affected persons in Chambers, Collin, Denton, Fort Bend, Hardin, Liberty, Montgomery, 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, 1993.

[(b) All affected persons in Brazoria, El Paso, Galveston, Harris, Jefferson, and Orange Counties shall be in compliance with §115.421(a)(9)(A)(v) and (a)(11) of this title as soon as practicable, but no later than July 31, 1993.

[(c) All affected persons in Brazoria, Galveston, Jefferson, and Orange Counties shall be in compliance with §115.427(a)(5) of this title as soon as practicable, but no later than July 31, 1993.

(a)[(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.

(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.

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 July 5, 1993.

TRD-9325259

Lane Hartscock  
Deputy Director  
Texas Air Control Board

Proposed date of adoption: November 12, 1993

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

### ◆ ◆ ◆ Subchapter E. Solvent-Using Processes

#### Offset Lithographic Printing

• 31 TAC §§115.442, 115.443, 115.445, 115.446, 115.449

The Texas Air Control Board (TACB) proposes new §§115.442, 115.443, 115.445, 115.446, and 115.449, concerning Offset Lithographic Printing. This new undesignated head will be included in existing Subchapter E, concerning Solvent-using Processes. The new sections 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 (FCAA) for states to develop and adopt the Rate of Progress (ROP) State Implementation Plan (SIP) by November 15, 1993.

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 El Paso ozone nonattainment area. The affected ozone nonattainment county is El Paso.

The proposed §115.442, concerning Control Requirements, specify control requirements for web-fed and sheet-fed offset lithographic printing presses which use alcohol in the fountain solution, offset lithographic printing press cleaning solutions, and heatset offset lithographic printing press dryer exhaust streams. The proposed §115.443, concerning Alternate Control Requirements, references §115.910 of this title (relating to Alternate Means of Control) for a procedure to receive approval for an alternative control. The proposed §115.445, concerning Testing Requirements, specifies the accepted test methods to show compliance with §115.442.

The proposed §115.446, concerning Monitoring and Recordkeeping Requirements, specifies the frequency, detail, and scope of the recordkeeping and monitoring requirements of this section. The proposed §115.449, concerning Counties and Compliance Schedules, specifies the applicable counties and the compliance date for the new requirements.

The proposed amendments are part of a series of proposed revisions to Chapter 115 (Regulation V, concerning Control of Air Pollution From Volatile Organic Compounds) and the SIP to provide the required RFP reductions in the ozone nonattainment areas as

mandated by the 1990 FCAA Amendments. Since this is an interim step in attaining the ozone standard, only those controls needed to satisfy the requirement will be adopted by the November 15, 1993, deadline. 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.

The EPA has recently provided guidance which modifies in part the States' requirement to submit all rules necessary to meet the ROP reduction by November 15, 1993. Texas will submit rules to meet the ROP reduction in two phases. Phase I will consist of a core set of rules comprising at least 70% of the required reductions. This phase will be submitted by the original deadline of November 15, 1993. Phase II will consist 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. A commitment listing the rules to achieve the additional percentages and contingency measures will be submitted in conjunction with the Phase I SIP by November 15, 1993.

Lane Hartsock, deputy director of air quality planning, has determined that for each year of the first five-year period the proposed sections are in effect, the annual cost to state and local governments are estimated at 30,000, which would primarily be the result of hiring additional personnel to inspect and monitor these new requirements.

Mr. Hartsock also has determined that for each year of 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.

Economic costs to small businesses, persons, and businesses required to implement the proposed measures may vary from no cost if the facility already uses compliant solvents and already has or does not need additional control equipment, to the following estimated costs associated with the expanded abatement, monitoring, and recordkeeping requirements: per facility control unit—\$50,000 in 1994, \$50,000 in 1995, \$50,000 in 1996, and \$50,000 in 1997; per volatile organic compound monitoring unit—\$15,000 in 1994, \$15,000 in 1995, \$15,000 in 1996, and \$15,000 in 1997.

Any costs continuing beyond 1997 would be operating, maintenance, and recordkeeping requirements. All estimates are stated in 1993 dollars with no adjustments for inflation and assume continuing costs equal to those incurred during 1993-1997.

Public hearings on this proposal are scheduled for the following times and places: August 4, 1993, 6:30 p.m., City of El Paso, Council Chambers, Second Floor, Two Civil Center Plaza, El Paso; August 5, 1993, 6:30 p.m., Houston-Galveston Area Council, Second Floor, Conference Room A, 3555 Timmons Lane, Houston; August 5, 1993, 2:30 a.m., City of Arlington, Council Chambers, 101 West Abram Street, Arlington; and August 6, 1993, 11:30 p.m., John Gray Institute, 855 Florida Avenue, Beaumont.

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 TACB Central Office in Austin no later than August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Eddie Mack at (512) 908-1488.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

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

*§115.442. Control Requirements.* For the El Paso Area as defined in §115.10 of this title (relating to Definitions), the following control requirements shall apply.

(1) No person shall operate or allow the operation of an offset lithographic printing line that uses solvent-containing ink unless volatile organic compound (VOC) emissions are limited by one of the following.

(A) Any person who owns or operates a heatset web offset lithographic printing press that uses alcohol in the fountain solution shall maintain total fountain solution alcohol to 1.6% or less (by volume). Alternatively, a standard of 3.0% or less (by volume) alcohol may be used if the fountain solution containing alcohol is refrigerated to less than 60 degree Fahrenheit.

(B) Any person who owns or operates a nonheatset web offset lithographic printing facility that uses alcohol in the fountain solution shall eliminate the use of alcohol in the fountain solution. Alterna-

tively, nonalcohol additives or alcohol substitutes can be used to accomplish the total elimination of alcohol use.

(C) Any person who owns or operates a sheetfed offset lithographic printing facility shall maintain the use of alcohol at 5.0% or less (by volume). Alternatively, a standard of 8.5% or less (by volume) alcohol may be used if the fountain solution is refrigerated to less than 60 degree Fahrenheit.

(D) Any person who owns or operates any type of offset lithographic printing press shall be considered in compliance with this regulation if the only VOCs in the fountain solution are in nonalcohol additives or alcohol substitutes, so that the concentration of VOCs in the fountain solution is 3.0% or less (by weight). The fountain solution shall not contain any alcohol.

(E) Any person who owns or operates an offset lithographic printing press shall reduce VOC emissions from cleaning solutions by using cleaning solutions with a 30% or less (as used) VOC content.

(2) No person shall operate or allow the operation of a heatset offset lithographic printing press unless VOC emissions from the press dryer exhaust vent are reduced 90% by weight or a maximum dryer exhaust outlet concentration of 20 parts per million by volume is maintained, whichever is less stringent when the press is in operation.

*§115.443. Alternate Control Requirements.* For all affected persons in the El Paso 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.

*§115.445. Testing Requirements.* For the El Paso Area, compliance shall be determined by applying the following test methods, as appropriate:

(1) Test Methods 1-4 (40 Code of Federal Regulation 60, Appendix A) for determining flow rates, as necessary;

(2) Test Method 24 (40 Code of Federal Regulation 60, Appendix A) for determining the volatile organic compound content and density of printing inks and related coatings;

(3) Test Method 25 (40 Code of Federal Regulation 60, Appendix A) for determining total gaseous nonmethane organic emissions as carbon;

(4) Test Methods 25A or 25B (40 Code of Federal Regulation 60, Appendix A) for determining total gaseous organic concentrations using flame ionization or nondispersive infrared analysis;

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

(6) additional performance test procedures described in 40 Code of Federal Regulation 60.444.

*§115.446. Monitoring and Recordkeeping Requirements.* For the El Paso Area, the following monitoring and recordkeeping requirements shall apply.

(1) The owner or operator of a heatset offset lithographic printing press shall install, calibrate, maintain, and operate a temperature monitoring device, according to the manufacturer's instructions, at the outlet of the control device. The temperature monitoring device shall be equipped with a continuous recorder and shall have an accuracy of 0.5 degree Fahrenheit.

(2) The owner or operator of any offset lithographic printing press shall install and maintain monitors to continuously measure and record operational parameters of any emission control device installed to meet applicable control requirements on a regular basis. Such records must be sufficient to demonstrate proper functioning of those devices to design specifications, including:

(A) the exhaust gas temperature of direct-flame incinerators and/or the gas temperature immediately upstream and downstream of any catalyst bed;

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

(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) The dryer pressure shall be maintained lower than the press room air pressure such that air flows into the dryer at all times. A 100% emissions capture efficiency for the dryer shall be demonstrated using an air flow direction measuring device.

(4) The owner or operator of any offset lithographic printing press shall monitor fountain solution alcohol concentration with a refractometer or a hydrometer that is corrected for temperature at least once per eight-hour shift or once per batch, whichever is longer. The refractometer or hydrometer shall have a visual, analog, or digital readout with an accuracy of 0.5% VOC. A standard solution shall be used to calibrate the refractometer for the type of alcohol used in the fountain. The VOC content of the fountain solution may be monitored with a conductivity meter if it is determined that a refractometer or hydrometer cannot be used for the type of VOCs in the fountain solution. The conductivity meter reading for the fountain solution shall be referenced to the conductivity of the incoming water.

(5) The owner or operator of any offset lithographic printing press using refrigeration equipment on the fountain shall install, maintain, and continuously operate a temperature monitor of the fountain solution reservoir. The temperature monitor shall be attached to a continuous recording device such as a strip chart, recorder, or computer.

(6) For any offset lithographic printing press with continuous cleaning equipment, flow meters are required to monitor water and cleaning solution flow rates. The flow meters shall be calibrated so that the VOC content of the mixed solution complies with the requirements of §115.442 of this title (relating to Control Requirements).

(7) The owner or operator of any offset lithographic printing press shall maintain the results of any testing conducted at an affected facility in accordance with the provisions specified in §115.445 of this title (relating to Testing Requirements).

(8) The owner or operator of any offset lithographic printing press 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, United States Environmental Protection Agency, or the local air pollution agency having jurisdiction in the area.

*§115.449. Counties and Compliance Schedules.* All affected persons in El Paso County shall be in compliance with §115.442 of this title (relating to Control

Requirements); §115.443 of this title (relating to Alternate Control Requirements); §115.445 of this title (relating to Testing Requirements); and §115.446 of this title (relating to Monitoring and Recordkeeping Requirements) as soon as practicable, but no later than December 31, 1994.

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 July 5, 1993.

TRD-9325260

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

Proposed date of adoption: November 12, 1993

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

## Subchapter F. Miscellaneous Industrial Sources

### Degassing or Cleaning of Stationary and Transport Vessels

#### • 31 TAC §§115.541-115.547, 115.549

The Texas Air Control Board (TACB) proposes new §§115.541-115.547 and §115.549, concerning Degassing or Cleaning of Stationary and Transport Vessels. The new undesignated head has 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 (FCAA) for states to develop and adopt the Rate of Progress (ROP) State Implementation Plan (SIP) by November 15, 1993. 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 counties affected by those amendments are Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, and Waller.

The new §115.541, concerning Emission Specifications, applies the same emission limits proposed for the Transfer of Volatile Organic Compounds, §115.211 of this title (concerning Loading and Unloading of Volatile Organic Compounds) to degassing or cleaning of vessels. The new §115.542, concerning Control Requirements, requires vapors from degassing or cleaning of vessels to be controlled through vapor-tight and leak-free fittings and piping to a vapor recovery system. The new §115.543, concerning Alternate Control Requirements, provides for facilities to apply to the Executive Director for alternate control requirements which are substantially equivalent to those required by §115.542. The new §115.544, concerning In-

spection Requirements, requires leak inspections for degassing or cleaning operations and vapor recovery systems. Whenever a leak is detected, degassing or cleaning operations shall be immediately discontinued until the leak is repaired. The new §115.545, concerning Testing Requirements, lists the authorized test methods to be used in determining compliance with §115.541 and §115.542. The new §115.546, concerning Monitoring and Recordkeeping Requirements, details monitoring and recordkeeping requirements which are necessary to verify proper compliance with requirements of this undesignated head. The proposed new §115.547, concerning Exemptions, exempts certain facilities which handle low vapor pressure VOCs, process low volumes of VOCs, or conduct short-term maintenance. The proposed new §115.549, concerning Counties and Compliance Schedules, specifies the applicable counties and a May 31, 1995, compliance date for the new requirements.

The proposed amendments are part of a series of proposed revisions to Chapter 115 (Regulation V, concerning Control of Air Pollution From Volatile Organic Compounds) and the SIP to provide the required ROP reductions in the ozone nonattainment areas as mandated by the 1990 FCAA Amendments. Since this is an interim step in attaining the ozone standard, only those controls needed to satisfy the requirement will be adopted by the November 15, 1993, deadline. 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.

The EPA has recently provided guidance which modifies in part the States' requirement to submit all rules necessary to meet the ROP reduction by November 15, 1993. Texas will submit rules to meet the ROP reduction in two phases. Phase I will consist of a core set of rules comprising at least 70% of the required reductions. This phase will be submitted by the original deadline of November 15, 1993. Phase II will consist 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. A commitment listing the rules to achieve the additional percentages and contingency measures will be submitted in conjunction with the Phase I SIP by November 15, 1993.

Lane Hartssock, Deputy Director of Air Quality Planning, has determined that for the first five-year period the proposed changes are in effect, the annual cost to state and local governments are estimated at \$30,000, which would primarily be the result of hiring additional personnel to inspect and monitor these new requirements.

Lane Hartssock also has determined that for the first five-year period the proposed changes are in effect, the public benefit anticipated as a result of enforcing the proposed changes will be satisfaction of the FCAA Amendments and the EPA requirements, VOC emission reductions in ozone nonattainment areas which are necessary for the timely attainment of the ozone standard, and reduced public exposure to benzene and other air toxics.

Economic costs to small businesses, persons, and businesses required to implement the proposed control measures may vary from no cost if the facility already has add-on control equipment, to about \$890,000 plus the cost of fuel for a combustion device or \$1,435,000 minus product recovered for a carbon regeneration system. These costs estimates include monitoring equipment. Costs associated with vessel degassing and/or cleaning vary greatly with the maximum cost associated with large stationary storage tanks or barges, being between \$10,000 to \$20,000. Many facilities will be required to install add-on equipment for proposed rules for loading and unloading of VOCs so that these costs would be shared by the facility for compliance with several proposed rules.

Any costs continuing beyond 1997 would be operating, maintenance, and recordkeeping requirements. All estimates are stated in 1993 dollars with no adjustments for inflation and assume continuing costs equal to those incurred during 1993-1997.

Public hearings on this proposal are scheduled for the following times and places: August 4, 1993, 6:30 p.m., City of El Paso, Council Chambers, Second Floor, 2 Civic Center Plaza, El Paso; August 5, 1993, 6:30 p.m., Houston-Galveston Area Council, Second Floor, Conference Room A, 3555 Timmons Lane, Houston; August 5, 1993, 2:30 p.m., City of Arlington, Council Chambers, 101 West Abram Street, Arlington; August 6, 1993, 11:30 a.m., John Gray Institute, 855 Florida Avenue, Beaumont.

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 TACB central office in Austin through August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Eddie Mack at (512) 908-1488 or Dwayne Meckler at (512) 908-1487.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

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

**§115.541. Emission Specifications.** For all persons in the Beaumont/Port Arthur and Houston/ Galveston Areas as defined in §115.10 of this title (relating to Definitions), the following emission specifications shall apply to the degassing or cleaning of all stationary volatile organic compound (VOC) storage tanks and VOC transport vessels, as defined in §115.10 of this title, with a nominal storage capacity of more than 1,000 gallons:

(1) no person shall permit VOC emissions with a true vapor pressure greater than or equal to 0.5 psia (3.4 kPa) under actual storage conditions unless the vapors are processed by a vapor recovery system as defined in §115.10 of this title;

(2) the vapor recovery system shall maintain a control efficiency of at least 95% or shall reduce VOC emissions to a level not to exceed 0.09 pounds of VOC from the vapor recovery system vent per 1,000 gallons (10.8 mg/liter) of VOC transferred;

(3) no VOC leaks, as defined in §115.10 of this title, shall be allowed from any potential leak source when measured with a portable combustible gas detector;

(4) no avoidable liquid or gaseous leaks, as detected by sight, sound, or smell, shall exist during degassing or cleaning operations; and

(5) all VOC transport vessels, as defined in §115.10 of this title, shall be kept vapor-tight at all times until the vapors remaining in the vessel are discharged to a vapor recovery system if the vessel is refilled, degassed, or cleaned in one of the counties in the Beaumont/Port Arthur and Houston/Galveston Areas.

**§115.542. Control Requirements.** For all persons in the Beaumont/Port Arthur and Houston/ Galveston Areas, the following control requirements shall apply.

(1) No person shall permit the degassing or cleaning of volatile organic compounds (VOC) from stationary or transport vessels unless the vapors are processed by a vapor recovery system as defined in §115.10 of this title (relating to Definitions).

(2) When degassing or cleaning is effected through the hatches of a transport vessel with a loading arm equipped with a vapor collection adapter, then pneumatic, hydraulic, or other mechanical means shall be provided to force a vapor-tight seal

between the adapter and the hatch. A means shall be provided to prevent liquid drainage from the degassing or cleaning device when it is removed from the hatch of any transport vessel or to accomplish complete drainage before such removal.

(3) When degassing or cleaning is effected through means other than hatches, all lines shall be equipped with fittings which make vapor-tight connections and which close automatically when disconnected; or equipped to permit residual VOC in the loading line to discharge into a recovery or disposal system after loading is complete.

(4) Degassing and cleaning equipment must be designed and operated to not allow VOC leaks, as defined in §115.010 of this title (relating to Definitions), when measured with a portable combustible gas detector.

(5) Vapors shall be routed to the control device until a turnover of at least four vapor space volumes has occurred. After this turnover process is complete, provided that the true vapor pressure is less than 0.5 psia, the storage vessel may be vented to atmosphere for the remainder of the degassing or cleaning process.

**§115.543. Alternate Control Requirements.** For all persons in the Beaumont/Port Arthur and Houston/Galveston Areas, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this undesignated head 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.

**§115.544. Inspection Requirements.** For all persons in the Beaumont/Port Arthur and Houston/Galveston Areas, the following inspection requirements shall apply.

(1) Inspection for visible liquid leaks, visible fumes, or significant odors resulting from volatile organic compound (VOC) dispensing operations shall be conducted during each degassing or cleaning operation by the owner or operator of the VOC degassing and cleaning facility.

(2) VOC degassing or cleaning through the affected transfer lines shall be discontinued immediately when a leak is observed and shall not be resumed until the observed leak is repaired.

**§115.545. Testing Requirements.** For the Beaumont/Port Arthur and Houston/Galveston Areas, compliance with §115.541 and §115.542 of this title (relating to Emission Specifications) shall be determined by ap-

plying the following test methods, as appropriate:

(1) Test Methods 1-4 (40 Code of Federal Regulations (CFR) 60, Appendix A) for determining flow rates, as necessary;

(2) Test Method 18 (40 CFR 60, Appendix A) for determining gaseous organic compound emissions by gas chromatography;

(3) Test Method 25 (40 CFR 60, Appendix A) for determining total gaseous nonmethane organic emissions as carbon;

(4) Test Methods 25A or 25B (40 CFR 60, Appendix A) for determining total gaseous organic concentrations using flame ionization or nondispersive infrared analysis;

(5) additional test procedures described in 40 CFR §60.503(b), (c), and (d);

(6) Test Method 21 (40 CFR 60, Appendix A) for determining volatile organic compound leaks;

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

(8) minor modifications to these test methods approved by the Executive Director.

**§115.546. Monitoring and Recordkeeping Requirements.** For facilities in the Beaumont/Port Arthur and Houston/Galveston Areas affected by §115.541 and §115.542 of this title (relating to Emission Specifications), the owner or operator of any volatile organic compound (VOC) degassing or cleaning 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) For vessel degassing or cleaning operations:

(A) a daily record of the certification number and description of all delivery vessels and stationary vessel which are degassed or cleaned at the affected facility;

(B) a daily record of the number of delivery vessels or stationary vessels which are degassed or cleaned at the facility; and

(C) the type and quantity of VOC contained in each vessel prior to degassing or cleaning (and the quantity of VOC removed from each vessel).

(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 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) 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) The results of any testing conducted in accordance with the provisions specified in §115.545 of this title (relating to Testing Requirements).

**§115.547. Exemptions.** For all persons in the Beaumont/Port Arthur and Houston/Galveston Areas, the following exemptions apply.

(1) Degassing or cleaning any vessel with a true vapor pressure less than 0.5 psia (3.4 kPa) of volatile organic compound (VOC) under actual storage conditions is exempt from the requirements of this undesignated head.

(2) Degassing or cleaning any vessel with a nominal storage capacity of less than 1,000 gallons is exempt from the requirements of this undesignated head.

(3) Any storage tank during preventative maintenance, roof repair, primary seal inspection, or removal and installation of a secondary seal, if product is not moved in or out of the storage tank, emissions are minimized, and the repair is completed within seven calendar days.

**§115.549. Counties and Compliance Schedules.** All affected persons in the Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, and Waller 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 July 5, 1993.

TRD-9325261 Lane Hartsock  
Deputy Director  
Texas Air Control Board

Proposed date of adoption: November 12, 1993

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

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**Subchapter G. Consumer-  
Related Sources**

**Utility Engines**

• **31 TAC §115.621, §115.625**

The Texas Air Control Board (TACB) proposes new §115.621 and §115.625, concerning Utility Engines. The new undesignated head has 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 (FCAA) for states to develop and adopt revisions to the Rate of Progress (ROP) State Implementation Plan (SIP) by November 15, 1993. 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 new §115.621, establishes emission limits for small gasoline and diesel utility engines with power ratings of 25 horsepower and less. These engines are generally used for lawn and garden equipment, timbering operations (chainsaws), generation of electricity, and pumps. The new section would also establish criteria for Executive Director approval of engine classes to be sold in Texas. The primary basis for approval will be proof that an engine has been certified by the California Air Resources Board as meeting emission levels and warranty requirements. The new §115.625, concerning Exemptions, would specify that non-certified engines can be sold if a certified engine is unavailable and the

exclusive application of the engine is to power emergency equipment as used by police and fire departments and other emergency organizations.

The proposed amendments are part of a series of proposed revisions to Chapter 115 (Regulation V, concerning Control of Air Pollution From Volatile Organic Compounds) and the SIP to provide the required reductions in the ozone nonattainment areas as mandated by the 1990 FCAA Amendments. Since this is an interim step in attaining the ozone standard, only those controls needed to satisfy the requirement will be adopted by the November 15, 1993, deadline. 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.

The EPA has recently provided guidance which modifies in part the States' requirement to submit all rules necessary to meet the ROP reduction by November 15, 1993. Texas will submit rules to meet the ROP reduction in two phases. Phase I will consist of a core set of rules comprising at least 70% of the required reductions. This phase will be submitted by the original deadline of November 15, 1993. Phase II will consist 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. A commitment listing the rules to achieve the additional percentages and contingency measures will be submitted in conjunction with the Phase I SIP by November 15, 1993.

Lane Hartsock, Deputy Director of Air Quality Planning, has determined that for each year of the first five-year period the proposed sections are in effect, the estimated annual cost to state and local governments associated with additional enforcement requirements would be minimal. The retail purchase price of modified engines is expected to increase approximately \$30 per engine to comply with 1995 standards and an additional \$60 to comply with 1999 standards.

Mr. Hartsock has also determined that for each year of 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. Public hearings on this proposal are scheduled as follows: August 4, 1993, 6:30 p.m., City of El Paso, Council Chambers, Second Floor, 2 Civic Center Plaza, El Paso; August 5, 1993, 6:30 p.m., Houston-Galveston Area Council, Second Floor, Conference Room A, 3555 Timmons Lane, Houston, August 5, 1993, 2:30 p.m., City of Arlington, Council Chambers, 101 West Abram Street, Arlington; August 6, 1993, 11:30 a.m., John Gray Institute, 855 Florida Avenue, Beaumont.

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 TACB central office in Austin no later than August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Regulation Development Division of the TACB Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, Texas 78753, and at all TACB regional offices. For further information, contact Beecher Cameron at (512) 908-1495.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

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

*§115.621. Control Requirements.*

(a) Beginning January 1, 1995, no person shall sell, offer for sale, lease, or offer to lease any utility engine or equipment powered by a utility engine in any Texas county which does not satisfy the following emission standards:



**Exhaust Emission Standards  
(grams per brake horsepower)**

Calendar Year	Engine Class	Hydro-carbon (HC) plus oxides of nitrogen	HC	Carbon monoxide	Oxides of nitrogen	Part.
1995-98	I	12.0	-	300	-	0.9 *
	II	10.0	-	300	-	0.9 *
	III (4)	-	220	600	4.0	-
	IV (4)	-	180	600	4.0	-
	V (4)	-	120	300	4.0	-
1999 & later	I, II	3.2	-	100	-	0.25 +
	III, IV, V (4)	-	50	130	4.0	0.25 +

\* Diesel engines only  
+ Diesel and two cycle engines only

- I - Engines less than 225 cubic centimeters (cc) displacement.
- II - Engines greater than or equal to 225 cc displacement.
- III - Hand held lawn and garden and utility equipment engines less than 20 cc displacement.
- IV - Hand held lawn and garden and utility equipment engines 20 cc to less than 50 cc displacement.
- V - Hand held lawn and garden and utility equipment engines greater than or equal to 50 cc displacement.

(b) The Executive Director shall certify each class of utility engine for sale in Texas based on the following criteria:

(1) ability of the engine to meet the emission standards in subsection (a) of this section; and

(2) consumer warranty provisions adequate to cover a two-year period from the date of original purchase from the engine or equipment distributor.

*§115.625. Exemptions.* In 1995 and subsequent years a person may sell equipment powered by non-certified engines provided:

(1) certified equipment is not available; and

(2) the equipment is purchased by a police or fire department or other organization specializing in emergency response; and

(3) the sole use of the equipment is for emergency response.

This agency certifies that the proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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 July 5, 1993.

TRD-9325262      Lane Hartsack  
Deputy Director  
Texas Air Control Board

Proposed date of adoption: November 12, 1993

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

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**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**Part III. Texas Commission on Alcohol and Drug Abuse**

**Chapter 152. Approved Alcohol Awareness Programs**

**General Provisions**

- 40 TAC §§152.1, 152.2, 152.4, 152.5

The Texas Commission on Alcohol and Drug Abuse proposes amendments to §§152.1, 152.2, 152.4, and 152.5, concerning Approved Alcohol Awareness Program stan-

dards and procedures. Section 152.1 clarifies the definition of an approved program. Section 152.2 refers to the citation directing the Texas Commission on Alcohol and Drug Abuse to set minimum operating standards for approved alcohol awareness programs. Section 152.4 references the inclusion of a fee for program approval and defines minimum administrator/instructor training certification requirements. Section 152.5 references the inclusion of a fee for program approval/renewal and requires documentation of revisions to an approved training certification.

Denise Hudson, director, fiscal services, has determined that there will be fiscal implications as a result of enforcing or administering the rules however, the effect on state government is undeterminable because there is no known basis to calculate total revenue generated from inclusion of a fee for program approval and renewal of approval due to a Court's legislated ability to refer minors to programs not TCADA approved.

There is no known basis to calculate total cost to local government due to the variety of business entities providing the program.

Ms. Hudson 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 enhanced quality programming in Alcohol Awareness Programs approved by the Texas Commission on Alcohol and Drug Abuse.

There is no known basis to calculate total cost for small businesses since Alcohol Awareness Programs are operated by a variety of business entities and there is no method to project which type of business will apply for program approval.

There is no known basis for calculating a comparison of effect on small vs. large business since Alcohol Awareness Programs are operated by a variety of business entities and there is no method of projecting the types of businesses that will apply for program approval.

It is possible approved Alcohol Awareness Programs will increase a participant's attendance fee by \$5.00-\$10 per participant in order to defray application approval and renewal fees.

Comments on the proposal may be submitted to Denise F. Mosel, Division Assistant, Texas Commission on Alcohol and Drug Abuse, 720 Brazos Street, Suite 403, Austin, Texas 78701-2576.

The amendments are proposed under the Alcoholic Beverage Code, Chapter 106, §106.115, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to publish rules and regulations for approved Alcohol Awareness Programs.

**§152.1. Definitions.** The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

**Approved program**—An educational [A] program approved by the Texas Commission on Alcohol and Drug Abuse as set forth under this chapter, and pursuant to Texas Alcoholic Beverage Code, Chapter 106, §106.115.

**Screening instrument**—A written device administered to each approved program participant for the purpose of:

(A) identifying indicators of a potential [identification of the existence of any significant] substance abuse problem;

(B) making recommendation for further evaluation [, counseling or treatment] where indicated.

**§152.2. Objective.** Pursuant to the Alcoholic Beverage Code, Chapter 106, §106.115 and [legislative directive in Acts 1991, 72nd Legislature, Regular Session, Chapter 163, effective September 1, 1991, amending the Alcoholic Beverage Code, Chapter 106,] by the adoption of this chapter, it is the intent of the commission to promulgate written rules and regulations setting forth minimum standards for the operation of approved alcohol awareness programs for minors who are convicted of the offense of purchase, consumption, or possession of an alcoholic beverage, or others who are required or ordered by the court to

attend such approved programs. These rules establish the minimum acceptable level of quality and educational content for commission approved alcohol awareness programs in Texas.

#### **§152.4. Program Approval.**

(a) A program seeking approval by the commission shall be required to:

(1) make application to the commission on a prescribed application form accompanied by the initial application fee;

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

(4) provide a detailed description of the administrator/instructor certification training which will be utilized to prepare program personnel to competently instruct and administrate the approved program. The detailed description shall include:

(A) learning objectives to be accomplished in the training;

(B) number of actual clock hours, (no less than eight hours, excluding breaks, and other non-instructional time spent on details) the trainer will spend instructing individuals on the learning objectives during the training;

(C) testing methods that will be utilized to demonstrate an individual's competency level and ability to complete the administrative aspects of the approved program, including the standards and procedures set forth in this chapter, and present the required classroom instruction material, including, a performance measure on the trained individual's knowledge and understanding of the curriculum content, curriculum teaching/presentation skills and techniques, and ability to operate/manipulate any required audiovisual equipment;

(D) a standardized scoring system for the testing methods which reflects a trained individual's successful completion and certification as a trained administrator/instructor of the approved program;

(E) number of actual training clock hours testing methods will encompass;

(F) a written evaluation form to be distributed to and completed by trained individuals;

(G) names and credentialed qualifications of persons who will be utilized as trainers for the administrator/instructor training.

#### **§152.5. Approved Program Renewal.**

(a) Within 30 days prior to the expiration of approval, a program seeking renewal of approval by the commission shall be required to:

(1) make application to the commission for renewal on a prescribed application form accompanied by the application renewal of approval fee;

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

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

(d) Approved programs which fail to obtain renewal of approval prior to September 1st on the year of expiration of approval, shall be required to make application accompanied by the initial application fee to the commission pursuant to §152.4 of this title (relating to Program Approval).

(e) Provide a detailed description of the administrator/instructor certification training as outlined in §152.4(a)(4) of this title if training has changed since the program's initial approval was granted.

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 July 2, 1993.

TRD-9325178

Bob Dickson  
Executive Director  
Texas Commission on  
Alcohol and Drug  
Abuse

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 867-8720

#### **• 40 TAC §152.8**

The Texas Commission on Alcohol and Drug Abuse proposes new §152.8 concerning approved Alcohol Awareness Program standards and procedures. Section 152.8 establishes a fee structure for application for program approval and renewal of approval.

Denise Hudson, Director, Fiscal Services, has determined that for the first five-year period the rule is in effect there will be fiscal implications for state or local government as a result of enforcing or administering the rule, however, the effect on state government is not determined because there is no known basis to calculate total revenue generated from inclusion of a fee for program approval and renewal of approval due to a Court's legislated ability to refer minors to programs not TCADA approved.

There is no known basis to calculate total cost to local government due to the variety of business entities providing the program.

Ms. Hudson also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will not be applicable, as the public is relatively unaffected by this particular section.

There is no known basis for calculating total cost for small businesses since Alcohol Awareness Programs are operated by a variety of business entities and there is no method to project which type of business will apply for program approval.

There is no known basis for calculating a comparison of effect on small versus large business since Alcohol Awareness Programs are operated by a variety of business entities and there is no method of projecting the types of businesses that will apply for program approval.

It is possible that the economic cost to persons who are required to comply with the rule is that approved Alcohol Awareness Programs will increase a participant's attendance fee by \$5.00-\$10 per participant to defray application fees.

Comments on the proposal may be submitted to Denise F. Mosel, Division Assistant, Texas Commission on Alcohol and Drug Abuse, 720 Brazos Street, Suite 403, Austin, Texas 78701-2576.

The new section is proposed under the Alcoholic Beverage Code, Chapter 106 which provides the Texas Commission on Alcohol and Drug Abuse with the authority to publish rules and regulations for approved Alcohol Awareness Programs.

#### §152.8. Fees.

(a) In order to partially defray the costs of administering this chapter, fees will be assessed by the commission in accordance with the fee schedule set forth in subsection (b) of this section.

(b) The schedule of fees shall be as follows:

- (1) initial application fee—\$250;
- (2) application renewal fee—\$125;
- (3) program approval certificate duplication or replacement fee—\$5.00.

(c) Fees paid to the commission by applicants are not refundable.

(d) Remittances submitted to the commission in payment of fees may be in the form of cashier's check or money order.

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 July 2, 1993.

TRD-9325183

Bob Dickson  
Executive Director  
Texas Commission on  
Alcohol and Drug  
Abuse

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 867-8720

## Alcohol Awareness Program Standards

### • 40 TAC §§152.24, 152.25, 152.29

The Texas Commission on Alcohol and Drug Abuse proposes amendments to §§152.24, 152.25, and 152.29, concerning Approved Alcohol Awareness Programs standards and procedures. Section 152.24 revises text wording and clarification of reference to Code of Federal Regulations citation. Section 152.25 requires classroom facilities to comply with the American Disabilities Act-1990, clarifies screening instrument purpose, and requires parameters for class sessions and utilization of approved program administrators and instructors. Section 152.29 includes additional instructor requirements.

Denise Hudson, director, fiscal services, has determined that there will be fiscal implications as a result of enforcing or administering the rules. There will be no effect on state government for the first five-year period the rules will be in effect.

There is no known basis for calculating total costs for each approved program. Increased costs would possibly be incurred for space rental, utilities, additional instructor, and travel fees.

Ms. Hudson 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 enhancement of and high quality programming in State-Approved Alcohol Awareness Programs.

There is no known basis for calculating costs. Costs will vary with each program depending on whether they raise the fee per participant to cover any additional costs incurred for complying with these rules.

There is no known basis for calculating costs. Costs will vary with each program depending on whether they raise the fee per participant to cover any additional costs incurred for complying with these rules. Costs for compliance between small and larger business should be similar.

The possible economic cost to persons who are required to comply with the rules as proposed will vary depending on the amount of increase each program chooses to charge each participant. However it is possible that the costs will be between \$10-\$40.

Comments on the proposal may be submitted to Denise F. Mosel, Division Assistant, Texas Commission on Alcohol and Drug Abuse, 720 Brazos Street, Suite 403, Austin, Texas 78701-2576.

The amendments are proposed under the Alcoholic Beverage Code, Chapter 106, §106.115, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to publish rules and regulations for approved Alcohol Awareness Programs.

§152.24. *Confidentiality.* Approved Alcohol Awareness Programs [programs] shall abide by all applicable federal and state laws requiring [relating to] confidentiality of patient/client records including, without limitation, 42 United States Code §290dd-3 and [42 United States Code] §290ee-3; [.] Title 42 Code of Federal Regulations Part 2; [.] and the Texas Health and Safety Code, Chapter 611 [(Vernon 1992)].

§152.25. *Program Operation Requirements.* All approved programs shall be required to:

- (1)-(6) (No change.)
- (7) utilize appropriate classroom facilities for instruction which are in compliance with the American Disabilities Act-1990;
- (8) administer and evaluate a screening instrument to each participant which has been approved by the commission for the purpose of identifying indicators of a potential substance abuse problem, which screening shall be performed by program personnel including program administrators and instructors, or if performed by support staff, under the direct supervision of program personnel;
- (9)-(10) (No change.)
- (11) make available a listing or roster of available chemical dependency counseling and treatment resources in the area to each participant whose screening instrument results identify indicators of a potential [the existence of a significant] substance abuse problem indicating need for further evaluation [or treatment];
- (12)-(16) (No change.)
- (17) maintain attendance records and class rosters which shall contain the following information for each participant: individual pre-course and post-course test scores; class averages of pre-course and post-course test scores; screening instrument indicator code(s) [scores]; screening instrument utilized; attendance records; and referral recommendations;
- (18) (No change.)
- (19) conduct class sessions which are not longer than four hours in length;
- (20) conduct no more than one class session per day;

(21) provide a minimum of six hours of class instruction per course;

(22) insure that all program instructors and administrators have attended and successfully completed the administrator/instructor certification training which was submitted to the commission for approval set forth under §152.4(a)(4) of this title (relating to Program Approval); and

(23) provide the commission with a listing of all participants successfully completing the administrator/instructor certification training.

**§152.29. Program Instructors.** Program instructors shall be selected using the following criteria:

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

(3) for each alcohol awareness course the instructor will be conducting, instructors shall be required to have completed a training program in the curriculum which will be utilized in that course. The instructor shall also be required to have completed training in the administration of the screening instrument utilized by the approved program;

(4) (No change.)

(5) each approved program shall develop a written job description which specifically outlines the qualifications, duties, and responsibilities of the course instructor(s); [.]

(6) instructors shall keep the commission informed of their current mailing address at all times.

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 July 2, 1993.

TRD-9325180      Bob Dickson  
Executive Director  
Texas Commission on  
Alcohol and Drug  
Abuse

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 867-8720



## Chapter 154. DWI Repeat Offender Program Standards and Procedures

### General Provisions

#### • 40 TAC §§154.1, 154.4, 154.5

The Texas Commission on Alcohol and Drug Abuse proposes amendments to §§154.1, 154.4, and 154.5, concerning DWI Repeat

Offender Program standards and procedures. Section 154.1 defines commonly used terms in DWI Repeat Offender Programs. Section 154.4 addresses the inclusion of an application for approval. Section 154.5 addresses the inclusion of a fee for renewal of program approval.

Denise Hudson, director, fiscal services, has determined that there will be fiscal implications as a result of enforcing or administering the rules. The effect on state government for the first five-year period the rule will be in effect will be an estimated increase of \$1,260 in 1994; \$1,260 in 1995; \$5,885 in 1996; \$1,260 in 1997; and \$7,135 in 1998. There is no known basis for calculating total cost for local government, since DWI Repeat Offender Programs are operated by a variety of business entities.

Ms. Hudson 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 not be applicable, as the public is relatively unaffected by these particular rules. The cost of compliance with the rules for small businesses will be for initial program approval, a fee of \$250 will be charged. A fee of \$125 will be charged for program renewal. A small business will take a longer period of time to recover the cost of the application for program approval and renewal due to a smaller number of participants attending the program. The larger businesses will not have as long of a recovery period due to a larger volume of participants. It is possible that the economic cost to persons who are required to comply with the rules will be that the approved DWI Repeat Offender Programs will increase a participant's attendance fee approximately \$5.00-\$10 per participant.

Comments on the proposal may be submitted to Denise F. Mosel, Division Assistant, Texas Commission on Alcohol and Drug Abuse, 720 Brazos Street, Suite 403, Austin, Texas 78701-2576.

The amendments are proposed under the Texas Code of Criminal Procedure, Article 42.12, §13(i), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to publish rules and regulations for approved DWI Repeat Offender Programs.

**§154.1. Definitions.** The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

**Screening instrument**—A written device administered to each program participant for the purpose of:

(A) identifying indicators of a potential substance abuse problem [identification of the existence of a significant substance abuse problem];

(B) making recommendations for further evaluation [counseling or treatment] where indicated.

#### §154.4. Program Approval.

(a) A program seeking approval by the commission as an Approved DWI Repeat Offender Program shall be required to make application to the commission on a prescribed application form accompanied by the application fee.

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

#### §154.5. Approved DWI Repeat Offender Program Renewal.

(a) within 30 days prior to the expiration of approval, an Approved DWI Repeat Offender Program seeking renewal of approval by the commission shall be required to make application to the commission for renewal on a prescribed application form accompanied by the application renewal of approval fee.

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

(d) Approved DWI Repeat Offender Programs which fail to obtain renewal of approval prior to September 1st on the year of expiration of approval, shall be required to make application accompanied by the initial application fee to the commission pursuant to §154.4 of this title (relating to Program Approval).

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 July 2, 1993.

TRD-9325181      Bob Dickson  
Executive Director  
Texas Commission on  
Alcohol and Drug  
Abuse

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 867-8720

#### ◆      ◆      ◆ • 40 TAC §154.8

The Texas Commission on Alcohol and Drug Abuse proposes new §154.8 concerning DWI Repeat Offender Program standards and procedures. Section 154.8 clarifies fee structure for application for approval and renewal of approval.

Denise Hudson, director, fiscal services, has determined that for the first five-year period the rule is in effect there will be fiscal implications for state or local government as a result of enforcing or administering the rule. The effect on state government for the first five-year period the rule will be in effect will be an estimated increase of \$1,260 in 1994; \$1,260 in 1995; \$5,885 in 1996; \$1,260 in 1997; and \$7,135 in 1998.

There is no known basis for calculating total cost for local government since DWI Repeat Offender Programs are operated by a variety of business entities.

Ms. Hudson also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will not be applicable, as the public is relatively unaffected by this particular section.

It is possible that the economic cost to persons who are required to comply with the rule is that approved DWI Repeat Offender Programs will increase a participant's attendance fee by \$5.00-\$10 per participant in order to defray application approval and renewal fees.

Comments on the proposal may be submitted to Denise F. Mosel, Division Assistant, Texas Commission on Alcohol and Drug Abuse, 720 Brazos Street, Suite 403, Austin, Texas 78701-2576.

The new section is proposed under the Texas Code of Criminal Procedure, Article 42.12, §13(j), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to publish rules and regulations for approved DWI Repeat Offender Programs.

**§154.8. Fees.**

(a) In order to partially defray the costs of administering this chapter, fees will be assessed by the commission in accordance with the fee schedule set forth in subsection (b) of this section.

(b) The schedule of fees shall be as follows:

- (1) initial application fee--\$250;
- (2) application renewal fee--\$125;
- (3) program approval certificate duplication or replacement fee--\$5.00.

(c) Fees paid to the commission by applicants are not refundable.

(d) Remittances submitted to the commission in payment of fees may be in the form of cashier's check or money order.

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 July 2, 1993.

TRD-9325182      Bob Dickson  
Executive Director  
Texas Commission on  
Alcohol and Drug  
Abuse

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 867-8720

◆      ◆      ◆  
**DWI Repeat Offender Program Standards**

- 40 TAC §§154.21, 154.23, 154.24, 154.28

The Texas Commission on Alcohol and Drug Abuse proposes amendments to §§154.21,

154.23, 154.24, and 154.28, concerning DWI Repeat Offender Program standards and procedures. Section 154.21 revises the Texas Commission on Alcohol and Drug Abuse's mailing address. Section 154.23 revises text wording and clarification of reference to Code of Federal Regulations citation. Section 154.24 clarifies the purpose of a screening instrument. Section 154.28 adds requirement for instructors.

Denise Hudson, director, fiscal services, 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. Hudson 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 applicable, as the public is relatively unaffected by these particular rules. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Denise F. Mosel, Division Assistant, Texas Commission on Alcohol and Drug Abuse, 720 Brazos Street, Suite 403, Austin, Texas 78701-2576.

The amendments are proposed under the Texas Code of Criminal Procedure, Article 42.12, §13(j), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to publish rules and regulations for approved DWI Repeat Offender Programs.

**§154.21. Program Content.** The content of an Approved DWI Repeat Offender Program shall be uniform, and shall consist of the curriculum contained in the Texas DWI Intervention Program. The Texas DWI Intervention Program is a state-approved curriculum which is hereby adopted by the commission and incorporated by reference herein. The Texas DWI Intervention Program has been approved by the commission, and is available for review free of charge, at the Texas Commission on Alcohol and Drug Abuse, 720 Brazos Street, Suite 403, Austin, Texas 78701-2576 [78701-2506], (512) 867-8700.

**§154.23. Confidentiality.** Approved DWI Repeat Offender Programs shall abide by all applicable federal and state laws requiring [relating to] confidentiality of patient/client records including, without limitation, 42 United States Code §290dd-3 and §290ee-3; Title 42 Code of Federal Regulations, Part 2; and the Texas Health and Safety Code Annotated, Chapter 611 [Chapters 461-467].

**§154.24. Program Operation Requirements.** All Approved DWI Repeat Offender Programs shall be required to:

- (1)-(17) (No change.)

(18) administer and evaluate a screening instrument which has been approved by the commission for the purpose of identifying indicators [the existence] of a potential substance abuse problem, which screening shall be performed by program personnel including program administrators and instructors, or if performed by support staff, under the direct supervision of program personnel;

- (19)-(21) (No change.)

(22) insure that the class rosters contain the following information for each participant:

- (A)-(D) (No change.)

(E) screening instrument indicator code(s) [score(s)];

- (F)-(I) (No change.)

- (23)-(27) (No change.)

**§154.28. Program Instructors.** Program instructors must:

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

(6) have completed training in the administration of an [the] approved screening instrument utilized by the program; [.]

(7) keep the commission informed of their current mailing address at all times.

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 July 2, 1993.

TRD-9325179      Bob Dickson  
Executive Director  
Texas Commission on  
Alcohol and Drug  
Abuse

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 867-8720

◆      ◆      ◆  
**TITLE 43. TRANSPORTATION**

**Part I. Texas Department of Transportation**

**Chapter 31. Division of Public Transportation**

**General**

- 43 TAC §31.3

The Texas Department of Transportation proposes an amendment to §31.3, concerning

Definitions. The definition of "like-kind exchange" is being added to explain text proposed for contemporaneous proposed amendment to §31.57. The amendment is necessary to conform to federal statutory and regulatory changes.

Richard G. Christie, director of public transportation, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Mr. Christie has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rule.

Mr. Christie also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be consistent application of property management standards relating to public transportation programs. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Richard G. Christie, Director of Public Transportation, 125 East 11th Street, Austin, Texas 78701-2483.

Pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed amended section. The public hearing will be held at 9:00 a.m. on Friday, July 23, 1993, in the first floor hearing room of the Dewitt C. Greer State Highway Building, 125 East 11th Street, Austin, and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Any interested person may appear and offer comments, either orally or in writing, however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views and identical or similar comments through a representative member where possible. Comments on the proposed text should include appropriate citations to sections, subsections, paragraphs, etc., for proper reference. Any suggestions or requests for alternative language or other revisions in the proposed text should be submitted in written form. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who have special communication or accommodation needs and who plan to attend the hearings may contact Al Zucha, public information officer, at 125 East 11th Street, Austin, Texas 78701-2382, (512) 463-8588.

The amendment is proposed under Texas Civil Statutes, Article 6666, 6663b, and 6663c, which provide the Texas Transportation Commission with the authority to establish rule for the conduct of the work of the Texas Department of Transportation, and more specifically to administer the state public transportation fund and state federal public transportation programs.

**§31.3. Definitions.** The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

**Like-kind exchange**—The trade-in or sale of transit vehicles before the end of their useful life to acquire a replacement vehicle of like kind.

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 July 1, 1993.

TRD-9325208

Diane L. Northam  
Legal Administrative  
Assistant  
Texas Department of  
Transportation

Earliest possible date of adoption: August 9, 1993

For further information, please call: (512) 463-8630

## Property Management Standards

### • 43 TAC §31.57

The Texas Department of Transportation proposes an amendment to §31.57, concerning Disposition. The amendment would add language concerning like-kind exchanges on equipment purchases, address the Federal Transit Administration's regulations on the transfer of capital assets, and define how the state and federal contractual interests would be dealt with for these transactions.

The amendment is necessary due to the enactment of the Intermodal Surface Transportation Efficiency Act of 1991, the issuance of federal regulations on like-kind exchanges, and the need to adopt consistent state standards whenever possible.

Richard G. Christie, director of public transportation, has determined that there will be limited fiscal implications as a result of enforcing or administering the rule. The proposed subsection (b) of §31.57, relating to like-kind exchanges, will reduce the processing time and paperwork associated with refunds for both the Texas Department of Transportation and public transportation operators. It is not possible to quantify these savings as the number and amount of refunds has varied in past years.

Mr. Christie has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rule.

Mr. Christie also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be consistent application of property management standards relating to public transportation programs. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Richard G. Christie, Director of Public Transportation, Attention: Margot Massey, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483.

Pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed amended section. The public hearing will be held at 9:00 a.m. on Friday, July 23, 1993, in the first floor hearing room of the Dewitt C. Greer State Highway Building, 125 East 11th Street, Austin, and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Any interested person may appear and offer comments, either orally or in writing, however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views and identical or similar comments through a representative member where possible. Comments on the proposed text should include appropriate citations to sections, subsections, paragraphs, etc., for proper reference. Any suggestions or requests for alternative language or other revisions in the proposed text should be submitted in written form. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who have special communication or accommodation needs and who plan to attend the hearings may contact Al Zucha, public information officer, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8588.

The amendment is proposed under Texas Civil Statutes, Articles 6666, 6663b, and 6663c, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically to administer the state public transportation fund and state and federal public transportation programs.

### §31.57. Disposition.

(a) Purpose. This section describes the standards that apply to the disposition of equipment purchased in whole or in part with state and/or federal public transportation funds.

(b) Like-kind exchanges. In the case of like-kind exchanges, the percentage of the department's original contractual interest shall be applied to the fair market value of the equipment being sold at the time of the exchange. That dollar value shall then be transferred as the department's interest in the equipment being acquired and as appropriate added to any additional funding provided by the department towards the purchase of the new equipment.

(c)[(b)] Federal standards. The federal standards contained in the common rule shall govern the disposition of real property and equipment purchased under contracts in which the department provides all or part of the local share requirement of federally assisted capital improvements. In cases where the common rule does not require reimbursement of the federal grantor agency, the department will similarly release the state interest in the capital improvement provided that the state's percentage share of any proceeds derived by the contractor in the disposition process shall be used by the contractor for public transportation purposes similar to those for which the contract award was originally made. If the contractor does not intend to use the state's percentage share of the proceeds for public transportation purposes, those monies shall be refunded as described in subsection (d)(2)(B) of this section. In cases where the common rule requires reimbursement of the federal grantor agency, the contractor shall provide the department a percentage of the proceeds of any such disposition equal to the percentage of the state's original investment in the property or equipment. Once disposition is authorized, the contractor shall relinquish title to the property through either sale, auction, or transfer to a third party. The department shall be notified of any such dispositions and provided information necessary to delete the property from inventory records described in §31.50 of this title (relating to Recordkeeping and Inventory Requirements).

(d)[(c)] State standards. All real property and equipment obtained through contracts in which the department's contractual interest includes federal funds or state monies as 50% of a non-federally assisted capital improvement shall be governed by the disposition standards contained in paragraphs (1) and (2) of this subsection. The department shall be notified of the contractor's intent to proceed with such dispositions and provided information necessary to delete the property from inventory records described in §31.50 of this title (relating to

Recordkeeping and Inventory Requirements). Prior to disposition of property under the terms of this subsection, the contractor shall obtain written concurrence from the department. Once disposition is authorized, the contractor shall relinquish title to the property through either sale, auction, or transfer to a third party.

(1) Disposition criteria.

(A) Vehicles. Disposition may occur when the current per-unit market value is less than \$5,000.

(B) Other equipment. Disposition may occur when the current per-unit market value is less than \$5,000.

(C) Real property. When real property is no longer needed for the originally authorized purpose, the contractor will request disposition instructions from the department pursuant to this subsection.

(D) Exceptions. As allowed under the Federal Transit Act of 1964, §12(k) as amended (49 United States Code, §1608), a contractor may petition the department to allow the transfer of the federal interest in any real property and equipment subject to the standards contained in this subsection. In such instances, the contractor will furnish information requested by the department to determine if the real property or equipment is no longer needed for public transportation purposes. The department will consider other exceptions to the standards contained in subparagraphs (A) and (B) of this paragraph on a case-by-case basis. In such instances, the contractor will furnish information requested by the department to determine if an exception is warranted due to special circumstances.

(2) Distribution of disposition proceeds.

(A) Refund not required. In cases where the disposition criteria contained in paragraph (1)(A) and (B) of this subsection have been met, the department will release its contractual interest in the capital improvement. The department will similarly release its contractual interest in cases where exceptions are granted for early disposition in accordance with the provisions contained in paragraph (1)(D) of this subsection. However, the department's release of its interest in a capital improvement is contingent upon the contractor's assurance that the department's contractually

specified percentage share of any proceeds derived by the contractor in the disposition process shall be used by the contractor for public transportation purposes similar to those for which the contract award was originally made. In the case of transfers to non-transit uses, as allowed under the Federal Transit Act of 1964, §12(k) as amended (49 United States Code, §1608), the department shall release only the federal portion of its contractual interest. The state's percentage share shall be refunded as described in subparagraph (B) of this paragraph.

(B) Refund required. In cases where the disposition criteria contained in paragraph (1)(A) and (B) of this subsection have not been met but the contractor has received authorization to proceed with the disposition of property from the department, the contractor shall provide the department a percentage of the proceeds of any such disposition equal to the percentage of the department's original contractual interest in the property or equipment. In cases of real property, as described in paragraph (1)(C) of this subsection, and where exceptions are not granted for early disposition, as described in paragraph (1)(D) of this subsection, the contractor will similarly provide the department a percentage of the proceeds of any such disposition equal to the percentage of the department's original contractual interest in the property or equipment. In the case of transfers to non-transit uses, as allowed under the Federal Transit Act of 1964, §12(k) as amended (49 United States Code, §1608), the contractor will provide the department a percentage of the proceeds of any such disposition equal to the percentage of the original state percentage interest in the property or equipment, excluding any federal percentage interest that may have been included in the contract of assistance.

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 July 1, 1993.

TRD-9325209

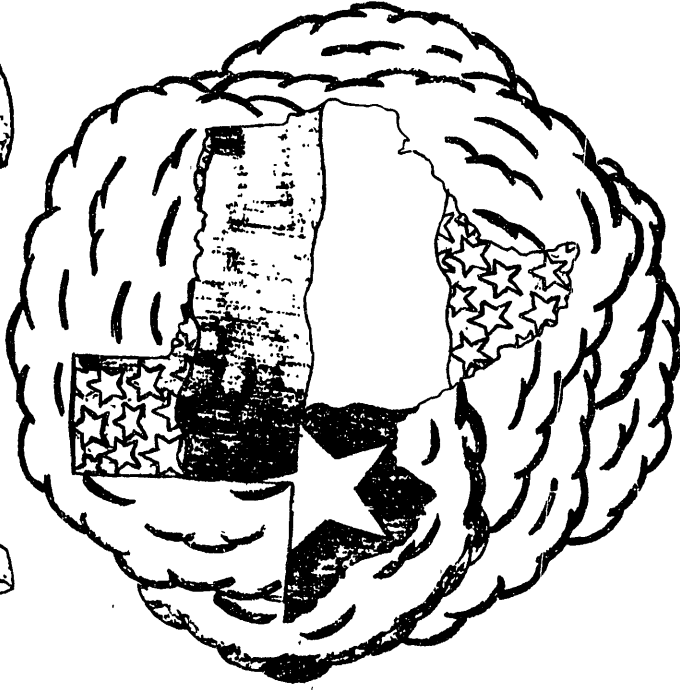
Diane L. Northam  
Legal Administrative  
Assistant  
Texas Department of  
Transportation

Earliest possible date of adoption: August 9, 1993

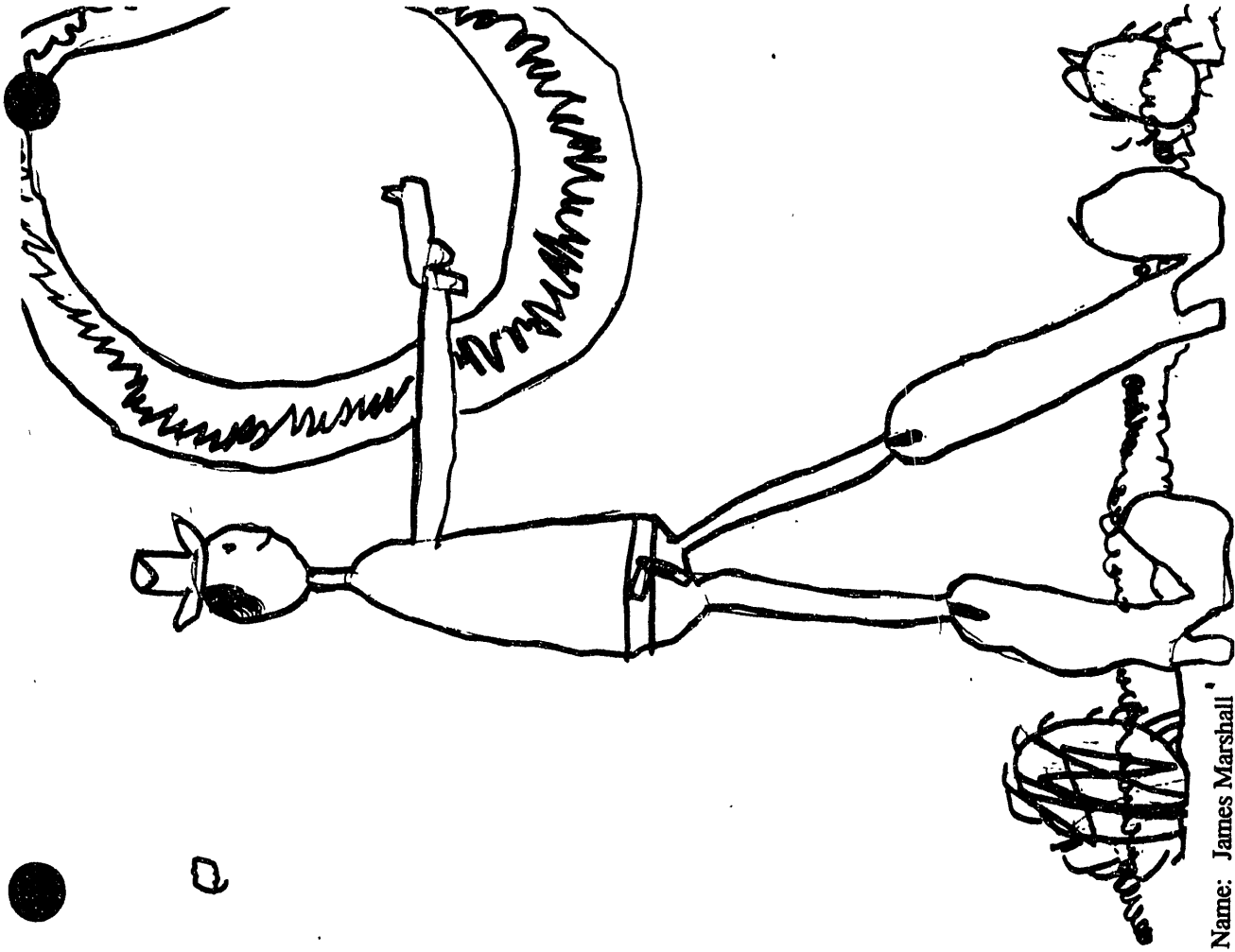
For further information, please call: (512) 463-8630

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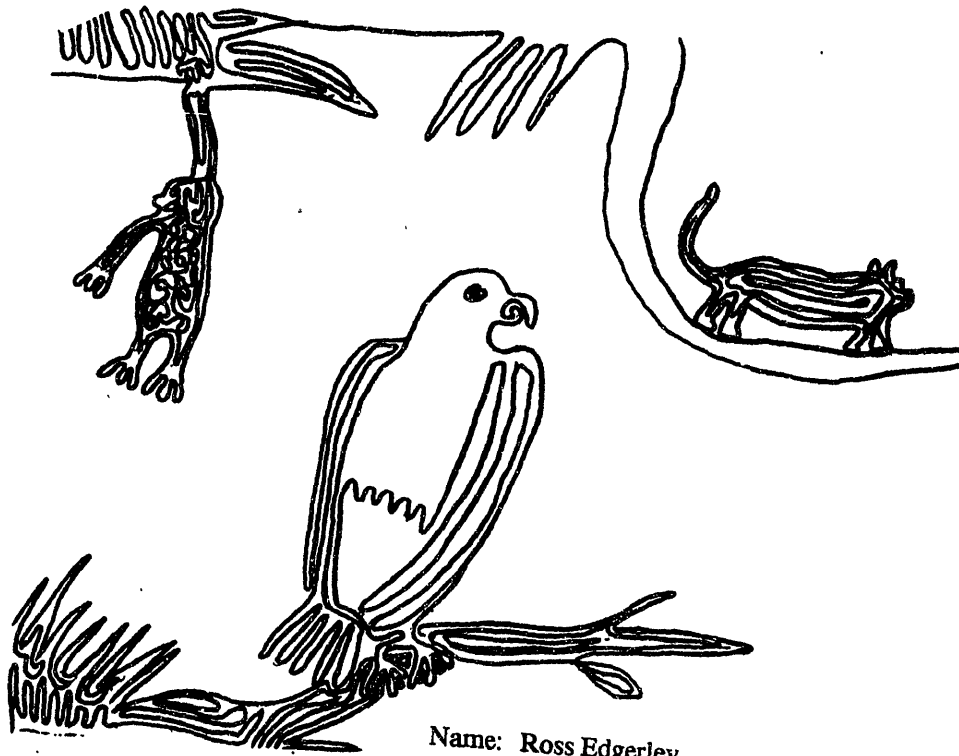


Name: Eric Figueroa  
Grade: 6  
School: Montgomery Elementary, Carrollton-Farmers Branch ISD

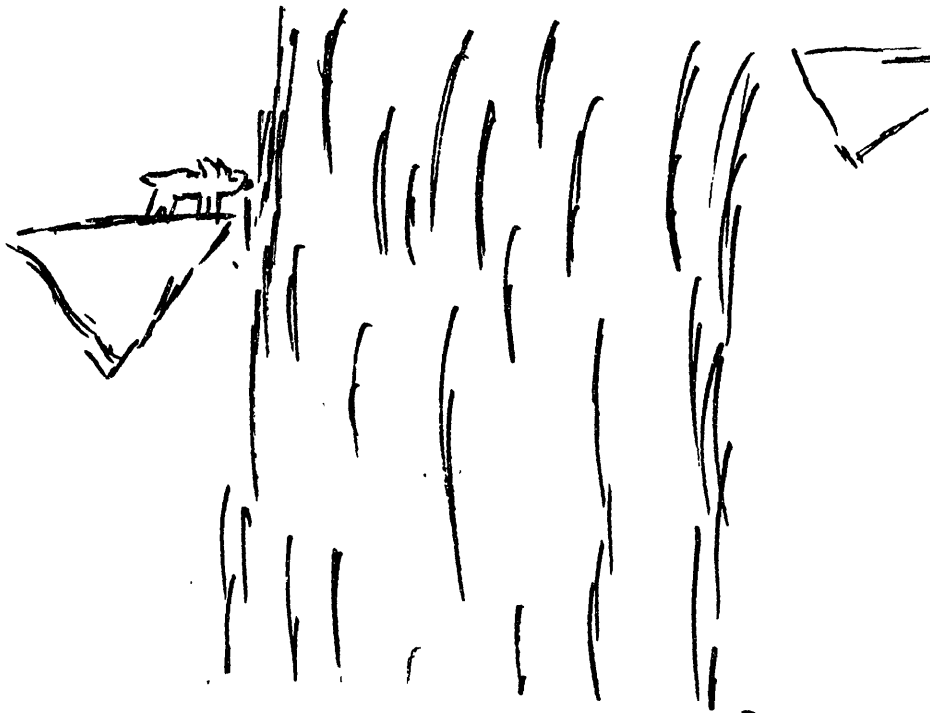


Name: James Marshall  
Grade: 2  
School: Montgomery Elementary, Carrollton-Farmers Branch ISD

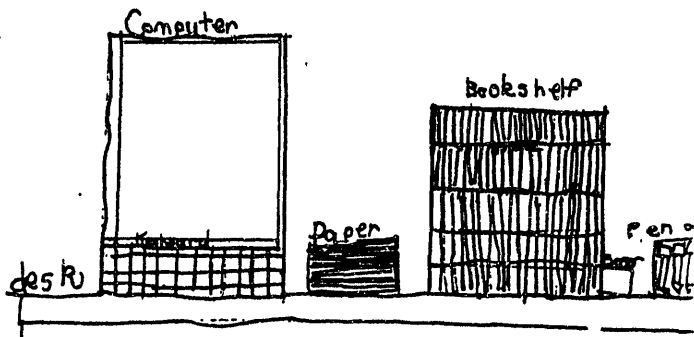




Name: Ross Edgerley  
Grade: 3  
School: Montgomery Elementary, Carrollton-Farmers Branch ISD

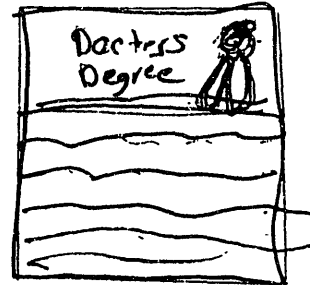
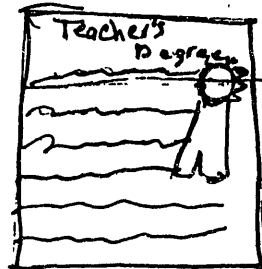
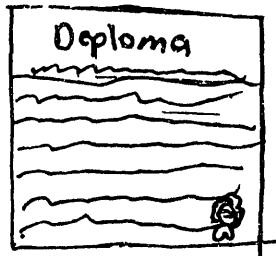


Name: Keiko Hattori  
Grade: 4  
School: Stults Road Elementary, Richardson ISD



Name: Brazgette Malone  
Grade: 4  
School: Stults Road Elementary, Richardson ISD  
Mrs. Murray: 4th grade class  
Brazgette 10  
Mrs. Daniel Art Class

Name: Shinique Brooks  
Grade: 4  
School: Stults Road Elementary, Richardson ISD



# Withdrawn Sections

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a section by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing or 20 days after filing. If a proposal is not adopted or withdrawn six months after the date of publication in the *Texas Register*, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the *Texas Register*.

## TITLE 22. EXAMINING BOARDS

### Part XXI. Texas State Board of Examiners of Psychologists

#### Chapter 465. Rules of Practice

##### • 22 TAC §465.7

The Texas State Board of Examiners of Psychologists has withdrawn from consideration for permanent adoption proposed repeal to §465.7 which appeared in the April 9, 1993, issue of the *Texas Register* (18 TexReg 2349). The effective date of this withdrawal is July 22, 1993.

Issued in Austin, Texas, on July 1, 1993.

TRD-9325126

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Effective date: July 22, 1993

For further information, please call: (512)  
835-2036

#### Chapter 471. Renewals

##### • 22 TAC §471.1

The Texas State Board of Examiners of Psychologists has withdrawn from consideration for permanent adoption a proposed amendment to §471.1, which appeared in the April 9, 1993, issue of the *Texas Register* (18 TexReg 2350). The effective date of this withdrawal is July 22, 1993.

Issued in Austin, Texas, on July 1, 1993.

TRD-9325127

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Effective date: July 22, 1993

For further information, please call: (512)  
835-2036

##### • 22 TAC §471.7

The Texas State Board of Examiners of Psychologists has withdrawn from consideration for permanent adoption a proposed new §471.7 which appeared in the April 9, 1993, issue of the *Texas Register* (18 TexReg 2350). The effective date of this withdrawal is July 22, 1993.

Issued in Austin, Texas, on June 24, 1993.

TRD-9325128

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Effective date: July 22, 1993

For further information, please call: (512)  
835-2036

## TITLE 40. SOCIAL SER- VICES AND ASSIS- TANCE

### Part IX. Texas Department on Aging

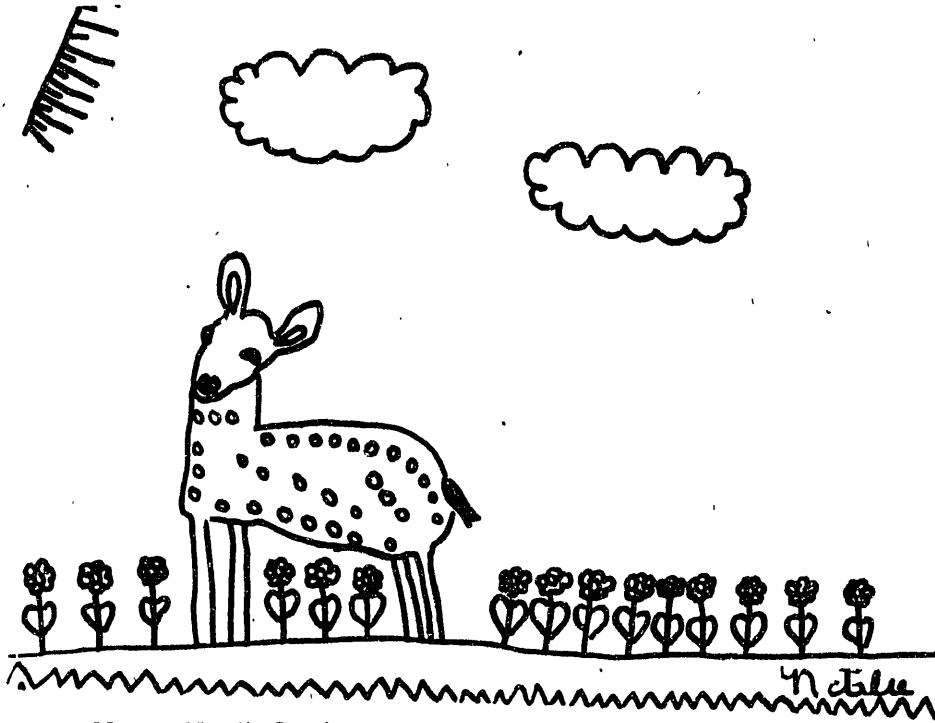
#### Chapter 255. State Delivery Systems

##### Statutes and Regulations

##### • 40 TAC §255.40

Pursuant to Texas Civil Statutes, Article 6252-13, §5(b), and 1 TAC §91.24(b), the proposed new §255.40, submitted by the Texas Department on Aging has been automatically withdrawn, effective July 2, 1993. The new §255.40 as proposed appeared in the January 1, 1993 issue of the *Texas Register* (18 TexReg 54).

TRD-9325226



Name: Natalie Garcia  
Grade: 2  
School: Montgomery Elementary, Carrollton-Farmers Branch ISD



Name: Michelle Mendoza  
Grade: 2  
School: Montgomery Elementary, Carrollton-Farmers Branch ISD

# Adopted Sections

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

## TITLE 22. EXAMINING BOARDS

### Part XXI. Texas State Board of Examiners of Psychologists'

#### Chapter 463. Applications

##### • 22 TAC §463.5

The Texas State Board of Examiners of Psychologists adopts an amendment to §463.5 concerning applications, with changes to the proposed text as published in the April 9, 1993, issue of the *Texas Register* (18 TexReg 2349).

The amendment is necessary to help assure that the consuming public receive psychological services from qualified and ethical persons.

The amendment will allow applicants who have a complaint filed against them to sit for the required examinations, but will allow the Board to hold their certification in abeyance until the complaint is resolved.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

**§463.5. Application File Requirements.** An application file must be complete and contain whatever information or examination results the Board requires. An incomplete application remains in the active file for 90 days, at the end of which time, if still incomplete, it is void. If certification or licensure is sought again, a new application and filing fee must be submitted. An application cannot have two types of applications for certification or licensure pending before the Board.

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

(5) For an applicant who is practicing psychology under a temporary permit, a supervision contract, or employment in a statutorily exempt agency and a complaint is filed against the applicant, any final decision on the application will be

held in abeyance until the Board has made a final determination on the complaint filed. The applicant will be permitted to take all required exams as scheduled but will not be certified until approved by the Board.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 24, 1993.

TRD-9325118

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Effective date: July 22, 1993

Proposal publication date: April 9, 1993

For further information, please call: (512) 835-2036

#### Chapter 465. Rules of Practice

##### • 22 TAC §465.6

The Texas State Board of Examiners of Psychologists adopts the repeal of §465.6 concerning rules of practice, without changes to the proposed text as published in the April 9, 1993, issue of the *Texas Register* (18 TexReg 2349).

The repeal of this rule is necessary in order to consolidate the requirements of most aspects of supervision/employment by psychologists into one Board Rule; therefore, making the requirements more accessible to licensees/certificands of the Board, as well as the general public.

The repeal of this rule will allow the Board to combine the requirements for employment by psychologists, status of psychological associates, and financial considerations for the supervision of psychological associates into one rule (§465.18).

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel

and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 24, 1993.

TRD-9325119

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Effective date: July 22, 1993

Proposal publication date: April 9, 1993

For further information, please call: (512) 835-2036

##### • 22 TAC §465.8

The Texas State Board of Examiners of Psychologists adopts the repeal of §465.8 concerning rules of practice, without changes to the proposed text as published in the April 9, 1993, issue of the *Texas Register* (18 TexReg 2349).

The repeal of this rule is necessary in order to consolidate the requirements of most aspects of supervision/employment by psychologists into one Board Rule; therefore, making the requirements more accessible to licensees/certificands of the Board, as well as the general public.

The repeal of this rule will allow the Board to combine the requirements for employment by psychologists, status of psychological associates, and financial considerations for the supervision of psychological associates into one rule (§465.18).

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 24, 1993.

TRD-9325120

Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Effective date: July 22, 1993

Proposal publication date: April 9, 1993

For further information, please call: (512) 835-2036

◆ ◆ ◆  
• 22 TAC §465.33

The Texas State Board of Examiners of Psychologists adopts new §465.33 concerning rules of practice, with changes to the proposed text as published in the March 2, 1993, issue of the *Texas Register* (18 TexReg 1337).

The new rule is necessary to notify the public that sexual intimacies and/or harassment is unethical behavior.

The new rule will clarify the types of sexual behaviors deemed unethical by the Board.

No comments were received regarding adoption of the new rule.

The new rule is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§465.33. *Sexual Intimacies and Sexual Harassment.*

(a) **Applicability of Rule.** This rule applies to any person subject to the rules and requirements of the Texas State Board of Examiners of Psychologists including licensed psychologists, certified psychologists, psychological associates, supervisees of a psychologist, and/or applicants for certification licensure. Acts described in this rule constitute unprofessional conduct.

(b) **Sexual Harassment.**

(1) A person (defined in subsection (a) of this section) may not engage in sexual harassment of:

(A) a patient/client of former patient/client;

(B) a student enrolled in the educational institutional at which the licensee/certificand/applicant offers professional/education services; or

(C) a supervisee or employee for whom the licensee/certificand/applicant has administrative or clinical responsibility.

(2) Sexual harassment is sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with the person's (defined in subsection (a) of this section) activities or professional roles, and that either:

(A) is unwelcome, is offensive, or creates a hostile workplace environ-

mental, and the person knows or is told this; or

(B) is sufficiently severe or intense to be abusive to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or of multiple persistent or pervasive acts.

(c) **Sexual Impropriety.**

(1) A person (defined in subsection (a) of this section) may not engage in sexual impropriety with:

(A) a current patient/client;

(B) a former patient/client for a least five years after the cessation or termination of professional services (because of the potential for harm, persons do not engage in sexual behavior even after a five-year interval except in the most unusual circumstances—see §465.36(c)(4)(G) of this title (relating to the Ethics Code));

(C) a student enrolled in the educational institutional at which the licensee/certificand/applicant offers professional/educational services; or

(D) a supervisee for whom the licensee/certificand/applicant has administrative or clinical responsibility.

(2) Sexual impropriety may include, but is not limited to:

(A) any behavior, gestures, or expressions which may reasonably be interpreted as inappropriately seductive or sexually demeaning;

(B) inappropriate sexual comments about and to a patient/client, former patient/client, student, or supervisee, including, but not limited to, making sexual comments about an individual's body;

(C) making sexually demeaning comments to and about an individual's sexual orientation;

(D) making comments about potential sexual performance except when the examination or consultation is pertinent to the issue of sexual function or dysfunction in therapy/counseling;

(E) requesting details or sexual history or sexual likes and dislikes when not clinically indicated for the type of consultation;

(F) making a request to date;

(G) initiating conversation regarding the sexual problems, preferences, or fantasies of the licensee/certificand/applicant;

(H) kissing of a sexual nature;

(I) any other deliberate or repeated comments, gestures, physical acts not constituting sexual intimacies but of a sexual nature.

(d) **Sexual Intimacy/Violation.**

(1) A person subject to this rule (defined subsection (a) of this section) may not engage in sexual intimacies with:

(A) a current patient/client;

(B) a former patient/client for at least five year after cessation or termination of professional services (because of the potential harm, persons do not engage in sexual intimacies with former patients/clients even after a five-year interval except in the most unusual circumstances—465.36(c)(4)(G) of this title (relating to the Ethics Code));

(C) a student matriculating in any program in the department at the educational institution at which the licensee/certificand/applicant offers professional/educational services; or

(D) a supervisee for whom the licensee/certificand/applicant has administrative or clinical responsibility.

(2) Sexual intimacy/violation includes engaging in any conduct that is sexual or may be reasonably interpreted as sexual, including, but not limited to:

(A) sexual intercourse;

(B) genital contact;

(C) oral to genital contact;

(D) genital to anal contact;

(E) oral to anal contact;

(F) oral to oral contact;

(G) touching breasts or genitals;

(H) encouraging another to masturbate in the presence of the licensee/certificand/applicant;

(I) masturbation by the licensee/certificand/applicant when another is present;

(J) any bodily exposure of normally covered body parts.

(e) Who May Report. Violations of sexual harassment, sexual impropriety, or sexual intimacies may be reported to the Board by any of the parties involved or by an uninvolved party who has witnessed or become aware of the violation.

(f) Relationship to §465.36. This rule establishes the minimum standard for principles specified in §465.36.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 24, 1993.

TRD-9325121      Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Effective date: July 22, 1993

Proposal publication date: March 2, 1993

For further information, please call: (512) 835-2036

## Chapter 471. Renewals

### • 22 TAC §471.2

The Texas State Board of Examiners of Psychologists adopts an amendment to §471.2 concerning renewals, with changes to the proposed text as published in the March 2, 1993, issue of the *Texas Register* (18 TexReg 1339).

The amendment necessary to reduce the number of contracts of supervision filed, thereby allowing staff time to be reallocated to other tasks which will keep costs of providing services to the public within reasonable rates.

The amendment will implement a policy that psychological associates employed in statutorily exempt agencies will not be required to submit contracts of supervision.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§471.2. *Renewal Forms.* Psychological associate and certified psychologist renewal forms shall contain a space to indicate current employment setting. If the setting is exempt, as defined in the Psychologists' Certification and Licensing Act, §22, the supervisor's signature is not needed and a contract of supervision need not be filed with the Board. For non-exempt employment settings, the psychological associate and certified psychologist renewal form must include the name and signature of his/her supervisor which must match the signature of the contract of supervision on file with the Board.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 24, 1993.

TRD-9325122      Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Effective date: July 22, 1993

Proposal publication date: March 2, 1993

For further information, please call: (512) 835-2036

## Chapter 473. Fees

### • 22 TAC §473.3

The Texas State Board of Examiners of Psychologists adopts an amendment to §473.3 concerning fees, without changes to the proposed text as published in the April 9, 1993, issue of the *Texas Register* (18 TexReg 2350).

The amendment is needed because it is necessary to ensure that the Board has an adequate cash balance to carry out the mandates of the Psychologists' Certification and Licensing Act.

The amendment will codify the Board's policy of allowing certificands/licenses over the age of 70 to renew their certificates/licenses at a reduced rate.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 24, 1993.

TRD-9325123      Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Effective date: July 22, 1993

Proposal publication date: April 9, 1993

For further information, please call: (512) 835-2036

### • 22 TAC §473.4

The Texas State Board of Examiners of Psychologists adopts an amendment to §473.4 concerning fees, with changes to the proposed text as published in the April 9, 1993, issue of the *Texas Register* (18 TexReg 2351).

The amendment is necessary to ensure that the Board has an adequate cash balance to carry out the mandates of the Psychologists' Certification and Licensing Act.

The amendment will make the requirements of this Board rule conform to the requirements of the Psychologists' Certification and Licensing Act.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

§473.4. *Late Fees for All Renewal (Not Refundable).*

(a) One day 90 days--\$125.

(b) Ninety-one days to less than two years--\$250.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on June 24, 1993.

TRD-9325124      Rebecca E. Forkner  
Acting Executive Director  
Texas State Board of  
Examiners of  
Psychologists

Effective date: July 22, 1993

Proposal publication date: April 9, 1993

For further information, please call: (512) 835-2036

# TITLE 28. INSURANCE

## Part I. Texas Department of Insurance

### Chapter 7. Corporate and Financial Regulations

#### Subchapter R. Withdrawal Plan Requirements and Procedures

##### • 28 TAC §§7.1801-7.1808

The State Board of Insurance of the Texas Department of Insurance adopts new 28 TAC §§7.1801-7.1808 concerning withdrawal plan requirements and procedures for any insurer required to file a plan of withdrawal with the Commissioner of Insurance pursuant to the Insurance Code, Article 21.49-2C, with changes to the proposed text as published in the April 23, 1993, issue of the *Texas Register* (18 TexReg 2614).

The new §§7.1801-7.1808 are necessary to provide orderly and uniform procedures for any authorized insurer filing a plan of withdrawal with the Commissioner of Insurance pursuant to the Insurance Code, Article 21.49-2C, which was enacted as part of House Bill 2 by the 72nd Legislature in 1991. The new sections are further needed to enable the Commissioner to determine that each insurer's plan of withdrawal is constructed to protect the interests of the people of this state, as required by Article 21.49-2C. Section 7.1804 of the proposed rule was amended to except stipulated premium companies from filing a withdrawal plan unless the line of business written by the stipulated premium company is written pursuant to the Insurance Code, Article 22.23(b) or Article 22.23A. The definitions of "substantial withdrawal" and "total withdrawal" in §7.1802 of the proposed rule were also amended to reflect this additional exception. These amendments are needed to exempt from the requirements of the rule those small domestic stipulated premium companies writing life insurance policies of \$10,000 or less pursuant to Article 22.23(a) and that have a very small portion of the life insurance market. Those stipulated premium companies issuing annuity contracts pursuant to Article 22.23(b) and those stipulated premium companies issuing coverages pursuant to Article 22.23A are not excepted from the requirements of this rule.

The effects of the new sections include timely notice of insurer withdrawals from the business of insurance in this state, submission of orderly and complete withdrawal plans to the Commissioner by those insurers electing to withdraw from the business of insurance pursuant to the Insurance Code, Article 21.49-2C, and greater protection of the interests of persons in this state affected by withdrawing insurers. New §7.1801 outlines the purpose of new Subchapter R. New §7.1802 defines necessary words and terms. New §7.1803 defines what constitutes a "line of insurance." New §7.1804 provides for when a plan is required to be filed. The contents of the withdrawal plan filed by any insurer withdrawing from the business of insurance pursuant to Article 21.49-2C is specified in

the new §7.1805. New §7.1806 provides information on submission and approval procedures. New §7.1807 requires a withdrawing insurer to continue to file annual statement data and other required statistical and data filings until all policyholder obligations for the withdrawn line are fulfilled. The requirements for a withdrawing insurer to resume writing insurance in Texas are specified in new §7.1808.

No comments were received in favor of the proposed sections as published.

The Department received written comments from State Farm Insurance Companies and Transport Life Insurance Company objecting to parts of the proposal as published. Oral comments were presented in opposition to the proposal at the June 17, 1993, Board meeting on behalf of the American Insurance Association and the Texas Association of Life Insurance Officials.

One commenter suggested that the Department consider a de minimis exclusion from the requirements of the rule when the withdrawal involves premiums of less than an arbitrarily selected amount, such as \$1 million, because of the minimal effect of such a withdrawal on the insurance marketplace, the inordinate resources needed to analyze withdrawal plans that are merely in the nature of minor company management decisions, and the fact that such company costs will be far greater than indicated in the Department's cost note. The Department disagrees that there should be an exclusion for withdrawals based on an arbitrarily selected minimum premium amount because a major purpose of the withdrawal plan statute and this rule is protection of the interests of the policyholders of the withdrawing insurer and other persons affected by the withdrawal, regardless of the size of the withdrawal. The Department believes that the cost note does adequately reflect the reasonable cost for the withdrawals. Another commenter suggested that §7.1803(a)(1)(A)-(P), relating to what constitutes a line of insurance for an insurer subject to subsection(a)(1) of §7.1803, be amended to include only Life Insurance and Accident and Health Insurance because attempts to further break down the definition of line of insurance will only result in by-products of the two major categories (Life Insurance and Accident and Health Insurance) and cause this regulation to be more confusing that it needs to be. The Department disagrees and believes that the categories or lines of life and accident and health insurance specified in §7.1803(a)(1)(A)-(P) are necessary to enable the Department to fully monitor changes in the life insurance and accident and health insurance marketplace in Texas and to protect the interests of persons in this state affected by any insurer withdrawing from part, but not all, of its life insurance and accident and health insurance business in Texas. The lines of life insurance and accident and health insurance specified in §7.1803(a)(1)(A)-(P) are derived from the Life and Accident and Health Annual Statement form, Texas State Page 19, and thus, companies can readily identify these lines since all life insurance and accident and health insurance companies maintain and report their financial data on this basis. A third commenter objected to the pro-

posed rule on the grounds that parts of the proposal exceed the statutory grant of rulemaking authority in Article 21.49-2C which, according to the commenter, is very specific in its requirements for withdrawal. The commenter objected to four specific provisions of the proposed rule.

(1) The proposed rule in §7.1802, as proposed and published, defines "substantial withdrawal" to pertain to a "line of insurance." The commenter expressed the opinion that the statute, as currently written, provides two situations in which the withdrawal plan is required: withdrawal from a line of insurance or 75% reduction in the total annual premium of the insurer. The 75% reduction in total annual premium volume, according to the commenter, does not refer to any one line of insurance as provided under the proposed rule, but rather it refers to all of the activity of the insurer. The Department disagrees that under the statute the 75% reduction in total annual premium volume applies to the insurer's entire book of business and not to a single line of insurance written by the insurer. The Department's position is based on a review of the transcripts of legislative hearings in which the matter was discussed and responses to inquiries to key legislators who were involved in enacting the statute.

(2) The commenter expressed the view that the definition of "line of insurance," is a term which is recognized in the Insurance Code and is identified in many different places, but that the definition in §7.1803 of the proposed rule significantly expands the term to include lines of business. The Department disagrees and believes that, because the statute does not define the term "line of insurance" and because the term is not consistently defined in the same manner within the industry, a definition is needed to clarify the statute and the definition specified in the proposed rule best fulfills the intent of the statute to protect the interests of the people of this state.

(3) The commenter stated that the proposed rule in §7.1805 expands the categories of information to be included in the withdrawal plan beyond the three categories of information specified in Article 21.49-2C(e), and the commenter believes that this part of the rule is also an impermissible exercise of rulemaking authority. The Department disagrees and believes that each category of information required in the withdrawal plan is needed in order for the Commissioner to determine that the three statutory requirements in Article 21.49-2C(e) for approval of the plan have been met.

(4) The commenter also objected to §7.1804 as proposed because an insurer would be held to have acted on its own initiative, and thus be subject to the requirements of the rule, if the insurer effected a total or substantial withdrawal based on an out-of-state directive or order, and the insurer failed to provide any such directive or order to the Commissioner within 30 days of its issuance. The commenter objected to this provision because there may be circumstances when the 30 days for notification may not be adequate, and this could impose unfair burdens on the insurer. The Department disagrees and believes that the 30-day period allowed for noti-



tying the Commissioner of any out-of-state directive or order that would result in total or substantial withdrawal is sufficient. A fourth commenter objected to the inclusion in the rule of stipulated premium companies that write life insurance policies and annuity contracts pursuant to the Insurance Code, Article 22.23. Articles 22.01 and 22.18 of the Insurance Code exempt stipulated premium companies from the provisions of Article 21.49-2C. The commenter proposed an amendment to exempt from the rule stipulated premium companies writing life insurance policies and annuity contracts pursuant to Article 22.23. Under the proposed amendment, those stipulated premium companies writing insurance pursuant to Article 22.23A, which includes any type of life, health, or accident coverage authorized by Chapter 3 of the Insurance Code, would be subject to the requirements of the rule. The Board agrees with a limited exemption, but believes that those stipulated premium companies writing insurance pursuant to the Insurance Code, Article 22.23(b), should also be subject to the requirements of the rule. Article 22.23(b) permits certain stipulated premium companies to issue annuity contracts as authorized under Chapter 3 of the Insurance Code. The Board adopts the rule with an amendment to §7.1804(b) to except insurers from filing a withdrawal plan when the line of business is written by a stipulated premium company unless such line is written pursuant to the Insurance Code, Article 22.23(b) or Article 22.23A.

The new sections are adopted pursuant to the Insurance Code, Articles 21.49-2C, 1.24, 1.04(b), and 1.10; and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 21.49-2C(g), authorizes the State Board of Insurance to adopt rules necessary to enforce the provisions of this article, which regulates withdrawal plans. Article 1.24 authorizes the Board to make inquiries to any insurance company or agent in relation to the company's or agent's business condition, or any matter connected with its transactions which the Board deems necessary for the public good or for the proper discharge of its duties. Article 1.04(b) authorizes the Board to determine rules in accordance with the laws of this state. Article 1.10, §1, requires the Board to see that all laws respecting insurance and insurance companies are faithfully executed. Texas Civil Statutes, Article 6252-13a, §4 and §5, authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and to prescribe the procedures for adoption of rules by a state administrative agency.

**CROSS REFERENCE TO STATUTE.** The following statutes are affected by this rule: §§7.1801-7.1808—The Insurance Code, Articles 21.49-2C, 1.24, 1.04(b), and 1.10.

**§7.1801. Purpose.** The purpose of this subchapter is to provide orderly and uniform procedures, as required by law and dictated by sound public policy, for any authorized insurer filing a plan of withdrawal with the Commissioner of Insurance pursuant to the Insurance Code, Article 21.49-2C.

**§7.1802. Definitions.** The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

**Annual Statement**—Annual statement most recently filed by the insurer with the Texas Department of Insurance.

**Board**—State Board of Insurance.  
**Commissioner**—Commissioner of Insurance.

**Department**—Texas Department of Insurance.

**Line of Insurance**—Each line of business as specified in §7.1803 of this subchapter.

**Withdrawal**—

(A) Substantial withdrawal occurs when an insurer on its own initiative reduces the company's total annual premium volume for a line of insurance, as defined in §7.1803 of this subchapter, by 75% or more, except when the insurer meets any exception specified in §7.1804(b) of this subchapter.

(B) Total withdrawal occurs when an insurer on its own initiative no longer engages in the writing of a line of insurance, as defined in §7.1803 of this subchapter, except when the insurer meets any exception specified in §7.1804(b) of this subchapter.

**§7.1803. What Constitutes a Line of Insurance.**

(a) For purposes of this subchapter, a line of insurance is defined as each line of business as specified in paragraphs (1)(A)-(P) and (2)(A)-(QQ) of this subsection, and including any line written in by the insurer on the annual statement pages specified in this section, for which financial data was reported by the individual withdrawing insurer filing any of the annual statement pages specified in this section, or any duly promulgated equivalent pages, of the annual statement forms specified in this section, or any duly promulgated equivalent forms, and including any line of business that is duly promulgated to be added to the annual statement pages specified in this section or to any duly promulgated equivalent page.

(1) For an insurer that is required to file the Life and Accident and Health Annual Statement Form 1 or Form 1A, Texas State Page 19, Reporting Direct Business in the State of Texas During the Year, in addition to any line of insurance written in by the insurer, each of the following is a line of insurance:

(A) Ordinary Life;

(B) Group and Individual Credit Life;

(C) Group Life;

(D) Industrial Life;

(E) Ordinary Annuity;

(F) Group Annuity;

(G) Ordinary Annuity and Other Fund Deposits;

(H) Group Annuity and Other Fund Deposits;

(I) Group Accident and Health;

(J) Group and Individual Credit Accident and Health;

(K) Collectively Renewable Accident and Health;

(L) Noncancelable Accident and Health;

(M) Guaranteed Renewable Accident and Health;

(N) Non-renewable for Stated Reasons Only Accident and Health;

(O) Other Accident Only Accident and Health; or

(P) All Other Accident and Health.

(2) For an insurer that is required to file the Fire and Casualty Annual Statement Form 2, page 14 Texas Supplement, Exhibit of Premiums and Losses (coded "14 TS"), in addition to any line written in by the insurer, each of the following is a line of insurance:

(A) fire;

(B) allied lines;

(C) earthquake;

(D) flood;

(E) farmowners multiple

peril;

(F) homeowners multiple peril;

(G) Texas commercial multiple peril (non-liability portion);

(H) growing crops (all other);

(I) multiple peril crop;

(J) inland marine;

(K) ocean Marine;

(L) group accident and health;

(M) group credit accident and health;

(N) other credit accident and health;

(O) collectively renewable accident and health;

(P) non-cancellable accident and health;

(Q) guaranteed renewable accident and health;

(R) non-renewable for stated reasons only;

(S) other accidents only;

(T) all other accident and health;

(U) workers' compensation;

(V) Texas commercial multiple peril (liability portion);

(W) financial guaranty;

(X) medical malpractice liability (physicians-including surgeons and osteopaths);

(Y) medical malpractice liability (all other health care professionals);

(Z) medical malpractice liability-hospitals;

(AA) medical malpractice liability (all other health care facilities);

(BB) product liability;

(CC) other general liability;

(DD) fidelity;

(EE) surety;

(FF) glass;

(GG) burglary and theft;

(HH) boiler and machinery;

(II) credit guaranty;

(JJ) mortgage guaranty;

(KK) aircraft (all perils);

(LL) private passenger auto no-fault personal injury protection;

(MM) other private passenger auto liability;

(NN) commercial auto no-fault personal injury protection;

(OO) other commercial auto liability;

(PP) private passenger auto physical damage; or

(QQ) commercial auto physical damage.

(b) Nothing in this section allows an insurer to cancel or non-renew any coverage that would violate any provisions contained in the policy of insurance itself.

**§7.1804. When a Plan Is Required.**

(a) Any authorized insurer must file with the Commissioner of Insurance a plan of orderly withdrawal before the insurer undertakes total or substantial withdrawal from a line of insurance.

(1) The insurer undertakes total withdrawal from a line of insurance when it takes any action on its own initiative that will result in the insurer's ceasing to write a line of insurance, as defined in §7.1803 of this title (relating to What Constitutes a Line of Insurance). An insurer will not be held to have acted on its own initiative in

effecting a total withdrawal from a line of insurance when it acts pursuant to a Commissioner or Board disciplinary or administrative directive or order, or when the insurer acts pursuant to a directive of a supervisor, conservator, or receiver. If any out-of-state directive or order is not provided to the Commissioner within 30 days of the issuance of any such directive or order, the insurer will be held to have acted on its own initiative.

(2) The insurer undertakes substantial withdrawal from a line of insurance when it takes any action on its own initiative that will result in reducing the insurer's total annual premium volume in Texas for the current calendar year for a line of insurance, as defined in §7.1803 of this title, by 75% or more of the total annual premium volume in Texas for the immediately preceding calendar year for such line of insurance. An insurer will not be held to have acted on its own initiative in effecting a substantial withdrawal from a line of insurance when it acts pursuant to a Commissioner or Board disciplinary or administrative directive or order, or when the insurer acts pursuant to a directive of a supervisor, conservator, or receiver. If any out-of-state directive or order is not provided to the Commissioner within 30 days of the issuance of any such directive or order, the insurer will be held to have acted on its own initiative.

(b) Exceptions. An insurer is not required to file a plan of orderly withdrawal when:

(1) the insurer is transferring business from the insurer to a company within the same insurance holding company system, as defined in the Insurance Holding Company System Regulatory Act, Article 21.49-1, §2 of the Insurance Code, and admitted to do business in this state, or

(2) the line of business is written by a stipulated premium company unless such line is written pursuant to the Insurance Code, Article 22.23(b) or Article 22.23A.

**§7.1805. Contents of Withdrawal Plan.**

(a) The withdrawing insurer shall file a plan of orderly withdrawal with the Commissioner of Insurance that is constructed to protect the interests of the people of this state. The plan must be signed by at least one officer of the insurer and, for each line of insurance being withdrawn or having total annual premium volume reduced by 75 percent or more, must contain the following:

(1) identification, in accordance with the line of insurance designations in §7.1803 of this title (relating to What Constitutes a Line of Insurance), of the line

or lines of insurance being withdrawn or having total annual premium volume reduced by 75% or more;

(2) the date the insurer intends to begin and complete its withdrawal;

(3) an explanation of the reasons for the withdrawal;

(4) provisions for notifying all of the affected Texas policyholders and certificateholders of the dates of the beginning and completion of the total or substantial withdrawal and how the withdrawal will affect them, including but not limited to:

(A) a copy of the notice and an explanation of the manner in which the notice will be provided to policyholders and certificateholders; and

(B) either affirmation that such notice will be provided within 30 days of the approval of the withdrawal plan or a request to provide the notice at some other specified date or time, and such request must be approved by the Commissioner.

(5) provisions for meeting all of the insurer's contractual obligations, including but not limited to:

(A) notification of all affected agents of the insurer of the date the insurer intends to begin and complete the withdrawal;

(B) for fire and casualty insurers, a statement affirming the insurer's compliance with the provisions of the Insurance Code, Article 21.11-1, relating to cancellation of agency contracts;

(C) for insurers writing liability coverage as specified in the Insurance Code, Article 21.49-2A, a statement affirming the insurer's compliance with the provisions of Article 21.49-2A, relating to cancellation and nonrenewal of certain liability insurance coverage; and

(D) for insurers writing property and casualty coverage as specified in the Insurance Code, Article 21.49-2B, a statement affirming the insurer's compliance with the provisions of Article 21.49-2B, relating to cancellation and nonrenewal of certain property and casualty policies;

(6) provisions for providing service to the insurer's Texas policyholders and claimants;

(7) information on Texas business, including:

(A) for insurers filing total withdrawal plans, the premium volume and the number of policies and certificates and covered persons in Texas for each line to be withdrawn;

(B) for insurers filing substantial withdrawal plans, the total annual premium volume and number of policies and certificates and covered persons in Texas for each line in which the total annual premium volume in Texas is being reduced by 75% or more both before withdrawal is effected and after withdrawal is completed;

(C) estimate of what percentage of the Texas market the withdrawal constitutes;

(D) any information necessary to assist the Commissioner in determining whether a market availability problem is created by the total or substantial withdrawal, the extent of the problem, and what market assistance may be needed to alleviate the problem, including but not limited to the following:

(i) type of location and geographic area subject to the withdrawal if not statewide (identify type of area such as suburban, urban, rural, or list specific rating territories) and zip codes if entire state not included in withdrawal; and

(ii) if applicable, types of risks no longer being covered (for example, if no longer writing private passenger auto insurance coverage for single-car families or for persons without supporting business; or if no longer providing homeowner's insurance coverage for low-value homes, or in areas with high loss-ratios, or in areas with historically high exposure to natural disasters). The information listed in this clause is provided for purposes of example only and is not intended to be a comprehensive or exhaustive list.

(E) if an insurer is unable to provide the exact number of certificates and covered persons, the insurer shall provide estimates and explain how the estimates were determined;

(8) number of and estimated amount of all losses outstanding in Texas, including claims incurred but not reported;

(9) a plan to handle the losses specified in paragraph (8) of this subsection, including but not limited to:

(A) identification of what assets will be available for paying outstanding incurred but not reported claims, claims in the course of settlement, and associated loss adjustment expenses;

(B) identification of who specifically will administer the run-off of the business; and

(C) an actuarial opinion certifying that adequate reserves are available to pay outstanding claims;

(10) if Texas policyholders or certificateholders are to be reinsured, the filing of a reinsurance agreement pursuant to all statutory and regulatory requirements and, when applicable, the filing of an assumption certificate;

(11) provisions for meeting any applicable statutory obligations, including but not limited to:

(A) payment of any guaranty fund assessments;

(B) participation in any assigned risk plan, pool, fund, facility, or joint underwriting arrangement; and

(C) payment of any taxes;

(12) if the insurer has any responsibility for small premium workers' compensation policies, provision of information on number of such policies assigned to the insurer by the Department and number of such policies actually written; and

(13) for insurers filing total withdrawal plans, affirmation that no new business will be solicited by the insurer in this state during or following the withdrawal period unless the insurer first complies with §7.1808 of this title.

(b) The filing of a single consolidated withdrawal plan for all withdrawing insurance companies in the same holding company system, as defined in the Insurance Holding Company System Regulatory Act, Article 21.49-1, §2 of the Insurance Code, does not meet the requirements of this subchapter. A separate withdrawal plan must be filed for each insurance company intending to totally or substantially withdraw from a line or lines of insurance.

#### *§7.1806. Plan Submission and Approval Procedures.*

(a) Any insurer filing a plan of orderly withdrawal should submit the plan to the Texas Department of Insurance, Company License Section, Mail Code 305-5B, P.O. Box 149104, Austin, Texas 78714-9104.

(b) The withdrawal plan shall be deemed approved if the Commissioner has not held a hearing within 30 days after the complete plan is filed or has not denied approval within 30 days after the hearing.

(c) No plan shall be considered "filed" until such date as the withdrawing insurer has provided to the Commissioner all information and material necessary to constitute a completed plan of orderly withdrawal, as required under this subchapter.

(d) Within ten business days of the Commissioner's receipt of the withdrawal plan, the insurer will be notified by letter either that the plan is sufficient to constitute a completed plan of orderly withdrawal that meets all of the requirements of this subchapter or that the plan is insufficient to constitute a completed plan of orderly withdrawal that meets all of the requirements of this subchapter and what information and material must be provided in order for the insurer to have filed a completed plan of orderly withdrawal, as required under this subchapter.

*§7.1807. Filing of Annual Financial Statement and Other Required Data and Information.* Any insurer filing a total withdrawal plan or a substantial withdrawal plan shall continue to file all annual financial statement data, other required statistical and data filings, and any other Department-requested information applicable to any withdrawn line until all policyholder obligations for such line in this state are fulfilled. This section does not exempt an insurer from any filings or information requests required by the Department.

*§7.1808. Requirements to Resume Writing Insurance.* Any insurer totally or substantially withdrawing from writing any line of insurance in this state and required to file a plan of orderly withdrawal pursuant to the Insurance Code, Article 21.49-2C, may not resume writing the withdrawn line in this state without complying with all applicable statutory and regulatory provisions governing authorization to write such line of insurance in this state and receiving the written approval of the Commissioner to resume such writing.

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 July 1, 1993.

TRD-9325155

Linda K. von Quintus-Durm  
Chief Clerk  
Texas Department of  
Insurance

Effective date: July 22, 1993

Proposal publication date: April 23, 1993

For further information, please call:(512) 463-6328

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part III. Texas Air Control Board

#### Chapter 111. Control of Air Pollution From Visible Emissions and Particulate Matter

##### Visible Emissions

##### • 31 TAC §111.111-

The Texas Air Control Board (TACB) adopts an amendment to §111.111, concerning requirements for specified sources, with changes to the proposed text as published in the February 16, 1993, issue of the *Texas Register* (18 TexReg 1000).

The amendment to §111.111(a)(4)(B) requires that daily visual observation of gas flares for the purpose of determining the existence of visible emissions be conducted for a minimum of six minutes. The amendment is in response to a petition from the Texas Chemical Council (TCC) requesting that the TACB delete the requirement for daily flare observation. The TACB believes that, in order to maintain enforceability of the rule, a frequency of observation must be retained. Comment and testimony was solicited on the amendment and the concept of daily observation.

A public hearing was held in Austin on March 17, 1993, to consider the proposed revision to §111.111. A total of 23 commenters submitted testimony on the proposal and the daily observation issue during the comment period which closed on March 31, 1993. Twenty-two commenters opposed the proposal and 21 of these opposed the concept of daily observation. The United States Environmental Protection Agency (EPA) registered no comment on the proposal, though they did support the specification of an observation frequency.

The principal issue of the majority of commenters was the potential effectiveness of the rule versus its cost. Marathon Oil Company (Marathon) stated that the large flares at affected facilities are under 24-hour surveillance using video cameras or infrared sensing devices. The commenter contended that this is a more effective method than keeping trained observers on-site for a six-minute observation in a 24-hour period, especially since the only enforcement issue is whether or not the flare is smoking and not a determination of opacity. The commenter also stated that flares are a simple and reliable air pollution control device and daily observation is not necessary. Amoco Chemical Company (Amoco Chem) supported these statements and stated further that smoking flares are usually caused by an upset in plant operating conditions which, in the case of flares, indicate a condition that is costly and is better detected through internal quality control measures. Other companies supporting these positions included Occidental Chemical

Corporation (OxyChem), Union Carbide Chemicals and Plastics Company (Union Carbide), Texas Chemical Council (TCC), Eastman Chemical Company (Eastman), Fina Oil and Chemical Company (Fina), Rohm and Haas Texas Incorporated (Rohm), and Dow Chemical Company (Dow).

Texas Mid-Continent Oil and Gas Association (TMOGA), Mobil Oil Corporation (Mobil), ARCO Pipeline Company (ARCO), ARCO Oil and Gas Company (AOGC), Dow, Amoco Chem, Rohm, Texaco Inc. (Texaco), and Chevron Port Arthur Refinery (Chevron) all stated that a six-minute observation is a tiny fraction of the operating time of a process flare, and the proposed daily readings require resources to be borrowed from other activities that would better prevent upsets and visible emissions. The TCC, Phillips Petroleum Company (Phillips), Ethyl Corporation (Ethyl), Chevron, Amoco Chem, and Monsanto Company (Monsanto) testified that the proposal is burdensome and expensive with little environmental benefit. Union Carbide commented that the efforts associated with a six-minute observation yield little, if any, benefit though the regulation is not overly burdensome. The purpose of any TACB regulation is to control air pollution, so the first consideration of any proposal is the effectiveness of the rule. This is certainly not the only consideration, as the benefit of a measure must be weighed against the cost. While the staff believes that the commenters have overestimated their compliance costs, other testimony raises serious questions about the effectiveness of a daily six-minute observation. It is clear that many plant policies, operating procedures, and monitoring equipment are already providing daily or more frequent checks of continuous flares. In the case of infrared devices, which are not dependent on visible light, the monitoring system is superior to visible observation. The staff agrees with these comments, and the rule has been revised to minimize the need for six-minute observations and provide alternative means of compliance.

Marathon, TCC, Chevron, Eastman, AOGC, Dow, Ethyl, Rohm, Warren Petroleum Company (Warren), and Monsanto testified that the TACB has underestimated the costs of the amendment. The TCC states that a 40 flare facility will spend \$500,000 yearly to comply with the daily observation. Eastman estimated that each flare will require 30 minutes of observation, travel, and recordkeeping time. OxyChem estimated that, allowing for vacations and illnesses, a minimum of five people per shift would be necessary to cover the proposed requirements. The staff based cost estimates on a large facility containing 30 to 40 flares with a read time of six minutes per flare. The TACB agrees that some allowance should be made for travel between flares, but also believes that much of this travel would be offset by reading more than one flare from the same position. This is a reasonable assumption given that a large facility likely would have several flares within a common field of view meeting the necessary lighting requirements.

TMOGA and Mobil suggested deletion of the compliance determination required in §111.111(a)(4)(B). Exxon suggested with-

drawal of the six-minute observation requirement. Section 111.111 (a)(4)(B) must remain in the rule to meet federal enforcement requirements. For reasons stated later in this evaluation, the daily six-minute observation is changed to a simple visual check for flare smoke and a minimum recording rate for the data is specified.

Exxon Company, U.S.A. (Exxon) stated that the daily observation has no relation to actual plant operation as many flares are only used as needed, and the only continual source of emissions is the small pilot light used to ignite gas as it is vented to the flare. DuPont Agricultural Products (DuPont), TMOGA, Mobil, ARCO, AOGC, and Dow also testified that the proposed six-minute observation does not give an accurate indication of the operation of this type of process or emergency flares. OxyChem, Phillips, AOGC, Monsanto, and Chevron urged exempting emergency and other infrequently used flares from the daily observation requirement. ARCO specifically requested an exemption for flares on liquid petroleum pipelines and other remote unmanned locations. The testimony has brought out instances where daily observation is clearly impractical, such as emergency, upset, or infrequently used process flares. A daily visual check of these flares is no guarantee of their proper operation when needed. Additionally, many of these flares are located at sites that are not normally staffed and are used only in case of upsets. Staffing or visiting these sites for the sole purpose of a daily observation is an unreasonable requirement when it will not ensure proper flare operation. Flares used only in emergencies or upsets are exempt from a specified frequency of visual observation checks.

The issue of process flares that are operated less than continuously remains. Reference Method 9 or 22 will be performed should a process change occur. The staff further recommends that flares that are operated daily, but less than continuously, be required to use a spot check system as is used for continuous flares.

Union Carbide, Phillips, TMOGA, Mobil, ARCO, and AOGC stated that plant policy concerning upsets sensitizes employees to report smoking flares and that visual observations are routinely made by plant personnel, a procedure that is more effective than the one six-minute observation. Marathon, OxyChem, Union Carbide, DuPont, TCC, Chevron, Fina, and Ethyl stated that flare smoke only occurs during abnormal conditions, in this case meaning a release of process gas to the flare, and that these conditions are already reported under TACB upset rules if they exceed five minutes in a two-hour period. The proposed observation time and frequency were not meant to supplant upset rules, but rather as a check on normal flare operation. The staff disagrees with the comment that a major upset is the only case that can cause flares to smoke, and believes that slight adjustments may be necessary under normal conditions to maintain clean flare operation. The primary issue remains whether a daily observation using EPA Reference Methods 9 and 22 is a cost-effective check on flare operation.

An individual supported the concept of daily observations, suggesting that readings be conducted when conditions are most likely to lead to flare smoking or upsets. The individual also stated that the six-minute observation period is inconsistent with the five-minute emissions in a two-hour period currently allowed in the regulation. The nature of industrial process upsets makes them difficult if not impossible to predict. The staff does not see a practical method of specifying a visible emission test during a period of likely upsets. A six-minute visible emission test and the five-minute allowable visible emission limit are not inconsistent. The six-minute observation was meant as a check on flare operation. The five-minute allowable limit is an emission standard.

Union Carbide stated that TACB inspectors can observe flares from numerous points outside a plant if they suspect a problem or are responding to a complaint. The commenter further stated that flares are highly visible and subject to public observation.

Union Carbide also recommended that a daily check of flares be deleted for plants having a written policy to report upsets and that the visible emission test be performed quarterly. The commenter is correct about the ability of the TACB inspectors or the public to observe flares at a considerable distance. This does not relieve the operator of the responsibility to provide internal checks on their operation. The internal policy of a facility regarding the reporting of upsets is not at issue. All facilities are currently required by TACB General Rules to report upsets and should have the necessary internal practices to comply with this requirement. The intent of the proposal was to require a visual check of flares to confirm that operating parameters and conditions result in a clean burn.

Phillips recommended that a spot check be included in the daily operating logs of flares to indicate on a checklist whether the flare is smoking or not. TMOGA endorsed the concept of a simple visual observation, but recommended it be performed every six months. The check suggested by Phillips is a simple addition to existing records and requires a few seconds of observation time and no separate recordkeeping. Given that a six-minute observation would represent only a fraction of the operating time of the flare, the staff believes the spot check recommended by Phillips to be equally effective and has added this alternate procedure for continuous process flares to the proposed rule. The staff believes this will meet EPA requirements for the specification of an observation frequency. Flares observed smoking would be required to undergo a compliance check. If any flare undergoes a process change, Reference Method 9 or 22 will be required as a performance check.

Eastman and AOGC testified that the proposal does not make allowances for weather conditions which prevent visual observation. The TACB has adopted a spot check of continuous or daily operated flares rather than an extended observation as required by Reference Methods 9 and 22. Unless the weather is unusually severe, it should have little effect on this spot check.

DuPont, TCC, Chevron, Ethyl, and Amoco stated that EPA Method 9 is not appropriate for gas flare observation. DuPont also stated that its first position is that an observation frequency not be specified. A second position would be to specify an annual observation. Amoco Chem recommended an annual or process change test. Monsanto and Rohm recommend an annual or semiannual check. The TCC, Ethyl, Exxon Chemicals Americas (Exxon Chem), and Amoco suggested visible emissions testing be performed for process changes and for initial compliance testing. The TACB regulations do not require an opacity determination for gas flares, but simply a check for visible emissions. In this case, EPA Reference Method 22 is the most appropriate option. Acid gas flares are subject to opacity limits and require that Reference Method 9 remain in the regulations as an approved method of determining compliance. EPA requires that an observation frequency be specified to meet federal enforceability guidelines. The staff also recommends opacity testing anytime a flare undergoes a process change. For permitted flares, an initial compliance test is covered under permit requirements. The staff believes that visible emissions testing will be difficult to conduct during emergency or upset conditions. Readings will not be required during emergency flare operation.

The TCC, Eastman, Ethyl, and Amoco stated that it is not clear what problem the proposal is meant to correct. The TCC, Ethyl, and Amoco stated that the TACB currently has the authority to impose more frequent monitoring if a flare or facility is causing a problem. Amoco Production Company suggested exempting process flares of less than 24,000 standard cubic feet throughput per day and those covered by or meeting the requirements of a standard exemption. OxyChem stated that deploying a person to read a flare during upset conditions could threaten that person's safety. The TCC, Texaco, Dow, and Exxon requested that flare operators be given the option of performing a Reference Method 9 or 22 to determine compliance on a smoking flare or simply conceding noncompliance and reporting the flare in upset. The TACB is not aware of any current operational problem with flares. The proposal was intended to satisfy EPA requirements for federal rule enforceability and to provide a mechanism for regular checks on flare operation. The TACB seeks to accomplish these goals in the least burdensome manner to the regulated community. The TACB will retain its authority to monitor and require additional testing when necessary, but this is a separate issue from internal checking. The TACB staff disagrees that flares covered or meeting standard exemption requirements or burning less than 24,000 cubic feet per day be exempted on that basis. These flares may be exempt from permitting, but remain subject to general emission limitations that are applied to a variety of unpermitted sources covered by Regulation I. Reference Methods 9 and 22 are time consuming compliance methods and could pose a problem for lightly staffed facilities, particularly when the staff time might be better spent in correcting a smoking flare. Flare operators will be given the option of performing the compliance methods or conceding

noncompliance and reporting the flare in upset.

TCC, Ethyl, and Amoco stated that the specification for daily observation was not in the original April 1992 proposal when Regulation 1 was amended to meet federal requirements for continuous emission monitoring where feasible. The commenters are correct in their statement that the daily observation was not in the April 1992 proposal. This was added later as a rule clarification and to meet EPA requirements to specify an observation frequency. The TACB agreed that this issue should be reopened for public comment, as was advocated in the petition submitted by TCC.

Amoco Chem suggested deleting the phrase "unless otherwise stated" from §111.111(a)(4)(B). The staff agrees that the phrase is not necessary and it has been deleted.

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

#### §111.111. Requirements for Specified Sources.

(a) Visible emissions. No person may cause, suffer, allow, or permit visible emissions from any source, except as follows:

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

(4) Gas flares.

(A) Visible emissions from a process gas flare shall not be permitted for more than five minutes in any two-hour period, except as provided in §101.11(a) of this title (relating to Exemptions from Rules and Regulations). Process gas flares are those used in routine or scheduled facility operations. Acid gas flares, as defined in §101.1 of this title (relating to Definitions), are subject only to the provisions of subsection (a)(1) of this section. Beginning September 1, 1993, compliance with this subparagraph for process gas flares shall be determined:

(i) anytime there is an operational change in the flare that requires a permit amendment under TACB Regulation VI. Compliance shall be determined using Reference Method 22 (40 Code of Federal Regulations 60, Appendix A), Reference Method 9 (40 Code of Federal Regulations 60, Appendix A), or an alternative test method approved by the Executive Director and the United States Environmental Protection Agency (EPA). The observation period for this compliance demonstration shall be no less than two hours unless non-compliance is determined in a shorter time period or operational changes are made to the flare that stop any observed smoking; and

(ii) by a daily notation in the flare operation log that the flare was observed including the time of day and whether or not the flare was smoking. For flares operated less frequently than daily, the observation will be made for each operation. The flare operator shall record at least 98% of these required observations. If smoking is detected, compliance with the emission limits of this paragraph shall be determined using Reference Method 22, Reference Method 9, or an alternative test method approved by the Executive Director and EPA. The observation period for this compliance determination shall be no less than two hours unless non-compliance is determined in a shorter time period or operational changes are made to the flare that stop the smoking. A Method 22 or Method 9 observation will be waived provided the operator reports the flare to be in an upset condition under the requirements of §101.6 of this title (relating to Notification Requirements for Major Upset).

(B) Flares used only during emergency or upset conditions are exempt from the compliance monitoring requirements of subparagraph (A)(i) and (ii) of this paragraph.

(5)-(8) (No change.)

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

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 July 1, 1993.

TRD-9325234 Lane Hartscock  
Deputy Director, Air Quality  
Planning  
Texas Air Control Board

Effective date: July 23, 1993

Proposal publication date: February 16, 1993

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

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 48. Community Care for Aged and Disabled

##### Program for All-inclusive Care for the Elderly (PACE)

• 40 TAC §48.2811

The Texas Department of Human Services (DHS) adopts an amendment to §48.2811, concerning reimbursement methodology for program for all-inclusive care for the elderly

(PACE), without changes to the proposed text as published in the May 25, 1993, issue of the *Texas Register* (18 TexReg 3353).

The justification for the amendment is to reflect Medicare participation in the third year of the waiver, instead of in the second year.

The amendment will function by providing a more accurate understanding of Medicare participation in the waiver.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provide the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413 (502), §16, which provide the Health and Human Services Commission with the authority to administer federal medical assistance funds.

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 July 1, 1993.

TRD-9325148 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Effective date: August 15, 1993

Proposal publication date: May 25, 1993

For further information, please call: (512) 450-3765

## Chapter 54. Family Violence Program

### Shelter Center Services

• 40 TAC §54.306

The Texas Department of Human Services (DHS) adopts an amendment to §54.306, concerning services for resident children without changes to the proposed text as published in the May 25, 1993, issue of the *Texas Register* (18 Tex Reg 3354).

The justification for the amendment is to clarify that shelter center services for children are not subject to day care licensing.

The amendment will function by providing, in addition to the services which must be provided by shelter centers, that shelter center services for children are not subject to day care licensing.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs, and Chapter 51, which provides the department with the authority to contract for family violence shelter-center services and to adopt rules to implement them.

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 July 1, 1993.

TRD-9325149      Nancy Murphy  
                         Section Manager, Policy  
                         and Document Support  
                         Texas Department of  
                         Human Services

Effective date: August 1, 1993

Proposal publication date: May 25, 1993

For further information, please call: (512)  
450-3765





Name: Michael O'Shea  
Grade: 3  
School: Montgomery Elementary, Carrollton-Farmers Branch ISD



# Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

**Emergency meetings and agendas.** Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

**Posting of open meeting notices.** All notices are posted on the bulletin board at the Office of the Secretary of State in lobby of 221 East 11th Street, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

**Meeting Accessibility.** Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

## Texas Department of Agriculture

**Tuesday, July 13, 1993, 6:30 p.m.** The State Seed and Plant Board of the Texas Department of Agriculture will meet at the Beaumont Hilton, 2355 IH-40, Beaumont. According to the agenda summary, the board will elect officers; consider approval of minutes; review applications for license as certified seed growers; consider requests for certification eligibility of new varieties under the Texas Certification Program; and discuss business.

Contact: Charles Leamons, P.O. Box 629, Giddings, Texas 78942, (409) 542-3691.

Filed: July 5, 1993, 12:03 p.m.

TRD-9325280

**Tuesday, August 3, 1993, 10:00 a.m.** The Office of Hearings of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Room 928B, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of 4 TAC §7.22(1) (West Supplement 1992) and Texas Agriculture Code Annotated §76.116(a)(1) (Vernon Supplement 1992) by Tommy Janek.

Contact: Joyce Arnold, P.O. Box 12847, Austin, Texas 78711, (512) 475-1668.

Filed: July 2, 1993, 2:09 p.m.

TRD-9325212

## State Banking Board

**Tuesday, July 13, 1993, 1:30 p.m.** The State Banking Board will meet at 2601 North Lamar Boulevard, Austin. According

to the agenda summary, the board will review and discuss approval of minutes of previous meeting; consider conversion applications for Texas City Bank, N.A., Texas City, and First National Bank of Pearland, Pearland; consider interim charter applications for New Citizens State Bank, Somerville, New Kyle State Bank, Kyle, Interim Columbus State Bank, Columbus, New First State Bank, Pittsburg, New Grapevine Bank, Grapevine, and New Sulphur Springs Bank, Sulphur Springs; consider change of domicile applications for Secured Trust Corporation, Tyler, Security State Bank, McCamey, and Woodway Financial Advisors, A Trust Company, Houston; review of other pending applications, review of discontinuance of unmanned teller machines; and the board may convene into executive session for consideration of matters pertaining to applications as required by Article 342-115(6)(a) of TBC.

Contact: William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1317.

Filed: July 2, 1993, 9:54 a.m.

TRD-9325177

## Texas Commission for the Blind

**Thursday-Friday, July 15-16, 1993, 8:30 a.m.** The Governing Board and Consumer Advisory Committee of the Texas Commission for the Blind will meet at 6000 Middle Fiskville Road, Austin. According to the complete agenda, the committee will discuss consumer issues as they relate to the agency's strategic plan. Persons with disabilities who have special communication or other needs who are planning to attend the meeting should contact the Public

Information Office at (512) 459-2612. Requests should be made as far in advance as possible.

Contact: Andrew A. Wier, 4800 North Lamar Boulevard, Austin, Texas 78756, (512) 459-2615.

Filed: July 5, 1993, 11:17 a.m.

TRD-9325278

## Texas Bond Review Board

**Tuesday, July 13, 1993, 10:00 a.m.** The Staff of the Texas Bond Review Board will meet in Committee Room #5, Fifth Floor, Clements Building, 300 West 15th Street, Austin. According to the agenda summary, the staff will call the meeting to order; discuss approval of minutes; proposed issues; other business; and adjourn.

Contact: Jim Thomassen, 300 West 15th Street, Suite 409, Austin, Texas 78701, (512) 463-1741.

Filed: July 5, 1993, 4:22 p.m.

TRD-9325301

## Texas Department of Commerce

**Tuesday, July 13, 1993, 9:00 a.m.** The International Trade Commission of the Texas Department of Commerce will meet at 816 Congress Avenue, 11th Floor Board Room, Austin. According to the agenda summary, the commission will call the meeting to order; introduce audience; discuss approval of minutes for January 25, 1993 meeting; hear legislative report; update on Texans for NAFTA and Texas/Mexico Authority; update on Smart Jobs

Fund; review of Fiscal Year 1993 International Action Plan and program results; presentation of proposed Fiscal Year 1994 International Business Plan by region; ITC committee assignments and focus for Fiscal Year 1994; and adjourn.

Contact: Richard Hall, 816 Congress Avenue, Suite 1120, Austin, Texas 78701, (512) 320-9672.

Filed: July 5, 1993, 3:22 p.m.

TRD-9325294

### Texas Planning Council for Developmental Disabilities

Thursday-Friday, July 29-30, 1993, 1:00 p.m. and 8:30 a.m. respectively. The Planning and Evaluation Committee of the Texas Planning Council for Developmental Disabilities will meet at the Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Room 4240, Austin. According to the agenda summary, the committee will call the meeting to order; introduce council members, staff, and guests; discuss approval of minutes of June 4, 1993; hear staff comments on available funding; discuss continuation of current activities; continue unfinished business from agenda item four; discuss state school closure study; and adjourn. On Friday, the committee will discuss future funding activities; continue unfinished business from agenda item eight; decision making initiative; act on authorization and reauthorization of funding activities; and adjourn.

Contact: Jan Mallett, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4974.

Filed: July 5, 1993, 3:00 p.m.

TRD-9325291

### Texas Education Agency

Wednesday, July 7, 1993, 10:00 a.m. The Texas Center for Educational Technology (TCET) Governing Board of the Texas Education Agency held an emergency meeting at the University of North Texas, University Union, Diamond Eagle Suite, Denton. According to the complete agenda, the board interviewed finalists for the position of executive director. The interviews were held in executive session in accordance with provisions of Texas Civil Statutes, Article 6252-17, §2(g), regarding personnel matters. The emergency status was necessary as the agency found it of urgent public necessity for this meeting to be held on an emergency basis to enable the board of directors to proceed with the selection of an executive director; and the meeting was scheduled to accommodate interviewees schedules.

Contact: Delia R. Duffey, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9087.

Filed: July 2, 1993, 11:54 a.m.

TRD-9325201

### Texas Employment Commission

Friday, July 9, 1993, 9:00 a.m. The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will discuss prior meeting notes; meet in executive session to consider relocation of agency headquarters and to consider Administaff, Inc. versus James Kaster, et al, and related litigation; actions, if any, resulting from executive session; hear presentation by Bob Manley of Adtel; hear staff reports; discuss internal procedures of commission appeals; consider and possibly act on higher level appeals in unemployment compensation cases listed on Commission Docket 27; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: July 1, 1993, 3:58 p.m.

TRD-9325152

Tuesday, July 13, 1993, 9:00 a.m. The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will discuss prior meeting notes; meet in executive session to consider relocation of agency headquarters; actions, if any, resulting from executive session; consider and possibly approve bid for interior and exterior renovation at the Corpus Christi agency-owned building; internal procedures of commission appeals; higher level appeals in unemployment compensation cases listed on Commission Docket 28; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: July 5, 1993, 3:08 p.m.

TRD-9325293

### Texas Commission on Fire Protection

Wednesday-Friday, July 14-16, 1993, 9:00 a.m. The Funds Allocation Advisory Committee of the Texas Commission on Fire Protection will meet at 3006B Longhorn Boulevard, Austin. According to the agenda summary, the committee will discuss approval of minutes of previous meeting; monitoring reports; discuss and possibly act on applications for assistance

received by February 28, 1993, considered at the April 14, 15 meeting and placed on hold; discuss and possibly recommend interest rate; discuss and possibly act on possible rule amendments; regarding change to the application instructions; and make recommendations to the commission concerning assistance to fire departments in the acquisition of resources.

Contact: Jack Woods, 3006-B Longhorn Boulevard, Austin, Texas 78758, (512) 873-1700.

Filed: July 2, 1993, 3:09 p.m.

TRD-9325222

Wednesday-Friday, July 14-16, 1993, 9:00 a.m. The Fire Protection Personnel Advisory Committee of the Texas Commission on Fire Protection will meet at 3006B Longhorn Boulevard, Austin. According to the complete agenda, the committee will call the meeting to order; discuss and possibly act concerning rules pending before the Texas Commission on Fire Protection relating to paid fire protection personnel and local fire departments regulated under Government Code, Chapter 419, Subchapter B; discuss and possibly act on rule recommendations concerning Texas Government Code §419.0321 (added by Senate Bill 1110) including definition of "fire suppression duties" for part-time fire protection employees.

Contact: Jack Woods, 3006-B Longhorn Boulevard, Austin, Texas 78758, (512) 873-1700.

Filed: July 2, 1993, 3:09 p.m.

TRD-9325223

Wednesday-Friday, July 14-16, 1993, 9:00 a.m. The Texas Commission on Fire Protection will meet at 3006B Longhorn Boulevard, Austin. According to the agenda summary, the commission will meet in executive sessions under Texas Civil Statutes, Article 6252-17, 2(g) and 2(e); discuss proposed agency budget; matters referred from the Volunteer Fire Fighter Advisory Committee; matters referred from the Fire Protection Personnel Advisory Committee; discuss and possibly act on funding recommendations from the Funds Advisory Committee; funding amendments to rules under 37 TAC Chapter 521 relating to fire extinguishers; 37 TAC Chapter 531 relating to fire alarm systems; 37 TAC Chapter 503 relating to flammable liquids equipment testing laboratories; on new rules relating to eligibility of persons with criminal backgrounds; and on Docket Number FM-060, appeal of State Fire Marshal Order Number FM-301; matters from the executive director; new matters from the public; and discuss and possibly act on meeting dates.

Contact: Jack Woods, 3006-B Longhorn Boulevard, Austin, Texas 78758, (512) 873-1700.

Filed: July 2, 1993, 3:09 p.m.

TRD-9325224

**Wednesday-Friday, July 14-16, 1993, 9:00 a.m.** The Texas Commission on Fire Protection will meet at 3006B Longhorn Boulevard, Austin. According to the revised agenda summary, the commission will review and discuss Helen Campbell versus the Texas Commission on Fire Protection in the 98th Judicial District Court of Travis County; discuss and possibly act regarding new rules under 37 TAC Chapter 503 relating to Flammable Liquids Equipment Testing Laboratories; draft of future rules relating to eligibility of persons with criminal backgrounds for certification, registration, licensing, or holding a permit in matters regulated by the Texas Commission on Fire Protection pursuant to Articles 6252.13c and 6252.13d, Texas Civil Statutes; report and possible discussion regarding the status of Docket Number FM-060, appeal of State Fire Marshal Order Number FM-301, regarding A-1 Fire and Safety Company, Inc., Waco Fire Equipment, Therrel Alarm Protection Services, Inc., John H. Restivo, Andrew P. Restivo, and Jack Restivo; and report from and discussion regarding the Mutual Aid Committee.

Contact: Jack Woods, 3006-B Longhorn Boulevard, Austin, Texas 78758, (512) 873-1700.

Filed: July 5, 1993, 12:01 p.m.

TRD-9325279

**Wednesday-Friday, July 14-16, 1993, 1:00 p.m., 9:00 a.m. and 9:00 a.m. respectively.** The Fire Alarm Advisory Council of the Texas Commission on Fire Protection will meet at 3006B Longhorn Boulevard, Austin. According to the agenda summary, the council will discuss and possibly act regarding election of vice-chairman; interpretation process for alarm rules; penalties, sanctions, and remedies for violations of Texas Insurance Code Article 5.43-2, and 37 TAC Chapter 531; regulation, licensing and other requirements applicable to monitoring of fire alarm systems; and proposed amendments new sections, or repeals under 37 TAC Chapter 531.

Contact: Jack Woods, 3006-B Longhorn Boulevard, Austin, Texas 78758, (512) 873-1700.

Filed: July 2, 1993, 3:09 p.m.

TRD-9325225

### Texas Funeral Service Commission

**Tuesday, July 13, 1993, 1:30 p.m.** The Texas Funeral Service Commission will meet at the Sheraton Mockingbird Hotel, 1893 West Mockingbird Lane, Dallas. Ac-

ording to the agenda summary, the commission will discuss approval of the minutes; make introduction of visitors; hear public comments period; executive director's report; discuss selection of meeting dates; consider proposed rules/rule amendments, as follows: §201.2-Agreements to be in Writing, §201.4-Motions for Consideration; exceptions, §201.7-Allegations of Violations; investigations, §201.11-Disciplinary Guidelines, §203.3-Funeral Director in Charge, §203.4-Transfer of Funeral Establishment Licenses Prohibited, §203.6-Provisional Licenses, §203.7-Comprehension of Disclosures (former §203.7 now included in §203.6), §203.115-Comprehension of Disclosure (repeal, move to §203.7), §203.13-Minimum Standards for Embalming, §203.19-Required Documentation for Embalming, §203.24-Sponsors of Provisional Licensees, §203.25-Establishment Licenses, and §203.26-Funeral Establishment Names.

Contact: Larry A. Farrow, 8100 Cameron Road, Suite 550, Austin, Texas 78754-3896, (512) 834-9992.

Filed: July 1, 1993, 2:30 p.m.

TRD-9325139

### Texas Department of Health

**Friday, July 16, 1993, 9:30 a.m.** The Physician Payment Advisory Subcommittee of the Health and Human Services Commission will meet at 1100 West 49th Street, Tower Building, Room T-607, Austin. According to the complete agenda, the subcommittee will hear opening comments; deputy commissioner's comments; discuss approval of minutes; TMRM inflation adjustment; advisory committee inquiries/follow-up; provider participation; pediatrician survey; open discussion; plan next meeting; and adjourn.

Contact: Geri Willems, 4807 Spicewood Springs Road, Building Four, Austin, Texas 78759, (512) 502-3256.

Filed: July 5, 1993, 3:00 p.m.

TRD-9325290

### Texas High-Speed Rail Authority

**Friday, July 9, 1993, 10:00 a.m.** The Board of Directors of the Texas High-Speed Rail Authority will meet at the DeWitt C. Greer State Highway Building, 125 East 11th Street, Austin. According to the agenda summary, the board will call the meeting to order; consider the minutes from the January 29, February 19, and April 19, 1993, board meetings; hear citizen communications; bid award for duplication and

distribution of scoping report for environmental impact statement; policy statement concerning subcontracting with universities; outstanding payment warrants discussed at the April 6, 1993 standing budget committee meeting; contract with Comptroller of Public Accounts authorizing post-payment audits of electronic vouchers; report on and consideration of franchisee procurement plan; report from the Texas TGV Corporation, including a report on the independent ridership study; report from the executive director on the receipt of the baseline implementation plan; meet in executive session; deliberate and possible act on, if necessary, matters discussed in executive session; report from Woodward-Clyde Consultants on environmental impact statement; consider an amendment to the Fiscal Year 1992 operating budget; status of proposed operations manual; Fiscal Year 1994 operating budget and consider proposed schedule for adoption of agency operating budget; status of proposed federal high-speed rail legislation; and hear additional citizen communication.

Contact: Allan Rutter, 823 Congress Avenue, #1502, Austin, Texas 78701, (512) 478-5484.

Filed: July 1, 1993, 2:52 p.m.

TRD-9325141

### Texas Department of Insurance

**Monday, July 12, 1993, 2:00 p.m.** The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board will consider a petition filed by the Workers' Compensation Insurance Facility (Facility) to withdraw notice of consideration under Article 5.96, Insurance Code, and of public meeting on August 4, 1993, to consider approval of proposed amendments to the Tabular Surcharge Plan and rate differentials of the Facility. The board will also consider an amended petition filed by the Facility to approve amendments to the Texas Workers' Compensation Insurance Facility rating plan reducing the tabular surcharge and rate differentials charged for risks written through the Facility. (Article 5.76-2, §4.05).

Contact: Angela Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: July 2, 1993, 3:49 p.m.

TRD-9325230

**Wednesday, July 14, 1993, 9:00 a.m.** The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, Room 100, Austin. Accord-

ing to the agenda summary, the board will discuss personnel; litigation; commissioner's orders; solvency; hear staff reports; legislative implementation update; consider personnel policy regarding compensatory time approval; proposed repeal of the following: 28 TAC §§5.9005-5.9008, amusement ride safety inspection; 28 TAC §§5.6702-5.6707, workers' compensation subscriber notices; and 28 TAC §§19.1001-19.1011, continuing education requirements for agents; proposed amendments to the following: 28 TAC §5.9302, equivalent coverage requirements; 28 TAC §5.9101, commercial multiperil insurance; 28 TAC §§5.9001-5.9004, and new §§5.9001-5.9004, and new §§5.9005-5.9014, amusement ride safety inspection; and 28 TAC §9.1, title insurance; consider new: 28 TAC §§31.101-31.107, requirements for receiver and special deputy receiver; §§31.201-31.207, requirements for Title, Property and Casualty and Life guaranty associations; and 28 TAC §5.9301, commercial insurance coverage; consider filings by Prudential General Insurance Company, Continental Casualty Company, and Federal Insurance Company, et al; meeting or hearing on Texas Workers' Compensation Commission forms filing; petitions filed by the Office of Public Insurance Counsel requesting 28 TAC rules affecting personal auto, residential property, and life, accident and health insurance; two petitions filed by Jim Mallett requesting 28 TAC rules affecting automobile insurance.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: July 5, 1993, 10:28 a.m.

TRD-9325276

**Wednesday, July 14, 1993, 10:00 a.m.** The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 13th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Nancy Lois Shockey/Shockey-Vandeburge, Houston, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Variable Contract Agent's license.

Contact: Melissa Slusher, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: July 5, 1993, 12:50 p.m.

TRD-9325282

**Thursday, July 15, 1993, 9:00 a.m.** The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 13th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether the examination report of

Bankers Protective Life Insurance Company, as of December 31, 1991, should be adopted or amended and adopted.

Contact: Melissa Slusher, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: July 5, 1993, 12:49 p.m.

TRD-9325281

### Lamar University System Board of Regents

**Thursday, July 8, 1993, 10:00 a.m.** The Board of Regents of Lamar University System met at the John Gray Institute, Map Room, 855 Florida, Beaumont. According to the agenda summary, the board called the meeting to order; gave invocation; discussed approval of minutes; heard chair's and chancellor's report; met in executive session; following committees met: Academic Affairs, Student Relations Services, Building and Grounds, Finance and Audit; reconvened board of regents meeting to consider committee reports; heard regents comments; and other reports.

Contact: James A. (Dolph) Norton, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: July 2, 1993, 11:26 a.m.

TRD-9325197

### Texas National Guard Armory Board

**Friday, July 9, 1993, 1:00 p.m.** The Texas National Guard Armory Board will meet at 2200 West 35th Street, Building 64, Austin. According to the complete revised agenda, the board will add the following item: "Use of Armories for Educational Purposes" and delete the following item: "Architect of Board-Rescind Resolution".

Contact: Sandra Hille, 2200 West 35th Street, Austin, Texas 78703, (512) 451-6143.

Filed: July 1, 1993, 2:30 p.m.

TRD-9325138

### Texas Board of Pardons and Paroles

**Monday, July 12, 1993, 1:30 p.m.** The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 2503 Lake Road, Suite #2, Huntsville. According to the agenda summary, the panel(s) (composed of three board member(s)) will receive, review and consider information and reports concerning prisoners/inmates and

administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: July 2, 1993, 8:57 a.m.

TRD-9325160

**Tuesday, July 13, 1993, 9:00 a.m.** The Parole Board of the Texas Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the complete agenda, the board will discuss and act on the following items: approval of minutes for meeting of May 11, 1993; discuss Senate Bill 532; parole selection criteria; discuss and possibly adopt a no smoking policy; discuss the Texas Administrative Code Rules affecting the Board of Pardons and Paroles; update regarding in-prison therapeutic community program; hear report by the Governor's office; discuss SCR 26; special needs parole; intermediate sanction facilities, pre-parole transfer, halfway house, and Lockhart work program report.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: July 2, 1993, 8:57 a.m.

TRD-9325163

**Wednesday, July 14, 1993, 1:30 p.m.** The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 1550 East Palestine, Suite 100, Palestine. According to the agenda summary, the panel(s) (composed of three board member(s)) will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: July 2, 1993, 8:56 a.m.

TRD-9325158

**Thursday, July 15, 1993, 9:00 a.m.** The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 1212 North Velasco, Suite 201, Angleton. According to the agenda summary, the panel(s) (composed of three board member(s)) will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject

to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: July 2, 1993, 8:57 a.m.

TRD-9325162

**Wednesday, July 14-16, 1993, 1:30 p.m.** The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 2503 Lake Road, Suite #2, Huntsville. According to the agenda summary, the panel(s) (composed of three board member(s)) will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: July 2, 1993, 8:56 a.m.

TRD-9325159

**Thursday-Friday, July 15-16, 1993, 9:00 a.m.** The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 1550 East Palestine, Suite 100, Palestine. According to the agenda summary, the panel(s) (composed of three board member(s)) will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: July 2, 1993, 8:56 a.m.

TRD-9325157

**Friday, July 16, 1993, 9:00 a.m.** The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at Route 5, Box 258-A, Gatesville. According to the agenda summary, the panel(s) (composed of three board member(s)) will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special con-

ditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: July 2, 1993, 8:57 a.m.

TRD-9325161

### Texas Department of Protective and Regulatory Services

**Friday, July 9, 1993, 8:30 a.m. and 10:45 a.m.** The Texas Board of Protective and Regulatory Services of the Texas Department of Protective and Regulatory Services will meet at 701 West 51st Street, Austin. According to the complete agenda, the board will be briefed in a work session on the PRS administrative structure beginning at 8:30 a.m. in the first floor conference room, West Tower. Following the work session the board will move to the Public Hearing Room 125-E, at 10:45 to consider approval of minutes of June 10-11, 1993, meeting; excused absences of board members; board recognition of East Texas State University's Commitment to Youth in PRS foster care; hear public testimony; chair's comments and announcements; comments and announcements from the board; executive director's report; report on legislation affecting PRS programs; approval of consultant for policy/practice review; draft Fiscal Year 1994 operating budget; meet in executive session to review potential litigation and personnel practices, and presentations by staff involving DPRS; reconvene in open session to take session to take action, if necessary, resulting from discussion in executive session.

Contact: Michael Gee, P.O. Box 149030, Mail Code W-639, Austin, Texas 78714-9030.

Filed: July 1, 1993, 1:25 p.m.

TRD-9325130

### Public Utility Commission of Texas

**Monday, July 12, 1993, 10:00 a.m.** The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 11870-application of Brazos Electric Power Cooperative, Inc. to amend Certification of Convenience and Necessity for a proposed transmission line within Cooke County.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 1, 1993, 2:07 p.m.

TRD-9325135

### Railroad Commission of Texas

**Monday, July 12, 1993, 9:30 a.m.** The Railroad Commission of Texas will meet in the First Floor Conference Room 1-111, 1701 North Congress Avenue, Austin. Agendas follow.

The commission will consider and act on the administrative services division director's report on division administration, budget, procedures, and personnel matters.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7257.

Filed: July 2, 1993, 10:49 a.m.

TRD-9325188

The commission will consider and act on the personnel division director's report on division administrations, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711, (512) 463-6981.

Filed: July 2, 1993, 10:49 a.m.

TRD-9325187

The commission will consider and act on the Automatic Data Processing Division Director's report on division administration, budget, procedures, equipment acquisitions and personnel matters.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78701, (512) 463-7251.

Filed: July 2, 1993, 10:50 a.m.

TRD-9325191

The commission will meet in consideration of category determinations under sections 102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Contact: Margie Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: July 2, 1993, 10:51 a.m.

TRD-9325193

The commission will consider and act on the investigation division director's report on division administration, investigations, budget, and personnel matters.

Contact: Marcelo R. Montemayor, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463 6828.

Filed: July 2, 1993, 10:48 a.m.

TRD-9325185

The commission will consider various applications and other matters within the jurisdiction of the agency including oral arguments at the time specified. The commission may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received. The commission will meet in executive session as authorized by the Open Meetings Act.

Contact: Carole J. Vogel, P.O. Box 12967, Austin, Texas 78711, (512) 463-6921.

Filed: July 2, 1993, 10:51 a.m.

TRD-9325194

The commission will consider and act on the division director's report on budget, personnel and policy matters related to operation of the Alternative Fuels Research and Education Division.

Contact: Dan Kelly, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7110.

Filed: July 2, 1993, 10:48 a.m.

TRD-9325186

The following matters will be taken up for consideration and/or decision by the commission: budget, fiscal, administrative or procedural matters, strategic planning; personnel and staffing; contracts and grants; may discuss comionetas operations; and may meet in executive session on any items listed above as authorized by the Open Meetings Act.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7274.

Filed: July 2, 1993, 10:50 a.m.

TRD-9325189

The commission will consider and act on the surface mining and reclamation division director's report on division administration, budget, procedures, and personnel matters.

Contact: Melvin Hodgkiss, P.O. Box 12967, Austin, Texas 78701, (512) 463-6901.

Filed: July 2, 1993, 10:50 a.m.

TRD-9325190

The commission will consider and act on the office of information services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Box 12967, Austin, Texas 78701, (512) 463-6710.

Filed: July 2, 1993, 10:51 a.m.

TRD-9325192

## State Securities Board

Tuesday, July 13, 1993, 9:30 a.m. The State Securities Board will meet at 333 Guadalupe Street, Room 1250A, William P. Hobby Building, Austin. According to the agenda summary, the board will discuss approval of the April 16, 1993 meeting minutes; published proposals to: amend §113.12; §123.3; create new §133.26, a request for determination as a money market fund form; create new §133.27, a year end report of sales by a money market fund form; repeal §133.28; new rule proposals to: amend §101.5; amend §109.17; §123.3; create new §133.26, a request for determination as a money market fund form; report on the legislative session; discuss new business items for subsequent meetings; division directors' and commissioner's reports; and meet in executive session concerning the hiring of a new securities commissioner.

Contact: Richard D. Latham, 221 West Sixth Street, Suite 700, Austin, Texas 78701, (512) 474-2233.

Filed: July 5, 1993, 1:08 p.m.

TRD-9325283

## State Committee of Examiners for Speech-Language Pathology and Audiology

Friday, July 16, 1993, 9:00 a.m. The State Committee of Examiners for Speech-Language Pathology and Audiology will meet in Room S-400, Exchange Building, 8407 Wall Street, Austin. According to the complete agenda, the committee members will meet in subcommittees to discuss and prepare amendments to committee rules. These changes are required by legislation that amends Texas Civil Statutes, Article 4512j, and other legislation, passed by the 73rd Legislature and signed by the Governor. The proposals will be presented to the committee for action at the September 17, 1993 meeting.

Contact: Dorothy Cawthon, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6627. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 1, 1993, 3:56 p.m.

TRD-9325151

## Stephen F. Austin State University

Tuesday, July 6, 1993, 3:00 p.m. The Board of Regents-Finance Committee of the Stephen F. Austin State University met at the Stephen F. Austin Campus, Room 307,

Austin Building, Nacogdoches. According to the compete agenda, the board reviewed proposed annual budget for Fiscal Year 1994-1995.

Contact: Dr. Dan D. Angel, P.O. Box 6078, SFA Station, Nacogdoches, Texas 75962, (409) 568-2201.

Filed: July 1, 1993, 3:25 p.m.

TRD-9325146

## Structural Pest Control Board

Wednesday, July 14, 1993, 9:00 a.m. The Structural Pest Control Board will meet at the Joe C. Thompson Conference Center, Room 3.120, 2405 East Campus Drive, Austin. According to the agenda summary, the board will discuss approval of the board minutes of May 19, 1993 meeting; public comment period and public hearing on §593.3 and §593.21; consider adoption §593.21, Technician-Apprentice Standards; adoption §593.3, Insurance Requirement; motions for rehearing in hearings 93-3, Henry Garcia doing business as Ultimate Plus Exterminating and 93-17, Juan Martinez doing business as Martinez Pest and Termite Control; proposed amendments to §593.23, Continuing Education Requirements for Certified Applicators and §593.24, Criteria and Evaluation of Continuing Education; and proposed amendments to §§593.1, 593.7, 593.13, 593.21, 593.22, and 595.2.

Contact: Benny M. Mathis, Jr., 9101 Burnet Road, Suite 201, Austin, Texas 78758, (512) 835-4066.

Filed: July 1, 1993, 4:34 p.m.

TRD-9325153

## The Texas A&M University System

Thursday, July 8, 1993, 8:30 a.m. The Board of Regents and Its Committees of the Texas A&M University System met at the West Texas A&M University Administration Building, Board Room, Canyon. According to the agenda summary, the board and its committees (including a telephonic meeting of the Pricing Committee) possibly adopted a resolution authorizing the issuance, sale and delivery of the Board of Regents of the Texas A&M University System Permanent University Fund Bonds, Series 1993, in the maximum aggregate principal amount of \$50,000,000, and possibly approved and authorized instruments and procedures relating thereto; and authorized purchase contracts and other actions necessary in connection with the sale and delivery of the bonds; discussed initiation of

construction projects; construction matters for the system parts; possible approval and correction of minutes; authorized to approve travel vouchers; easements; acquisition and disposition of real estate; appointment of members to the System Investment Advisory Committee; funding of equipment acquisitions; approval of holiday schedules; establishment of centers; license agreements; appointments to the Board of Directors at TAMU's Private Enterprise Research Center; appointments to the Board of Visitors of Texas A&M University's Galveston Campus; discussed contracts; appointment of Dean of the College of Business at West Texas A&M University; and heard reports from System Administration.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: July 2, 1993, 2:20 p.m.

TRD-9325210

## Texas Southern University

Tuesday, July 6, 1993, 5:00 p.m. The Board of Regents Personnel and Academic Affairs Committee of Texas Southern University will meet at Texas Southern University, 3100 Cleburne, School of Law Building, Room 221, Houston. According to the complete agenda, the committee will consider a report on progress of academic activities and programs; and discuss personnel actions.

Contact: Everett O. Bell, 3100 Cleburne, Houston, Texas 77004, (713) 529-8911.

Filed: July 2, 1993, 9:20 a.m.

TRD-9325170

Thursday, July 8, 1993, 2:00 p.m. The Board of Regents of Texas Southern University held a special meeting at 3000 One Shell Plaza, 910 Louisiana Street, Houston. According to the complete agenda, the board will consider a personnel matter.

Contact: Everett O. Bell, 3100 Cleburne, Houston, Texas 77004, (713) 529-8911.

Filed: July 2, 1993, 11:25 a.m.

TRD-9325196

Friday, July 9, 1993, 8:30 a.m. The Board of Regents of Texas Southern University will meet at Texas Southern University Library, Fifth Floor, Houston. According to the complete agenda, the board will discuss approval of minutes; hear report of the president; report from standing committees; and meet in executive session.

Contact: Everett O. Bell, 3100 Cleburne, Houston, Texas 77004, (713) 529-8911.

Filed: July 2, 1993, 9:20 a.m.

TRD-9325171

## Texas State Technical College

Thursday, July 8, 1993, 9:00 a.m. The Board of Regents of Texas State Technical College met at the TSTC Waco IDEAS Center, 3801 Campus Drive, Waco. According to the agenda summary, the board discussed prospective airport ground lease at Texas State Technical College, Waco.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: July 2, 1993, 12:45 p.m.

TRD-9325204

Thursday, July 8, 1993, 9:15 a.m. The Board of Regents of Texas State Technical College met at the TSTC Waco IDEAS Center, 3801 Campus Drive, Waco. According to the agenda summary, the board (following Item V of the posted agenda of the open session which commenced at 9:00 a.m. as shown on the full board of regents agenda as Item VI) will meet in executive session in accordance with Article 6252-17, §2, Subsection (f).

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: July 2, 1993, 12:45 p.m.

TRD-9325203

## Texas Title Insurance Guaranty Association

Tuesday, July 13, 1993, 10:00 a.m. The Board of Directors of the Texas Title Insurance Guaranty Association will meet at the William P. Hobby Building, 12th Floor, 333 Guadalupe Street, Austin. According to the agenda summary, the board will consider and discuss approval of the minutes from previous meeting; hear liquidation report; title manager's report; conservator's report; and examination update.

Contact: Burnie Burner, 301 Congress Avenue, #800, Austin, Texas 78701, (512) 474-1587.

Filed: July 2, 1993, 2:35 p.m.

TRD-9325220

## University Interscholastic League

Thursday, July 8, 1993, 9:00 a.m. The State Executive Committee of the Univer-

sity Interscholastic League will meet at the Wyndham Hotel, IH-35 South at Ben White, Austin. According to the agenda summary, the committee will discuss allegation of falsifying records in violation of §560(a)(3) by personnel at Mercedes High School; transfer from Appellate Committee; and soliciting a grade change for eligibility purposes West Orange Stark High School.

Contact: C. Ray Daniel, 2622 Wichita Street, Austin, Texas 78705, (512) 471-5883.

Filed: July 1, 1993, 3:11 p.m.

TRD-9325142

## Texas Veterans Commission

Friday, July 30, 1993, 9:00 a.m. The Texas Veterans Commission will meet at the E.O. Thompson Building, Sixth Floor, Tenth and Colorado Streets, Austin. According to the complete agenda, the commission will consider reports of the commission; discuss approval of the minutes of third quarterly meeting; discuss matters concerning the legislative session, proposed veterans legislation; make decisions regarding administrative matters pertaining to veterans counseling and assistance; closed meeting will be held to consider a salary increase for the executive director (authorized by Texas Civil Statutes, Article 6252-17, §2(g)).

Contact: Douglas K. Brown, P.O. Box 12277, Austin, Texas 78711, (512) 463-5538.

Filed: July 2, 1993, 2:08 p.m.

TRD-9325211

## Texas Water Commission

Wednesday, July 14, 1993, 9:00 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider approving the following matters: new water quality permits; water quality amendments; water quality minor amendments; water quality renewal permits; water right permits; district matter; water utility matters; hearing examiner's settled cases; in addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, rescheduling an item in its entirety for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Filed: July 1, 1993, 3:22 p.m.

TRD-9325144

Wednesday, July 14, 1993, 9:00 a.m. The Texas Water Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider approving the following matters: water quality enforcement; hazardous waste enforcement; water utility matters; hearing examiner's memorandums and proposal for decisions; repeal of commission rules; Chapter 298, Edwards Underground River; meet in executive session; in addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, rescheduling an item in its entirety for particular action at a future date or time.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Filed: July 1, 1993, 3:22 p.m.

TRD-9325143

Thursday-Friday, July 15-16, 1993, 1:00 p.m. and 8:30 a.m. respectively. The Municipal Solid Waste Management and Resource Recovery Advisory Council of the Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the council will hear reports from committee chairmen, waste management policy staff, division director, and Commissioner Garner's report.

Contact: Gary Trim, P.O. Box 13087, Austin, Texas 78711-3087, (512) 908-6708.

Filed: July 5, 1993, 9:52 a.m.

TRD-9325265

Tuesday, July 20, 1993, 8:00 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Ramada Hotel Galleria Area, Virgo Room, 7787 Katy Freeway, Houston. According to the agenda summary, the commission will hold a public hearing on applications by Sanifill of Texas, Inc. (Proposed Permit Number MSW2185). The waste management facility is to be approximately one mile south of the Beltway 8 and U.S. Highway 290 intersection, in the 10300, 10400 and 10500 blocks of Tanner Road in the City of Houston, Harris County.

Contact: Heidi Jackson, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: July 5, 1993, 9:50 a.m.

TRD-9325263

Tuesday, July 27, 1993, 9:30 a.m. The Task Force 21: IHW Permits Section of the Texas Water Commission will meet at the

Reagan Building, Room 107, 105 West 15th Street, Austin. According to the complete agenda, the task force will give update on draft spill rules; upcoming rulemaking; update on coastal zone management; consolidation of the Texas Water Commission and the Texas Air Control Board; and status of permit processing improvements.

Contact: Leslie Bell, 1700 North Congress Avenue, Austin, Texas 78711, (512) 908-6611.

Filed: July 5, 1993, 9:16 a.m.

TRD-9325243

Tuesday, July 27, 1993, 7:00 p.m. The Texas Water Commission will meet at the City Hall Municipal Building, 308 West Pena Street, Carrizo Springs. According to the agenda summary, the commission will consider an application for a municipal solid waste facility permit by the City of Carrizo Springs. Proposed Permit Number MSW2225. The waste management facility is to be approximately 1.6 miles southeast of the intersection of Highway 83 and FM Road 1917 in Dimmit County.

Contact: Ann Scudday, P.O. Box 13087, Austin, Texas 78711, (512) 908-6687.

Filed: July 5, 1993, 9:50 a.m.

TRD-9325264

Thursday, August 5, 1993, 7:00 p.m. The Texas Water Commission will meet at the Birchman Baptist Church, 9100 North Normandale Street, Fort Worth. According to the agenda summary, the commission will consider an application for a municipal solid waste (compost) facility permit by Silver Creek Materials, Inc., Proposed Permit Number MSW2216. The facility is to be 1.9 miles northwest on Silver Creek Road at the intersection of Silver Creek Road and Heron Drive, and 1.5 miles along the unpaved road west of Silver Creek Road in Fort Worth, Tarrant County.

Contact: Ann Scudday, P.O. Box 13087, Austin, Texas 78711, (512) 908-6687.

Filed: July 6, 1993, 9:18 a.m.

TRD-9325302

Wednesday, August 11, 1993, 9:00 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Administration Building, Commissioners Courtroom, 100 East Cano, Edinburg. According to the agenda summary, the commission will consider an application by Hidalgo County for an amendment to a municipal solid waste management facility permit (Permit Number MSW1593). This application has been designated Application Number MSW1593-A. The site is on a thirty-nine and two-thirds (39.667) acre site located north of the intersection of Davis Road and Alamo Road in Hidalgo County.

Contact: Deborah Thomas, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: July 6, 1993, 9:18 a.m.

TRD-9325303

## Regional Meetings

### Meetings Filed July 1, 1993

The Aqua Water Supply Corporation met at 305 Eskew (Aqua Office), Bastrop, July 5, 1993, at 7:30 p.m. Information may be obtained from Adlinie Rathman, P.O. Drawer P, Bastrop, Texas 78602, (512) 321-3943. TRD-9325136.

The Edwards Central Appraisal District Appraisal Review Board will meet at the New County Annex Building, Rocksprings, July 9, 1993, at 9:00 a.m. Information may be obtained from Natalie Pruitt, P.O. Box 378, Rocksprings, Texas 78880, (210) 683-4189. TRD-9325132.

The Hunt County Appraisal District Board of Directors met in the Hunt County Appraisal District Boardroom, 4801 King Street, Greenville, July 8, 1993, at 6:30 p.m. Information may be obtained from Shirley Smith, 4801 King, Greenville, Texas 75401, (903) 454-3510. TRD-9325140.

The Kendall County Appraisal District Appraisal Review Board met at 121 South Main Street, Conference Room, Boerne, July 6, 1993, at 9:00 a.m. Information may be obtained from Joe P. Davis, Box 788, Boerne, Texas 78006, (210) 249-8012. TRD-9325131.

The Leon County Central Appraisal District Appraisal Review Board met at the Leon County Central Appraisal District Office, Gresham Building, Centerville, July 8, 1993, at 9:00 a.m. Information may be obtained from Donald G. Gillum, P.O. Box 536, Centerville, Texas 75833, (903) 536-2252. TRD-9325145.

The Nortex Regional Planning Commission Executive Committee will meet at the Galaxy Center, Suite 200, Conference Room, 4309 Jacksboro Highway, Wichita Falls, July 15, 1993, at noon. Information may be obtained from Dennis Wilde, P.O. Box 5144, Wichita Falls, Texas 76307-5144, (817) 322-5281. TRD-9325156.

The North Central Texas Council of Governments Local Government Investment Fund for Texas will meet at the NCTCOG Offices, 616 Six Flags Drive, Suite 324, Arlington, July 9, 1993, at noon. Information may be obtained from Charles Cason III, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300, Ext. 110. TRD-9325129.



The Scurry County Appraisal District Appraisal Review Board met at 2612 College Avenue, Snyder, July 7-8, 1993, at 9:00 a.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549. TRD-9325134.

The Sulphur-Cypress Soil and Water Conservation District #419 met at 1809 West Ferguson, Suite B, Mt. Pleasant, July 8, 1993, at 8:30 a.m. Information may be obtained from Beverly Amerson, 1809 West Ferguson, Suite B, Mt. Pleasant, Texas 75455-2921, (903) 572-5411. TRD-9325133.

The Texas Municipal Power Agency ("TMPA") Board of Directors met at the Gibbons Creek Steam Electric Station, Administration Building, 2 1/2 Miles North of Carlos on FM 244, July 8, 1993, at 9:00 a.m. Information may be obtained from Carl J. Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9325154.

The Tyler County Appraisal District Appraisal Review Board will meet at 806 West Bluff, Woodville, July 9, 1993, at 9:00 a.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9325137.

The West Central Texas Council of Governments Ombudsman Task Force Quarterly Training will meet in the WCTCOG Large Conference Room, Abilene, July 9, 1993, at 10:00 a.m. Information may be obtained from Brad Helbert, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9325147.

The Wise County Appraisal District Board of Directors will meet at 206 South State Street, Decatur, July 13, 1993, at 7:30 p.m. Information may be obtained from Brenda Jones, 206 South State Street, Decatur, Texas 76234, (817) 627-3081, Ext. 04. TRD-9325150.

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**Meetings Filed July 2, 1993**

The Atascosa County Appraisal District Board of Directors met at Fourth and Avenue J, Poteet, July 8, 1993, at 1:30 p.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065-0139. TRD-9325218.

The Austin-Travis County Mental Health Mental Retardation Public Relations Committee will meet at 1430 Collier Street, Conference Room #1, Austin, July 7, 1993, at 12:30 p.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78745, (512) 447-4141. TRD-9325176.

The Barton Springs/Edwards Aquifer Conservation District Board of Directors

met at 1124-A Regal Row, Austin, July 7, 1993, at 3:00 p.m. Information may be obtained from Bill E. Couch, 1124-A Regal Row, Austin, Texas 78748, (512) 282-8841, FAX: 282-7016. TRD-9325206.

The Barton Springs/Edwards Aquifer Conservation District Board of Directors met at 1124-A Regal Row, Austin, July 8, 1993, at 6:30 p.m. Information may be obtained from Bill E. Couch, 1124-A Regal Row, Austin, Texas 78748, (512) 282-8841, FAX: 282-7016. TRD-9325207.

The Bexar-Medina-Atascosa Counties Water Control and Improvement District Number One Board of Directors met at 226 Highway 132, Natalia, July 7, 1993, at 6:30 p.m. Information may be obtained from John W. Ward, III, P.O. Box 170, Natalia, Texas 78059, (210) 663-2132. TRD-9325205.

The Central Appraisal District of Nolan County Board of Directors will meet at the Nolan County Courthouse, Third Floor, Sweetwater, Friday, July 9, 1993, at 7:00 a.m. Information may be obtained from Steven G. Beck, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421. TRD-9325215.

The Coryell County Appraisal District Appraisal Review Board will meet at the Coryell County Appraisal District Office, 113 North Seventh Street, Gatesville, July 14, 1993, at 9:30 a.m. Information may be obtained from Darrell Lisenbe, P.O. Box 142, Gatesville, Texas 76528, (817) 865-6593. TRD-9325221.

The Creedmoor Maha Water Corporation Board of Directors met at 1699 Laws Road, Mustang Ridge, July 7, 1993, at 7:30 p.m. Information may be obtained from Charles P. Laws, 1699 Laws Road, Buda, Texas 78610, (512) 243-1991. TRD-9325198.

The Dallas Central Appraisal District Appraisal Review Board will meet at 2949 North Stemmons Freeway, Dallas, July 9, 1993, at 11:30 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9325173.

The Deep East Texas Private Industry Council, Inc. will meet at Rayburn Country, FM 255, Sam Rayburn, July 15, 1993, at 1:30 p.m. Information may be obtained from Charlene Meadows, P.O. Box 1523, Lufkin, Texas 75901, (409) 634-4432. TRD-9325227.

The Golden Crescent Quality Work Force Planning Full-Committee will meet at the Region III ESC, 1905 Leary Lane, Victoria, July 13, 1993, at 3:30 p.m. Information may be obtained from Carol Matula, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9325165.

The Gregg Appraisal District Appraisal Review Board will meet at 2010 Gilmer Road, Longview, July 12, 1993, at 9:00 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (903) 759-0015. TRD-9325166.

The Gregg Appraisal District Appraisal Review Board will meet at 2010 Gilmer Road, Longview, July 13, 1993, at 9:00 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (903) 759-0015. TRD-9325167.

The Gregg Appraisal District Appraisal Review Board will meet at 2010 Gilmer Road, Longview, July 15, 1993, at 9:00 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (903) 759-0015. TRD-9325168.

The Guadalupe-Blanco River Authority Board of Directors met at 933 East Court Street, Seguin, July 8, 1993, at 10:00 a.m. Information may be obtained from James E. Arnst, P.O. Box 271, Seguin, Texas 78156-0271, (210) 379-5822. TRD-9325200.

The Hansford Appraisal District Appraisal Review Board will meet at 709 West Seventh Street, Spearman, July 9, 1993, at 9:00 a.m. Information may be obtained from Lovida Giblin, P.O. Box 519, Spearman, Texas 79081-0519, (806) 657-5575. TRD-9325213.

The Hays County Appraisal District Board of Directors met at 632A East Hopkins Street, San Marcos, July 8, 1993, at 4:00 p.m. Information may be obtained from Lynnell Sedlar, 632A East Hopkins Street, San Marcos, Texas 78666, (512) 754-7400. TRD-9325164.

The Hickory Underground Water Conservation District Number 1 Board and Advisors met at 2005 South Bridge Street, Brady, July 8, 1993, at 7:00 p.m. Information may be obtained from Lorna Moore, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785. TRD-9325195.

The Manville Water Supply Corporation Board of Directors met at the Manville Office, Spur 277, Coupland, July 8, 1993, at 7:00 p.m. Information may be obtained from LaVerne Rohlack, P.O. Box 248, Coupland, Texas 78615, (512) 272-4044. TRD-9325219.

The Middle Rio Grande Development Council Texas Review and Comment System met at the Civic Center, Del Rio, July 6, 1993, at 4:00 p.m. (Revises agenda). Information may be obtained from Dora T. Flores, P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9325229.

**The Texas Municipal Power Agency ("TMPA") Board of Directors met at the Administration Building, 2 1/2 Miles North of Carlos, July 8, 1993, at 9:00 a.m. Information may be obtained from Carl J. Shahady, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013. TRD-9325228.**

**The Nueces-Jim Wells-Kleberg-Kenedy Soil and Water Conservation District Board of Directors will meet at the SCS Office, Suite B, 548 South Highway 77, Robstown, July 20, 1993, at 2:00 p.m. Information may be obtained from Denise Lawhon, 548 South Highway 77, Suite B, Robstown, Texas (512) 668-8363. TRD-9325216.**

**The Shackelford Water Supply Corporation Regular Monthly Directors met at the Fort Griffin Restaurant, Albany, July 7, 1993, at noon. Information may be obtained from E. D. Fincher, Box 1295, Albany, Texas 76430, (915) 762-2519. TRD-9325184.**

**The Texas Association of Regional Councils Board of Directors will meet in the Ballroom, Omni Hotel, Austin, July 9, 1993, at 9:00 a.m. Information may be obtained from Sheila Jennings, 508 West 12th Street, Austin, Texas 78701, (512) 478-4715. TRD-9325199.**

**The Texas Regional Planning Commissions Employee Benefit Board of Trustees will meet at the Governor's Board Room, Omni Hotel, Austin, July 7, 1993, at 4:30 p.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9325214.**

**The Wise County Appraisal District Appraisal Review Board met at 206 South State Street, Decatur, July 8, 1993, at 9:00 a.m. Information may be obtained from LaReesea Pittman, 206 South State Street, Decatur, Texas 76234, (817) 627-3081. TRD-9325175.**

**The Wood County Appraisal District Appraisal Review Board will meet at 217 North Main Street, Conference Room, Wood County Appraisal District, Quitman,**

**July 9, 1993, at 9:00 a.m. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 518, Quitman, Texas 75783-0518. TRD-9325174.**

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**Meetings Filed July 5, 1993**

**The Aqua Water Supply Corporation Board of Directors held an emergency meeting at 305 Eskew, Bastrop, Aqua Office, Bastrop, July 5, 1993, at 3:00 p.m. The emergency status was necessary as a result of reasonably unforeseeable situations, including a medical emergency effecting one of the board members. Information may be obtained from John Burke, Drawer P, Bastrop, Texas 78602, (512) 321-3943. TRD-9325284.**

**The Brazos River Authority Water Quality Committee, Board of Directors will meet in the Apollo Room, West Tower, Hyatt Regency DFW Hotel, Dallas-Fort Worth Airport, July 12, 1993, at 10:00 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD-9325270.**

**The Callahan County Appraisal District Board of Directors will meet at 130-A West Fourth Street, Callahan County Appraisal District Office, Baird, July 12, 1993, at 8:00 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 806, Baird, Texas 79504, (915) 854-1165. TRD-9325266.**

**The Canadian River Municipal Water Authority Board of Directors will meet at the CRMWA Headquarters Building, Sanford Dam, Sanford, July 14, 1993, at 11:00 a.m. Information may be obtained from John C. Williams, P.O. Box 99, Sanford, Texas 79078, (806) 865-325. TRD-9325271.**

**The Central Texas Council of Governments Transportation Planning Policy Board will meet at the Park Inn, 803 East Central Texas Expressway, Killeen, July 21, 1993, at 10:00 a.m. Information may be obtained from Gerald B. Bunker, P.O. Box 729, Belton, Texas 76513, (817) 939-1801. TRD-9325269.**

**The Elm Creek WSC Board will meet at the Willow Grove Baptist Church, Moody, July 12, 1993, at 7:00 p.m. Information may be obtained from Paulette Richardson, Route 1, Box 564, Moody, Texas 76557, (817) 853-2339. TRD-9325267.**

**The Region 14 Quality Work Force Planning Committee will meet at the Angelina College, Highway 59A, Lufkin, July 15, 1993, at 10:30 a.m. Information may be obtained from Jerry Whitaker, P.O. Box 1768, Lufkin, Texas 75902, (409) 633-5370. TRD-9325273.**

**The Rusk County Appraisal District Appraisal Review Board Appraisal Review Board will meet at the Administrative Offices, 107 North Van Buren, Henderson, July 9, and July 12, 1993, at 9:00 a.m. Information may be obtained from Melvin R. Cooper, P.O. Box 7, Henderson, Texas 75653-0007, (903) 657-9697. TRD-9325275.**

**The Rusk County Appraisal District Appraisal Review Board Appraisal Review Board will meet at the Administrative Offices, 107 North Van Buren, Henderson, July 13, 1993, at 9:00 a.m. Information may be obtained from Melvin R. Cooper, P.O. Box 7, Henderson, Texas 75653-0007, (903) 657-9697. TRD-9325274.**

**The Swisher County Appraisal District Appraisal Review Board held an emergency meeting at 130 North Armstrong, Tulla, July 8, 1993, at 8:45 a.m. The emergency status was necessary due to unforeseeable circumstances with the postal service. Information may be obtained from Rose Lee Powell, P.O. Box 8, Tulla, Texas 79088, (806) 4118. TRD-9325272.**

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**Meetings Filed July 6, 1993**

**The North Texas Municipal Water District Board of Directors will meet at the Administrative Offices, 505 East Brown Street, Wylie, July 22, 1993, at 4:00 p.m. Information may be obtained from Carl W. Riehn, 505 East Brown Street, Wylie, Texas 75098, (214) 442-5405. TRD-9325305.**

# In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

## Texas Air Control Board Extension of Deadline for Written Comments-Regulation VII

In the June 4, 1993, issue of the *Texas Register* (18 TexReg 3579), the Texas Air Control Board (TACB) published a notice of public hearing on proposed rule amendments to be held June 30, 1993. The purpose of the hearing was to receive testimony on proposed revisions to TACB Regulation VII. The deadline of July 2, 1993, for receipt of written comments has been extended to July 15, 1993. All comments at the hearing, as well as written comments received by 4:00 p.m. on July 15, 1993, at the TACB Central office in Austin, will be considered by the Board prior to any final decision on the proposed changes.

Copies of the proposed revisions are available at the TACB Central Office, Air Quality Planning Annex, located at 12118 North IH-35, Austin, Texas 78753, and at all TACB Regional Offices. For further information, contact Randy Hamilton at (512) 908-1512.

Issued in Austin, Texas, on July 2, 1993.

TRD-9325237 Lane Hartssock  
Deputy Director, Air Quality Planning  
Texas Air Control Board

Filed: July 2, 1993

## Notice of Public Hearings

Notice is hereby given that pursuant to the requirements of the Texas Clean Air Act (TCAA); §382.017(a); §103.11(4) of the Procedural Rules of the Texas Air Control Board (TACB); and 40 Code of Federal Regulations 51.102 of the United States Environmental Protection Agency (EPA) regulations, concerning State Implementation Plans (SIPs), the TACB will conduct a public hearing to receive testimony concerning a component of the SIP.

The TACB is soliciting public comment on the 1990 base year emissions inventory for the El Paso ozone nonattainment area. This emissions inventory will be submitted to the EPA as a proposed revision to the Texas SIP.

A public hearing on the inventory will be held on August 4, 1993, at 5:30 p. m. in the City of El Paso Council Chambers, Second Floor, 2 Civic Center Plaza, El Paso. The hearing is structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted, however, a TACB staff member will discuss the inventory and answer questions beginning at 5:00 p.m., prior to the hearing.

Written comments not presented at the hearing may be submitted to the TACB Central Office in Austin through August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the

inventory. A copy of the emissions inventory is available at the Central Office of the TACB located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin; at the TACB Regional Office at 1200 Golden Key Circle, Suite 369, El Paso; and at the City of El Paso Department of Planning and Development at 2 Civic Center Plaza, El Paso. For further information contact the TACB Emissions Inventory Division in Austin at (512) 908-1457, the TACB Regional Office in El Paso at (915) 591-8128, or Ricardo Dominguez with the City of El Paso at (915) 541-4024.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on July 1, 1993.

TRD-9325238 Lane Hartssock  
Deputy Director, Air Quality Planning  
Texas Air Control Board

Filed: July 2, 1993

Notice is hereby given that pursuant to the requirements of the Texas Clean Air Act (TCAA), §382.017(a); §103.11(4) of the Procedural Rules of the Texas Air Control Board (TACB); and 40 Code of Federal Regulations 51.102 of the United States Environmental Protection Agency (EPA) regulations, concerning State Implementation Plans (SIPs), the TACB will conduct a public hearing to receive testimony concerning a component of the SIP.

The TACB is soliciting public comment on the 1990 base year emissions inventory for the Houston/Galveston ozone nonattainment area. This emissions inventory will be submitted to the EPA as a proposed revision to the Texas SIP.

A public hearing on the inventory will be held on August 5, 1993, at 5:30 p. m. in the Houston-Galveston Area Council Conference Room "A", Second Floor, 3555 Timmons Lane, Houston. The hearing is structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted, however, a TACB staff member will discuss the inventory and answer questions beginning at 5:00 p.m., prior to the hearing.

Written comments not presented at the hearing may be submitted to the TACB Central Office in Austin through August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the inventory. A copy of the emissions inventory is available at the Central Office Air Quality Planning Annex, located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin; at the TACB Regional Office at 5555 West Loop, Suite 300, Bellaire; and at the Houston-Galveston Area Council (H-GAC), Suite 500, 3555 Timmons Lane,

Houston. For further information contact the TACB Emissions Inventory Division in Austin at (512) 908-1457, the TACB Regional Office in Bellaire at (713) 666-4964, or Jackie Lentz with the H-GAC in Houston at (713) 993-4586.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on June 30, 1993.

TRD-9325239 Lane Hartssock  
Deputy Director, Air Quality Planning  
Texas Air Control Board

Filed: July 2, 1993

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Notice is hereby given that pursuant to the requirements of the Texas Clean Air Act (TCAA), §382.017(a); §103.11(4) of the Procedural Rules of the Texas Air Control Board (TACB); and 40 Code of Federal Regulations 51.102 of the United States Environmental Protection Agency (EPA) regulations, concerning State Implementation Plans (SIPs), the TACB will conduct a public hearing to receive testimony concerning a component of the SIP.

The TACB is soliciting public comment on the 1990 base year emissions inventory for the Beaumont/Port Arthur ozone nonattainment area. This inventory will be submitted to the EPA as a proposed revision to the Texas SIP.

A public hearing on the inventory will be held on August 6, 1993, at 10:30 a.m. in the Auditorium of the John Gray Institute, located at 855 Florida Avenue, Beaumont. The hearing is structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted, however, a TACB staff member will discuss the inventory and answer questions beginning at 10:00 a.m., prior to the hearing.

Written comments not presented at the hearing may be submitted to the TACB Central Office in Austin through August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the inventory. A copy of the emissions inventory is available at the Central Office of the TACB located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin; at the TACB Regional Office at the TACB Regional Office at 3870 Eastex Freeway, Suite 103, Beaumont; and at the South East Texas Regional Planning Commission (SETRPC), 3501 Turtle Creek Drive, Suite 103, Port Arthur. For further information contact the TACB Emissions Inventory Division in Austin at (512) 908-1457, the TACB Regional Office in Beaumont at (409) 898-3838; or Bob Dickinson with the SETRPC in Port Arthur at (409) 727-2384.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on July 1, 1993.

TRD-9325240 Lane Hartssock  
Deputy Director, Air Quality Planning  
Texas Air Control Board

Filed: July 2, 1993

Notice is hereby given that pursuant to the requirements of the Texas Clean Air Act (TCAA), §382.017(a); §103.11(4) of the Procedural Rules of the Texas Air Control Board (TACB); and 40 Code of Federal Regulations 51.102 of the United States Environmental Protection Agency (EPA) regulations, concerning State Implementation Plans (SIPs), the TACB will conduct a public hearing to receive testimony concerning a component of the SIP.

The TACB is soliciting public comment on the 1990 base year emissions inventory for the Dallas/Fort Worth ozone nonattainment area. This emissions inventory will be submitted to the EPA as a proposed revision to the Texas SIP.

A public hearing on the inventory will be held on August 5, 1993, at 1:30 p. m in the City of Arlington Council Chambers, 101 West Abram Street, Arlington. The hearing is structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted, however, a TACB staff member will discuss the inventory and answer questions beginning at 1:00 p.m., prior to the hearing.

Written comments not presented at the hearing may be submitted to the TACB Central Office in Austin through August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the inventory. A copy of the inventory is available at the Central Office of the TACB located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin; at the TACB Regional Office at the TACB Regional Office at 6421 Camp Bowie Boulevard, Suite 312, Fort Worth; and at the North Central Texas Council of Governments (NCTCOG), 616 Six Flags Drive, Center Point Two, Arlington. For further information contact the TACB Emissions Inventory Division in Austin at (512) 908-1457, the TACB Regional Office in Fort Worth at (817) 732-5531, or Saadia Mai with the NCTCOG in Arlington at (817) 640-3300.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on July 1, 1993.

TRD-9325241 Lane Hartssock  
Deputy Director, Air Quality Planning  
Texas Air Control Board

Filed: July 2, 1993

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Notice is hereby given that pursuant to the requirements of the Texas Clean Air Act, §382.017(a); §5 of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a; §103.11(4) of the Procedural Rules of the Texas Air Control Board (TACB); and 40 Code of Federal Regulations 51.102 of the United States Environmental Protection Agency (EPA) regulations concerning State Implementation Plans (SIPs), the TACB will conduct public hearings to receive testimony concerning revisions to its rules and the Texas SIP.

Revisions are being proposed to Regulation V, concerning Control of Air Pollution From Volatile Organic Compounds (VOC); the General Rules; and the SIP in response

to the 1990 Amendments to the Federal Clean Air Act (FCAA) and EPA requirements for states to develop and adopt rules relating to the Rate of Progress requirement by November 15, 1993. The Rate of Progress rules are required to achieve and maintain VOC emissions levels that are 15% below the 1990 base year levels by 1996 in the Beaumont/Port Arthur (B/PA), Dallas/Fort Worth (D/FW), El Paso, and Houston/Galveston (H/G) ozone nonattainment areas. The proposed new and revised rules consist of a core set of rules comprising at least 70% of the required reductions. The remaining reductions will be achieved in future rulemaking. Most of the rules affect some or all of the ozone nonattainment counties of Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller.

The TACB proposes revisions to §§115.10 and §101.1, concerning Definitions. The proposed changes add definitions for terms used in automotive refinishing, offset printing, VOC loading and unloading, municipal waste landfills, vessel cleaning, synthetic organic chemical manufacturing industry (SOCMI) reactor and distillation operations, and utility engines. The proposed changes also revise the definition of VOC to exclude perchloroethylene for consistency with the corresponding federal definition soon to be promulgated by EPA, revise the definition of vapor recovery system to delete inappropriate and obsolete language, and add a definition of vent gas stream.

New rules and revisions to existing rules have been proposed in order to obtain the 15% reduction in VOC emissions required by the FCAA: §§115.121-115.129, SOCMI Reactor and Distillation Process; §§115.141-115.149, Industrial Wastewater (new) in B/PA and H/G; §§115.152-115.159, Municipal Landfills (new) in D/FW; §§115.211-115.219, Loading and Unloading of VOCs; §§115.234-115.239, Tank-Truck Leak Testing; §§115.421-115.429, Auto Body Shops in D/FW, H/G, and El Paso; §§115.442-115.449, Offset Printing (new) in El Paso; and §§115.541-115.549, Vessel Cleaning (new) in H/G, and B/PA. Revisions are being proposed as requested by the Texas Chemical Council to §§115.123 to allow alternate means of control for facilities previously equipped with control devices and to §115.127(a)(1) to clarify a specific exemption for low density polyethylene plant vent gas streams.

New §§115.352-115.359, Fugitive Monitoring, are proposed for the El Paso, B/PA, and H/G areas and for Gregg, Nueces, and Victoria Counties to standardize the fugitive monitoring program in Texas. New §§115.621-115.623, concerning Utility Engines, are proposed as statewide rules to obtain maximum rule effectiveness. A new §115.940, Reasonably Available Control Technology Equivalency, allows the use of a federal requirement in lieu of a Chapter 115 requirement. A new §115.950, General Construction Permits for VOC Control Projects, establishes a general permit procedure for VOC abatement equipment required pursuant to other provisions of Chapter 115.

The TACB repropose §§115.241-115.249, concerning Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities for Collin, Dallas, Denton, and Tarrant Counties, pursuant to the Texas Health and Safety Code, §382.019(d), and subsequent to a recent federal appeals court ruling (NRDC v. EPA, CA DC, Number 92-1137, January 22, 1993). The TACB is specifically soliciting comments on whether the VOC emission reductions obtained from Stage II are necessary

for the 1996 attainment of the federal ozone ambient air quality standard in the D/FW ozone nonattainment area. Additional revisions are proposed to the Stage II rules and the Stage II SIP to improve enforceability.

Revisions are proposed to §§115.221-115.229, concerning Stage I Vapor Recovery for consistency with the revisions to Stage II Vapor Recovery. Revisions are proposed to §§115.324, 115.334, and 115.344, concerning Fugitives, to allow skip-period equivalency. Revisions are proposed to §115.910, concerning Alternate Means of Control, to delete Hardin and Montgomery Counties from the list of unclassified counties and to delete the requirement for EPA approval. Revisions to §§115.930 and §115.932, concerning Compliance and Control Plan Requirements, are proposed in order to minimize required paperwork.

Public hearings on this proposal are scheduled for the following times and places: August 4, 1993, City of El Paso Council Chambers, Second Floor, 2 Civic Center Plaza, El Paso; August 5, 1993, 6:30 p.m., Houston-Galveston Area Council, Second Floor, Conference Room A, 3555 Timmons Lane, Houston; August 5, 1993, 2:30 p.m., City of Arlington Council Chambers, 101 West Abram Street, Arlington; August 6, 1993, 11:30 a.m., John Gray Institute, 855 Florida Avenue, Beaumont.

The hearings are structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted; however, TACB staff members will be available to discuss the proposal and answer questions 30 minutes prior to each hearing.

Written comments not presented at the hearings must be submitted to the TACB, 12124 Park 35 Circle, Austin, Texas 78753, no later than August 13, 1993. Material received by the Regulation Development Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed rules. Copies of the proposals are available at the central office of the TACB, Air Quality Planning Annex, located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin and at all TACB regional offices. For further information, contact Amba Mann at (512) 908-1930.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 908-1815. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on July 1, 1993.

TRD-9325235      Lane Hartssock  
Deputy Director, Air Quality Planning  
Texas Air Control Board

Filed: July 2, 1993

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### Texas Inspection/Maintenance Program Request for Proposal Workshop

The Texas Air Control Board (TACB) is in the process of developing a Vehicle Inspection and Maintenance (I/M) Program as required by the 1990 Federal Clean Air Act and the United States Environmental Protection Agency I/M Program requirements. The major focus of the Texas Vehicle I/M Program will be to increase the overall effectiveness of the vehicle emissions repair process.

In order to receive preliminary comments from the general public, the TACB will host a Vehicle Maintenance Work-

shop for Emissions Repair Effectiveness and Emissions Repair Research/Outreach in the State of Texas. The workshop will be held on Wednesday, August 4, 1993, and will include discussions of emissions repair technician training, certification and evaluation of emissions repair technicians and emissions repair facilities, and research programs to improve the overall effectiveness of the emissions inspection and maintenance process.

The workshop is scheduled from 9:00 a.m.-5:00 p.m. in Room 201A of the TACB Annex Building, located at 12124 Park 35 Circle in Austin. The purpose of the workshop is to generate a discussion of comments and ideas in response to draft proposals of the TACB's program designs. For further information, please contact Chris Kite at (512) 908-1959.

Issued in Austin, Texas, on July 1, 1993.

TRD-9325236 Lane Hartsock  
Deputy Director, Air Quality Planning  
Texas Air Control Board

Filed: July 2, 1993

## Texas Bond Review Board

### Bi-Weekly Report on the 1993 Allocation of the State Ceiling on Certain Private Activity Bonds

The information that follows is a report of the allocation activity for the period of June 19, 1993-July 2, 1993. Since Congress did not act by March 1, 1993 to extend the provisions of the tax code which allow Mortgage Bonds and Small Issue Bonds to qualify for tax-exempt financing, the amount of state ceiling remaining for those purposes has been proportionately redistributed to the other categories, pursuant to Texas Civil Statutes, Article 5190.9a, §2(e). Currently, there are three categories within the allocation program.

Total amount of state ceiling remaining unreserved for the \$239,513,792 subceiling for state-voted issues under the Act as of July 2, 1993: \$129,513, 792.

Total amount of state ceiling remaining unreserved for the \$68,428,035 subceiling for residential rental project issues under the Act as of July 2, 1993: \$48,743,035.

Total amount of state ceiling remaining unreserved for the \$574,858,173 subceiling for all other bonds requiring an allocation under the Act as of July 2, 1993: \$3,173.

Total amount of the \$882,800,000 state ceiling remaining unreserved as of July 2, 1993: \$178,260,000.

Following is a comprehensive listing of applications which have received a reservation date pursuant to the Act from June 19, 1993-July 2, 1993: El Paso HFC, Oakland Executive Center, Residential Rental, \$11,695,000.

Following is a comprehensive listing of applications which have issued and delivered the bonds and received a Certificate of Allocation pursuant to the Act from June 19, 1993-July 2, 1993: None.

Following is a comprehensive listing of applications which were either withdrawn or canceled pursuant to the Act from June 19, 1993-July 2, 1993: None.

Following is a comprehensive listing of applications which released a portion of their reservation pursuant to the Act from June 19, 1993-July 2, 1993: Abilene HEA, Eligible Borrows, Student Loans, \$3,173.

Issued in Austin, Texas, on July 2, 1993.

TRD-9325242 Jim Thomassen  
Executive Director  
Texas Bond Review Board

Filed: July 2, 1993

## Texas Department of Commerce Request for Proposals

The Texas Department of Commerce (Commerce) is requesting proposals for a third-party, independent evaluator to evaluate the processes, product and outcomes of up to three skills standards and certification projects. The skill standards and certification projects and the evaluation of the projects are jointly sponsored, funded and conducted by a tri-agency partnership comprised of Commerce, the Texas Education Agency and the Texas Higher Education Coordinating Board. A bidder's conference to clarify the scope and nature of work will be held on August 3, 1993, from 9:30 to 12:30 at the Texas Higher Education Coordinating Board, 7700 Chevy Chase Drive, Building I, Room 100, in Austin.

The requirements for preparing and submitting a proposal for the evaluation project are contained in Part I, Section 2. of the RFP package. One project will be funded under this section at a maximum level of \$75,000.

Texas public educational institutions and Texas Private Industry Councils that are not awarded funds to conduct a skill standards and certification project, or private sector entities and consultants (companies, non-profit organizations, or individuals) may apply for funds to conduct the evaluation project. Preference in selecting an applicant will be given to entities whose principal place of business is within the state or who will manage the project wholly from one of its offices within the state.

The evaluation project will fund a third-party independent evaluator to evaluate the processes, products, and outcomes of each skill standards and certification project. It will gather pertinent information through data gathering instruments and interviews, and make recommendations to the tri-agency partnership on policy and implementation issues.

Review of applications will begin as soon as practical after receipt. Reviewers may be staff from Commerce, TEA and the Coordinating Board, outside resource people, or a combination thereof. Each proposal will receive a score from zero to 100 points based on the following criteria.

<u>Category</u>	<u>Possible Points</u>
A. Quality of Management Component	15
B. Quality of Technical Component	75
C. Adequacy and Reasonableness of Budget	10

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**Maximum Possible Points: 100**

Detailed evaluation scale that will be used to review applications will be available at the bidder's conference. The applicants receiving the most favorable ratings during the first round of selection may be asked to send a representative to Austin, for an oral presentation of the application. Final recommendations of the review panel will be presented to the Executive Director of Commerce for either approval of the application in whole or in part, disapproval of the application, or deferral of action on the application for such reasons as a requirement for further evaluation.

Proposals must be received by Commerce no later than 4:00 p.m.(CDT) on Thursday, August 26, 1993. Applicants must submit an original and nine copies of the proposal by mail, or deliver in person to: Texas Department of Commerce, Work Force Development Division, 816 Congress Avenue, Suite 1300 (78701), P.O. Box 12728, Austin, Texas 79711, Attention: Brenda Lovett.

Technical assistance regarding this RFP is available on request. Technical assistance is limited to information regarding the technical completion of the proposal. No assistance can be provided in the development of a proposal.

Copies of the RFP can be obtained by writing David M. Dennis, at the Texas Department of Commerce at the address above.

Issued in Austin, Texas, on July 5, 1993.

TRD-9325249      Cathy Bonner  
    Executive Director  
    Texas Department of Commerce

Filed: July 5, 1993



The Texas Department of Commerce (Commerce) is requesting proposals for a skill standards and certification projects. These projects are jointly sponsored, funded and conducted by a tri-agency partnership comprised of Commerce, the Texas Education Agency and the Texas Higher Education Coordinating Board. The requirements for pre-

paring and submitting a proposal for these projects are contained in Part I, Section 1 of the RFP package. A bidder's conference to clarify the scope and nature of work will be held on August 3, 1993, from 9:30 to 12:30 at the Texas Higher Education Coordinating Board, 7700 Chevy Chase Drive, Building I, Room 100, in Austin.

A total of \$500,000 is available to fund three projects each of which can be funded in the range of \$125,000 to \$165,000.

Applications must be jointly submitted by a partnership consisting of a bidder and a co-bidder. A bidder is defined as a public or private education or training provider that operates in the state of Texas which has an industry-validated training program in a regional targeted, state priority or emerging occupation. A bidder must be one of the following: public independent school district; public community or technical college; public university; proprietary school; JTPA Private Industry Council; or a business, industry or labor entity with a viable training program as defined previously.

A co-bidder is defined as an industry association, foundation, consortium or other recognized group that has previously established a skill standards that define industry needs for skilled workers in an occupational area as defined above. A co-bidder must be a viable, industry-recognized entity independent of the bidder.

Skill standards and certification project outcomes are as follows: an analysis of SCANS (Secretary's Commission on Achieving Necessary Skills) skill requirements in a specific occupation using a reliable and valid scale; enhancements to curriculum that infuses SCANS skill training into the technical components; recommendations and strategies for using skill-based, criterion-referenced testing and certification; and a professional development plan for enabling faculty, instructors, and professional staff to deliver the enhanced curriculum in the classroom.

Review of applications will begin as soon as practical after receipt. Reviewers may be staff from Commerce, TEA and the Coordinating Board, outside resource people, or a combination thereof. Each proposal will receive a score from zero to 100 points based on the following criteria.

<u>Category</u>	<u>Possible Points</u>
A. Quality of Management Component	15
B. Quality of Technical Component	75
C. Adequacy and Reasonableness of Budget	10
<hr style="width: 10%; margin-left: auto; margin-right: 0;"/>	
<b>Maximum Possible Points: 100</b>	

Detailed evaluation scale that will be used to review applications will be available at the bidder's conference. The applicants receiving the most favorable ratings during the first round of selection may be asked to send a representative to Austin, for an oral presentation of the application. Final recommendations of the review panel will be presented to the Executive Director of Commerce for either approval of the application in whole or in part, disapproval of the application, or deferral of application for such reasons as a requirement for further evaluation.

Proposals must be received by Commerce no later than 4:00 p.m.(CDT) on Thursday, August 26, 1993. No exceptions will be made regarding the proposals submission deadline. Applicants must submit an original and nine copies of the proposal by mail, or deliver in person to: Texas Department of Commerce, Work Force Development Division, 816 Congress Avenue, Suite 1300, P.O. Box 12728, Austin, Texas 79711, Attention: Brenda Lovett.

Technical assistance regarding this RFP is available on request. Technical assistance is limited to information regarding the technical completion of the proposal. No assistance can be provided in the development of a proposal. A copy of the RFP can be obtained by written request to David M. Dennis, at the Texas Department of Commerce at the address above.

Issued in Austin, Texas, on July 5, 1993.

TRD-9325250      Cathy Bonner  
    Executive Director  
    Texas Department of Commerce

Filed: July 5, 1993

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### Texas Education Agency

#### Correction of Error

The Texas Education Agency proposed new 19 TAC §61.1002, concerning county education districts. The rule appeared in the June 29, 1993, *Texas Register* (18 TexReg 4231). The Texas Education Agency inadvertently omitted a period from the second sentence. The two new sentences should read as follows:

"Explanation of Conversion from County Education District Taxes. County education districts have been abolished."

### Texas Higher Education Coordinating Board

#### Notice of Meeting

The Texas Plan 1993 Advisory Committee will meet on Tuesday, July 13, 1993, from 9:30 a.m. to 2:00 p.m. The meeting will be held at the Coordinating Board offices at 7745 Chevy Chase Drive, Building 5, Room 5.139. The purpose of the meeting is to further develop the new Texas Educational Opportunity Plan. For additional information please contact Dr. Betty James at (512) 483-6140.

Issued in Austin, Texas, on June 30, 1993.

TRD-9325096      Sharon Jahsman  
    Administrative Secretary  
    Texas Higher Education Coordinating Board

Filed: July 1, 1993

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### Texas Department of Housing and Community Affairs

#### Request for Proposals for Co-Bond Counsel

**Notice of Request for Proposals.** Pursuant to Texas Civil Statutes, Article 4413(501), the Texas Department of Housing and Community Affairs (TDHCA) announces a Request for Proposals (RFP) for co-bond counsel. Co-bond counsel will provide legal services under the direction and supervision of TDHCA's bond counsel in connection with the issuance of TDHCA's bonds.

**Contact.** Law firms interested in submitting a proposal should contact Peggy Fealy, Legal Assistant, 811 Barton Springs Road, Austin, Texas 78704, (512) 475-3916 for a complete copy of the RFP.

**Closing Date.** Proposals must be received by TDHCA no later than 5:00 p.m. on July 19, 1993. Proposals received after this deadline will not be considered.

**Evaluation.** TDHCA will make its selection based on its perception of the need for co-bond counsel, the demonstrated competence, experience, knowledge, and qualifications, on the reasonableness of the proposed fee for the services, and on the efficacy of its affirmative action policy and practices.



TDHCA reserves the right to negotiate all elements which comprise the proposal of the firm(s) to ensure the best possible consideration be afforded to all concerned. TDHCA is under no obligation to execute a contract or contracts on the basis of this RFP. TDHCA reserves the right to reject any and all proposals and to resolicit in such an event. TDHCA permits proposals utilizing joint ventures of any two or more firms, if appropriate.

Issued in Austin, Texas, on June 30, 1993.

TRD-9325169 Henry Flores  
Executive Director  
Texas Department of Housing and  
Community Affairs

Filed: July 2, 1993

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**Texas Department of Insurance  
Company License**

The following applications have been filed with the Texas Department of Insurance and are under consideration:

- (1.) Application for redomestication and name change in Texas for TIC Indemnity Company, a foreign fire and casualty company. The current home office is in Atlanta, Georgia. The proposed new name is American Safety Casualty Insurance, and the proposed new home office is Wilmington, Delaware.
- (2.) Application for Incorporation in Texas for Plan Data, Inc., a domestic third party administrator. The home office is in Austin.
- (3.) Application for admission in Texas for Rasmussen Administrators, (assumed name for Rasmussen Agency, Inc.), a foreign third party administrator. The home office is in Somerset, New Jersey.
- (4.) Application for admission in Texas for New York Surety Company, a foreign fire and casualty company. The home office is in Great Neck, New York.

Issued in Austin, Texas, on July 2, 1993.

TRD-9325232 Linda K von Quintus-Dorn  
Chief Clerk  
Texas Department of Insurance

Filed: July 2, 1993

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**Notice of Withdrawal and Rescheduling**

On Monday, July 12, 1993 at 2:00 p.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe in Austin, the Board will consider a withdrawal of a petition filed by the Workers' Compensation Insurance Facility (Facility) published in the July 2, 1993, issue of the *Texas Register* (18 TexReg 4295) of a public meeting on August 4, 1993, to consider approval of proposed amendments to the Tabular Surcharge Plan and rate differentials of the Facility under the Insurance Code, Article 5.96.,

The Board will also consider an amended petition filed by the Facility to approve amendments to the Texas Workers' Compensation Insurance Facility rating plan reducing the tabular surcharges and rate differentials charged for risks written through the Facility under Article 5.76-2, §4.05.

Issued in Austin, Texas, on July 2, 1993

TRD-9325233 Linda K. von Quintus-Dorn  
Chief Clerk  
Texas Department of Insurance

Filed: July 2, 1993.

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**State Occupational Information  
Coordinating Committee**

**Request for Proposal for Employers  
Survey**

The Texas State Occupational Coordinating Committee (SOICC) invites proposals for conducting a survey and analyzing data gathered therefrom commencing August 2, 1993, and ending June 30, 1994. Anyone wishing to submit a proposal should contact the following for a detailed RFP: Richard Froechle or Marc Anderberg, Texas SOICC, Travis Building, Suite 205, 3520 Executive Center Drive, Austin, Texas 78731, or phone (512) 502-3750. All proposals must be received at the SOICC office no later than 5:00 p.m. on August 2, 1993. Within ten days after contracting, the SOICC will file a notice of award of contract.

Based on prior experience and expertise, it is our intent to award this contract to Jim Reed's Student Information Systems of Corsicana, unless another organization can demonstrate superior knowledge and expertise in the field of automated record matching and student follow-up.

The survey of Texas employers will be designed to determine the occupational employment status of former students and adult learners from public institutions of higher education, from Job Training Partnership Act (JTPA) programs, and from pilot high schools. The SOICC is under contract with the Texas Higher Education Coordinating Board (Coordinating Board), Texas Education Agency (TEA), and the Texas Department of Commerce (TDoC) for the period July 1, 1993-June 30, 1994 to develop a comprehensive and integrated statewide student and adult learner follow-up system. The purpose of the follow-up system will be to obtain data to demonstrate the successful outcomes of various education and training programs, to compare institutional and program performance against core standards and measures, to help guide program improvements, and to provide information essential to students and adult learners as they form career expectations and choose from among related education and training options.

The Coordinating Board, TEA and TDoC will submit to the SOICC "seed files" containing background information on former students and participants. These seed files will be matched by Social Security numbers to the Texas Employment Commission's Unemployment Insurance (UI) wage-records to identify labor market outcomes. The data obtained through this matching process are not sufficient to address a key concern outlined in the state's *Master Plan for Career and Technical Education* and various state agency rules and regulations. Namely, the data obtained through the UI wage-record match are not sufficiently detailed to permit a determination of training-relatedness for job placements. The purpose of this RFP is to engage a subcontractor to conduct an employer survey to obtain occupational title, worksite location, and conditions of employment (full time/full quarter) for former students and adult learners located in the Texas labor market through the UI wage-record match.

No later than October 22, 1993, the SOICC will deliver a seed file to the employer survey subcontractor. The seed file will contain the matched records for no more than 70,500 former students and adult learners. The seed files will include each former student or adult learner's name and Social Security number. The seed file also will contain a TEC identification number, firm name and firm address for the employer of record for the fourth quarter of 1992 as identified through the automated matching against the UI wage-records. Each firm is to receive one survey instrument containing the names and Social Security numbers of all former students and adult learners from the seed file identified as in its employment. The subcontractor will request that the employers supply an occupational title, work site location Zip code, and designation of full time/full quarter employment (Yes/No) for each former student or adult learners identified on the survey instrument.

The subcontractor will persist through such activities as are necessary to obtain responses from at least 75% of the employers surveyed. No later than April 4, 1994, the subcontractor will close out the employer survey file. The subcontractor will be responsible for coding all data received in response to the survey and will append that information in machine readable form to the original seed files. The seed files with information obtained through the employer follow-up survey appended will be returned to the SOICC and each participating pilot institution no later than May 9, 1994.

The subcontractor will be responsible for analysis of data obtained through the employer survey. Results of these data analyses must be finalized for presentation at the statewide conference in June of 1994. A written final report containing comprehensive statement of methodology and procedures will be delivered to the SOICC no later than June 30, 1994. The subcontractor also will be required to make periodic presentations to workshops, relevant committees, etc. concerning the progress of and preliminary results of the employer survey.

All rules and regulations pursuant to the expenditure of federal Carl D. Perkins Vocational Education Act and Job Training Partnership Act dollars will apply to this subcontract. Proposer must document the capacity of the organization and the qualifications and prior experience of its personnel necessary to fulfill contractual obligations. Proposer must provide assurances that the organization is not barred from entering into a contract with a Texas state or federal agency and that there would be no conflict of interest in entering into a contract with the SOICC.

Issued in Austin, Texas, on July 2, 1993.

TRD-9325202      Richard C. Froeachie  
Executive Director  
State Occupational Information Coordinating  
Committee

Filed: July 2, 1993

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## Texas Low-Level Radioactive Waste Disposal Authority

### Consultant Proposal Request

This request for consulting services is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

**Description.** The Texas Low-Level Radioactive Waste Disposal Authority is charged with the responsibility of siting, construction and operating a facility for the disposal of low-level radioactive waste. The Authority is required to develop procedures relating to waste disposal operations, radiological safety, emergency response, and security. The Authority is interested in securing a health physics consultant to advise the Authority on the management of low-level radioactive waste operations, with specific attention to compliance with the rules and regulations of the Texas Department of Health and the Texas Water Commission. This consultant will also be responsible for reviewing and commenting on plans and procedures developed by the Authority staff in support of the licensing and operations process.

**Person to Contact.** Further information may be obtained from Robert V. Avant, Jr., P.E., at the Texas Low-Level Radioactive Waste Disposal Authority, 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752, or by calling (512) 451-5292.

**Deadline for Submission of RFP.** This RFP will close on Monday, August 8, 1993, at 5:00 p.m.

**Services Previously Performed.** These services have been previously performed by Hugh Bryant, Austin. The Authority intends to continue with and to award the contract for consulting services to Hugh Bryant for fiscal year 1994 unless a better proposal is submitted in response to this request.

**Evaluation Criteria.** Proposals received in response to this request will be evaluated according to the following criteria: prior experience in working with state and federal regulations related to the handling and disposal of low-level radioactive waste with specific emphasis on the rules and regulations of the U.S. Nuclear Regulatory Commission, the Texas Department of Health, and the Texas Water Commission; knowledge of Texas low-level radioactive waste characteristics; demonstrated competence and qualifications directly related to licensing, procedures development, and processing and storage operations of low-level radioactive waste; specific knowledge of and experience with the Authority's radiation protection and environmental monitoring programs; understanding of the work to be performed; and reasonableness of the fee for services.

**General Information.** The Authority reserves the right to accept or reject any or all proposals submitted. The Authority is under no legal requirement to execute a consultant contract on the basis of this notice. The Authority intends the material herein only as a general description of the services desired.

The proposal should be for a period of one year, beginning September 1, 1993

**Form and Format** Three copies of the proposal are requested. They should be sent by mail, or delivered in person marked "Proposal for Radiological Consulting Services" addressed to Robert V. Avant, Jr., P.E., 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752. Proposals shall be received at this address not later than 5:00 p.m., August 9, 1993. The proposal should be typed, preferably double spaced and completed on 8 1/2 by 11 inch paper with all pages sequentially numbered and either stapled or bound together.

Issued in Austin, Texas, on June 30, 1993.

Lee H. Mathews  
Deputy General Manager and General  
Counsel  
Texas Low-Level Radioactive Waste  
Disposal Authority

Filed: June 30, 1993

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**Texas Rehabilitation Commission**  
**Request for Offers**

The Texas Rehabilitation Commission is soliciting offers from non-profit or for-profit organizations for the award of up to five contracts to provide Personal Attendant Services to employed individuals with severe disabilities who live and are employed in the following service areas: South-Atascosa, Bexar, Comal, Guadalupe, Kendall, Medina and Wilson; Central-Travis, Williamson and Hays; East-Angelina, Chambers, Hardin, Jasper, Jefferson, Nacogdoches, Newton, Orange, and Shelby.

Personal attendant services enable a person with a severe physical disability to work and live independently by having an attendant perform routine tasks of daily living. These routine tasks typically include assistance with transferring, dressing and undressing, meal preparation and clean up, eating, bathing, grooming, toileting, shopping, laundry, light housekeeping, and other household duties. Whenever possible the consumer will be responsible for selecting, training, supervising and terminating the attendant's service. For the solicitation materials, please submit a written request to: Jim Talley, Program Specialist, Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Austin, Texas 78731-2399.

**Deadline.** Offers for contracts must be submitted to the above address by 3:00 p.m., August 10, 1993.

Issued in Austin, Texas, on July 5, 1993.

TRD-9325277 Charles W. Schiesser  
Assistant Commissioner  
Texas Rehabilitation Commission

Filed: July 5, 1993

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**Texas Department of Transportation**  
**Public Hearing Notice**

In accordance with 43 TAC §11.103(b) and §11.105, the Texas Department of Transportation will conduct a public hearing on Wednesday, August 4, 1993, in the first floor hearing room of the Dewitt C. Greer State Highway Building, at 125 East 11th Street, Austin. The hearing will begin at 7:00 p.m. with registration starting at 6:00 p.m. The subject of the public hearing will be the proposed construction of a 22-mile toll road that will connect FM 1472 (Mines Road) near the vicinity of the Laredo-Colombia Solidarity Bridge and IH 35 at a point approximately eight miles north of the limits of the City of Laredo, to be called the Camino Colombia Private Toll Road.

The project is being developed by Camino Colombia, Inc., a Texas private toll road corporation incorporated pursuant to Texas Civil Statutes, Article 1447 et seq.

Texas Civil Statutes, Article 6674v.1a, provide that a private entity or corporation may not construct any privately owned toll project which connects to a road, bridge, or highway included in the state highway system unless

the project is approved by the Texas Transportation Commission and the Texas Department of Transportation, and specifies the following conditions or considerations for that approval: the integration of the turnpike or toll project into the state highway system embodied in the existing regional transportation plan, including, but not limited to, the plan developed by the metropolitan planning organization, if any, of a municipality within whose municipal limits or extraterritorial jurisdiction the proposed turnpike or toll project is to be located; the potential impact, if any, of the turnpike or toll project on the economy of the region in which the turnpike or toll project is to be located, including the economies of each county in which the project is to be located and of the municipalities within those counties; with respect to a project located in whole or in part in a county adjacent to the border between the State of Texas and the Republic of Mexico or in a county adjacent to such a county, the potential impact of the turnpike or toll project on the free flow of trade between the Republic of Mexico and the State of Texas.

The Act further directs the Texas Transportation Commission to promulgate rules to implement these requirements, and appropriate rulemaking was accomplished by the commission effective February 18, 1993, as codified in 43 TAC §§11.100-11.107.

The project will be built in two phases. Phase One construction will provide for grade separated interchanges at IH 35 and US 83. Phase Two will provide for additional interchanges at Jeffries Road (FM 3338) and Las Tiendas Road and an east to north direct connection at IH 35 and the proposed Camino Colombia Toll Road. The ultimate design of the Camino Colombia Toll Road will be a four-lane divided highway, with four foot inside shoulders, 12 feet travel lanes and 10 feet outside shoulders within a 400 feet right of way.

Approximately 1,068 acres of land will be required for construction. There will be no relocations or displacements involved as a result of this project.

Maps and drawings showing the proposed location and design of this project, an environmental assessment, and other information and documents about the proposed project pursuant to the cited rules and Article 6674v.1a, are on file and available for public inspection and copying in the Division of Highway Design, 150 East Riverside Drive, Austin, Texas 78701, (512) 416-2606, and at the following district offices of the department: 600 West US 83, Pharr; 1070 South Padre Island Drive, Corpus Christi; 4615 North West Loop 410, San Antonio; 7721 Washington Avenue, Houston; and 5219 McPherson Road, Suite 230, Laredo. Information regarding right of way acquisition and the state's relocation assistance program is also available at the Division of Highway Design.

All interested citizens are invited to attend this public hearing. The public hearing will be conducted in accordance with the procedures specified in 43 TAC §1.5. Speakers will be taken in the order registered. Any interested person may appear and offer comments or testimony, either orally or in writing; however, questioning of witnesses will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments or testimony will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive comment. Groups, organizations, or associations should be represented by only one speaker. Speakers are requested to

refrain from repeating previously presented testimony. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer.

Persons with disabilities who have special communication or accommodation needs and who plan to attend the hearing may contact Al Zucha, public information officer, at 125 East 11th Street, Austin, Texas 78701-2393, (512) 463-8588. Requests should be made no later than two days prior to the hearing. Every reasonable effort will be made to accommodate these needs.

Written comments may be submitted within ten days after the public hearing to W. A. Lancaster, P.E., Director of Division of Highway Design, 125 East 11th Street, Austin, Texas 78701. The deadline for submitting all comments is August 14, 1993.

Issued in Austin, Texas, on July 5, 1993.

TRD-9325247 Diane L. Northam  
Legal Administrative Assistant  
Texas Department of Transportation

Filed: July 5, 1993

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**Texas Water Commission**  
**Correction of Errors**

The Texas Water Commission adopted new, repealed, and amended sections under 31 TAC 330, concerning municipal solid waste. The rules were published in the June 18, 1993, *Texas Register* (18 TexReg 4023).

In Subchapter H, on page 4064, §330.200(d)(3) the word "detection" should be replaced with the word "direction". This paragraph should read as follows. "(3) the quantity, quality, and direction of the flow of groundwater;"

In Subchapter F, on page 4062, §330.136(b)(3)(E) on line four "mil" should be replaced with "mm". Subparagraph (E) should read as follows. "(E) RACM shall be accepted at the site only in tightly closed and unruptured containers or bags or shall be wrapped as necessary with six-mm polyethylene."

In Subchapter K, on page 4090, §330.286. Wording of the instruments. Under Certificate of Insurance for Closure, Post-Closure, and/or Corrective Action in the fourth paragraph on line eight, the reference to "§330.285(f)" should read "§330.285(e)".

In line 21 the reference to "§330.286(e)" should read "§330.286(f)".

On page 4093 under Local Government Guarantee for Closure, Post-Closure Care, and/or Corrective Action, paragraph number 7, line six, "care or corrective action...." the word "or" should read "and/or". The line should read as follows. "...care and/or corrective action...."

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**Requests for Proposal**

Pursuant to 31 TAC §355.103, and Texas Civil Statutes, Article 6252-11(c), the Texas Water Commission announces a request for proposals to conduct a research project which will study water quality impairment of resacas (oxbow lakes) due to nonpoint source pollution in

the Brownsville area. This research was previously selected for funding under the pilot project program of the Texas Clean Rivers Program to provide data which supports management of urban nonpoint source pollution.

The Texas Water Commission has identified the following as the overall objectives of the pilot project: to identify and characterize nonpoint source pollution in runoff from specific areas (to be detailed in the Scope of Work); to design and implement a field assessment (sampling) which determines the beneficial use support status of the area's resacas and identifies the cause and source of any use impairments identified; and to provide information necessary to make a supporting/nonsupporting beneficial use determination for the resacas and identify possible impairments due to nonpoint source pollution.

The following field objectives have been identified by the Texas Water Commission as those necessary to accomplish the overall objectives of the project. Any modification of field objectives must show more effective use of project resources and be based upon the professional experience of the contract applicant. The Texas Water Commission will only approve modifications of the field objectives that ensure that overall objectives of the project are still met: to measure ambient water quality of the resacas for selected (to be detailed in the Scope of Work) parameters to compare to existing numerical criteria in the Texas Surface Water Quality Standards; to measure stormflow and the concentration of pollutants in runoff to calculate pollutant loading to the resacas; to measure instream wet weather water quality of the resacas for selected (to be detailed in Scope of Work) parameters to compare to existing numerical criteria in the Texas Surface Water Quality Standards; and to measure biological communities of macroinvertebrates and fish of two resacas impacted by urban and suburban/agricultural nonpoint source pollution, respectively, and of a resaca unimpacted by nonpoint source pollution loads to be used as a reference site. The biological data must be sufficiently quantitative to be used as a composite numerical indicator of aquatic resource impairment.

Description of Funding Considerations. Funds are available from the Texas Clean Rivers Program. It is intended that approximately \$190,000 be allocated to the research project. Availability of matching funds will be taken into consideration; however, this is not a specific requirement for proposals.

Obtaining an Application Packet. Before submitting a proposal, applicants must request the Resaca Pilot Project Proposal Packet (Resaca Packet). The Resaca Packet will provide additional material including a Scope of Work, list of technical references to guide field data collection, and QA/QC procedures. The packet will detail project objectives and the required/desired qualifications of the subcontractor. To obtain a copy of the Resaca Packet for application, contact: Steve Niemeyer, Project Manager, Environmental Assessment Division, Texas Water Commission, Stephen F. Austin Building, Suite 1153A, 1700 North Congress Avenue, Austin, Texas 78701, (512) 475-2162.

The Resaca Packet should be requested as soon as possible, as proposals to be considered by the Commission must be received by August 9, 1993.

Eligible Proposers. To assure equitable distribution of the funds and to avoid conflict of interest, the following criteria are established for acceptability of proposers. Texas-based proposers will be given priority consider-

ation, and only in unusual circumstance will this priority be disregarded. Requests for proposals from Historically Under-utilized Businesses (HUBs) are encouraged. Individual members of the Texas Water Commission, division staff members, or their immediate families are not eligible. Because the measurement of nonpoint source pollution involves the occurrence of random storm events, the Texas Water Commission is seeking a contractor with local response capability to perform the research.

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TRD-9325244

Mary Ruth Holder  
Director, Legal Division  
Texas Water Commission

Filed: July 5, 1993



Pursuant to 31 TAC §355.103, and Texas Civil Statutes, Article 6252-11(c), the Texas Water Commission announces a request for proposals to conduct a research project which will study water quality impairment due to nonpoint source pollution of Colonias area drains in El Paso County. This research was previously selected for funding under the pilot project program of the Texas Clean Rivers Program to provide data which supports management of urban nonpoint source pollution.

The Texas Water Commission has identified the following as the overall objectives of the pilot project: to identify and characterize nonpoint sources of water pollution to Colonias and agricultural area drains; to design and implement a field data collection program to determine public health risks associated with water quality impairment of Colonias and agricultural area drains due to nonpoint sources of pollution; and to provide information to determine the management measures necessary to control nonpoint source pollution in order to reduce public health risks below unacceptable levels.

The following technical and field data collection objectives have been identified by the Texas Water Commission as necessary to accomplish the overall objectives of the project: to collect and evaluate existing water quality data related to human health protection and to compare to the Texas Surface Water Quality Standards: fecal coliform, pesticides, oil and grease, etc; to measure instream water quality (both ambient and wet weather) for selected parameters to compare to existing numerical criteria in the Texas Surface Water Quality Standards, especially human health; to collect other information (public use, fish consumption, etc.) and data in a form such that potential human health risks associated with the instream water quality conditions of Colonias and agricultural area drains can be modelled; to model potential human health risks of Colonias and agricultural area drains to determine the reductions in nonpoint source pollution loads necessary to lower human health risks below unacceptable levels.

Description of Funding Considerations. Funds are available from the Texas Clean Rivers Program. It is intended that approximately \$200,000 be allocated to the research project. Availability of matching funds will be taken into

consideration; however, this is not a specific requirement of proposals.

Obtaining an Application Packet. Before submitting a proposal, applicants must request the Colonias Pilot Project Proposal Packet (Colonias Packet). The Colonias Packet will provide additional material including a Scope of Work, list of technical references to guide field data collection, and QA/QC procedures. The packet will detail project objectives and the required/desired qualifications of the subcontractor. To obtain a copy of the Colonias Packet for application, contact: Steve Niemeyer, Project Manager, Environmental Assessment Division, Texas Water Commission, Stephen F. Austin, Building, Suite 1153A, 1700 North Congress Avenue, Austin, Texas 78701, (512) 475-2162.

The Colonias Packet should be requested as soon as possible as proposals to be considered by the Commission must be received by August 9, 1993.

Eligible Proposers. Because the measurement of nonpoint source pollution involves the occurrence of random storm events, the Texas Water Commission is seeking a contractor with local response capability to perform the research.

To assure equitable distribution of the funds and to avoid conflict of interest, the following criteria are established for acceptability of proposers. Texas-based proposers will be given priority consideration, and only in unusual circumstance will this priority be disregarded. Requests for proposals from Historically Under-utilized Businesses (HUBs) are encouraged. Individual members of the Texas Water Commission, division staff members, or their immediate families are not eligible.

Issued in Austin, Texas, on July 5, 1993.

TRD-9325245

Mary Ruth Holder  
Director, Legal Division  
Texas Water Commission

Filed: July 5, 1993



## Texas Workers' Compensation Commission

### Discount Rate; Interest Rate

The Texas Workers' Compensation Commission has determined, pursuant to the authority and direction given under the Texas Workers' Compensation Act, Article 8308-1.04(b), that any interest or discount provided for in the Act shall be at the rate of 3.40%, a rate computed by taking the auction rate quoted at a discount basis for 52 week treasury bills, issued by the United States Treasury, as quoted on auction on June 24, 1993. The rate shall be effective July 1, 1993-September 30, 1993.

Issued in Austin, Texas, on June 30, 1993.

TRD-9325074

Ben Delgado, for Todd Brown  
Executive Director  
Texas Workers' Compensation Commission

Filed: June 30, 1993



## 1993 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1993 issues of the *Texas Register*. Because of printing schedules, material after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week preceding publication. No issues will be published on July 30, November 5, November 30, and December 28. An asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
34 Tuesday, May 4	Wednesday, April 28	Thursday, April 29
35 Friday, May 7	Monday, May 3	Tuesday, May 4
36 Tuesday, May 11	Wednesday, May 5	Thursday, May 6
37 Friday, May 14	Monday, May 10	Tuesday, May 11
38 Tuesday, May 18	Wednesday, May 12	Thursday, May 13
39 Friday, May 21	Monday, May 17	Tuesday, May 18
40 Tuesday, May 25	Wednesday, May 19	Thursday, May 20
41 Friday, May 28	Monday, May 24	Tuesday, May 25
42 Tuesday, June 1	Wednesday, May 26	Thursday, May 27
43 *Friday, June 4	Friday, May 28	Tuesday, June 1
44 Tuesday, June 8	Wednesday, June 2	Thursday, June 3
45 Friday, June 11	Monday, June 7	Tuesday, June 8
46 Tuesday, June 15	Wednesday, June 9	Thursday, June 10
47 Friday, June 18	Monday, June 14	Tuesday, June 15
48 Tuesday, June 22	Wednesday, June 16	Thursday, June 17
49 Friday, June 25	Monday, June 21	Tuesday, June 22
50 Tuesday, June 29	Wednesday, June 23	Thursday, June 24
51 Friday, July 2	Monday, June 28	Tuesday, June 29
52 Tuesday, July 6	Wednesday, June 30	Thursday, July 1
53 Friday, July 9	Monday, July 5	Tuesday, July 6
Tuesday, July 13	SECOND QUARTERLY INDEX	
54 Friday, July 16	Monday, July 12	Tuesday, July 13
55 Tuesday, July 20	Wednesday, July 14	Thursday, July 15
56 Friday, July 23	Monday, July 19	Tuesday, July 20
57 Tuesday, July 27	Wednesday, July 21	Thursday, July 22
Friday, July 30	NO ISSUE PUBLISHED	
58 Tuesday, August 3	Wednesday, July 28	Thursday, July 29
59 Friday, August 6	Monday, August 2	Tuesday, August 3
60 Tuesday, August 10	Wednesday, August 4	Thursday, August 5
61 Friday, August 13	Monday, August 9	Tuesday, August 10
62 Tuesday, August 17	Wednesday, August 11	Thursday, August 12
63 Friday, August 20	Monday, August 16	Tuesday, August 17
64 Tuesday, August 24	Wednesday, August 18	Thursday, August 19

65 Friday, August 27	Monday, August 23	Tuesday, August 24
66 Tuesday, August 31	Wednesday, August 25	Thursday, August 26
67 Friday, September 3	Monday, August 30	Tuesday, August 31
68 Tuesday, September 7	Wednesday, September 1	Thursday, September 2
69 *Friday, September 10	Friday, September 3	Tuesday, September 7
70 Tuesday, September 14	Wednesday, September 8	Thursday, September 9
71 Friday, September 17	Monday, September 13	Tuesday, September 14
72 Tuesday, September 21	Wednesday, September 15	Thursday, September 16
73 Friday, September 24	Monday, September 20	Tuesday, September 21
74 Tuesday, September 28	Wednesday, September 22	Thursday, September 23
75 Friday, October 1	Monday, September 27	Tuesday, September 28
76 Tuesday, October 5	Wednesday, September 29	Thursday, September 30
77 Friday, October 8	Monday, October 4	Tuesday, October 5
Tuesday, October 12	THIRD QUARTERLY INDEX	
78 Friday, October 15	Monday, October 11	Tuesday, October 12
79 Tuesday, October 19	Wednesday, October 13	Thursday, October 14
80 Friday, October 22	Monday, October 18	Tuesday, October 19
81 Tuesday, October 26	Wednesday, October 20	Thursday, October 21
82 Friday, October 29	Monday, October 25	Tuesday, October 26
83 Tuesday, November 2	Wednesday, October 27	Thursday, October 28
Friday, November 5	NO ISSUE PUBLISHED	
84 Tuesday, November 9	Wednesday, November 3	Thursday, November 4
85 Friday, November 12	Monday, November 8	Tuesday, November 9
86 Tuesday, November 16	Wednesday, November 10	Thursday, November 11
87 Friday, November 19	Monday, November 15	Tuesday, November 16
88 Tuesday, November 23	Wednesday, November 17	Thursday, November 18
89 Friday, November 26	Monday, November 22	Tuesday, November 23
Tuesday, November 30	NO ISSUE PUBLISHED	
90 Friday, December 3	Monday, November 29	Tuesday, November 30
91 Tuesday, December 7	Wednesday, December 1	Thursday, December 2
92 Friday, December 10	Monday, December 6	Tuesday, December 7
93 Tuesday, December 14	Wednesday, December 8	Thursday, December 9
94 Friday, December 17	Monday, December 13	Tuesday, December 14
95 Tuesday, December 21	Wednesday, December 15	Thursday, December 16
96 Friday, December 24	Monday, December 20	Tuesday, December 21
Tuesday, December 28	NO ISSUE PUBLISHED	

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