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publication

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# AGENCY PROPOSES POLICY CHANGES AND TCAA AMENDMENTS ON ENFORCEMENT



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# T A C B BULLETIN



The Texas Air Control Board (TACB) has taken several steps to strengthen its enforcement policies, especially in dealing with businesses that are issued board orders for constructing and operating without first obtaining an agency permit.

In addition, other areas of the enforcement program will be enhanced in the near future. The proposed policy changes were discussed at the October 12 board meeting and at a workshop in Austin on November 7. Members of the general public, as well as the regulated community, attended the meetings and provided comments on the new proposals.

The board approved specific deadlines for those businesses issued a board order for constructing and operating without TACB approval.

The violator will have 30 days after issuance of the order to meet with the permit staff. The company will have to cease operation if it has not submitted an administrative and technically complete permit application within 180 days.

"In the five years that we have had authority, more than 800 board orders have been issued. This type of violation (constructing and operating without a permit) represents about half of the orders that have been entered," said James Myers, deputy director of Regulatory Operations.

In addition to the timetable deadlines that were adopted as policy, the staff proposed new language that addresses requirements that violators agree to interim controls to eliminate nuisance conditions or even potential nuisance conditions before

the board order is entered.

"We hope to add new language to our board orders that will put the subject of the violation on notice that it cannot engage in other violations, such as expanding operations or handling other materials, while the permit violation is being settled," added Mr. Myers.

New policy language has been drafted to deal with repeat violators of TACB orders. Policy will be considered for adoption that more than doubles the monetary penalty for repeat violators. A third repeat may mean referral to the Texas Attorney General for legal action.

The board instructed the staff, working with the enforcement committee, to draft language that would strengthen the Texas Clean Air Act (TCAA). Those

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# SPAW SPEAKS ON NEW FEDERAL CLEAN AIR ACT

**Steve Spaw, TACB Executive Director, recently participated in a press conference to discuss the recently passed Federal Clean Air Act. Mr. Spaw has also been chosen to chair the Federal Clean Air Act Implementation Issues Committee of the State and Territorial Air Pollution Administrators Association. The committee will be working closely with top EPA officials on implementation planning and rule development. Below are excerpts from Mr. Spaw's remarks at the press conference.**

**W**e've waited 13 years for this act. During that time significant progress has been made in controlling some air pollution problems, such as airborne lead emissions. We have also found that other needs were not adequately addressed by existing law. Additionally, scientific advancement has suggested that the effects of some air pollution problems, such as acid rain and ozone depleting chemicals, are more

widespread and more serious than previously thought. We look forward to the tremendous momentum and direction the new Act will provide in addressing air pollution problems, though one obvious lesson from the past is that states must still be prepared to move ahead of the federal government at times.

Air toxics is one area where these amendments radically change the approach to pollution control. During the past 20 years, the Environmental Protection Agency (EPA) has provided specific regulations for only a handful of toxic substances. Under the new Act, approximately 190 substances will be declared toxic by Congress.

These substances will come under regulation over a period of

several years, as EPA identifies the technology for various types of toxic emissions sources that will achieve maximum emissions control. The provisions would require facilities handling extremely hazardous substances to develop accident prevention and risk reduction plans.

The toxics provisions will be particularly important to Texas, which has the nation's largest concentration of petrochemical production and the largest quantity of industrial toxic emissions. In controlling sources of toxic emissions, EPA will also be regulating small sources, possibly gas stations for example.

The new statute will greatly expand efforts to address problems in attaining compliance with existing standards for ambient air quality. Noncompliance with these standards is regarded as one of the nation's top environmental problems, with over 100 cities in violation, primarily for ozone. Ozone nonattainment areas are ranked in five levels. There are four areas in Texas that are nonattainment. The degree of control required varies with the severity of an area's problem. Generally, measures must be taken to ensure ozone precursors are reduced by approxi-

mately three percent per year.

Acid rain and visibility problems will be addressed by programs to reduce sulfur dioxide emissions from power plants. Several lignite burning plants in Texas will be affected by these provisions, which could potentially require scrubbers to be installed by the year 2000.

Global problems will be addressed in the Act for the first time by provisions requiring the phasing out of compounds like chlorofluorocarbons, which deplete the stratospheric ozone layer.

Among other significant provisions in the bill are requirements for all major emission sources to obtain operating permits which must be renewed every five years. Many sources, which are now grandfathered, will undergo permit review for the first time.

Motor vehicles are also to be targeted by the Act, which includes provisions to require on-board systems to monitor emission control efficiency and, possibly, on-board canisters to capture vapors.

It will be a tremendous challenge, but I look forward to working to ensure speedy and effective implementation of these provisions. ♦

# AGREED ENFORCEMENT ORDERS

August

ISSUED  
August  
THROUGH  
October

The Texas Air Control Board (TACB) issued the following agreed enforcement orders.

Effective September 1, 1989, the Texas Clean Air Act is now referred to as the Texas Clean Air Act (the Act), Texas Health and Safety Code, Chapter 382. One of the amendments to the Act redesignated several sections including those referenced in the violations summarized below. Some of the violations summarized below, however, occurred prior to September 1.

**ALLIANCE AIRPORT LIMITED**, a land clearing operation on Keller-Haslet Road, Haslet, Tarrant County, violating Board Rule 111.101 and Section 4.01(b) [redesignated as Section 382.085(b)] of the Act by allowing outdoor burning without prior written consent, \$500.

**ARCO CHEMICAL Co.**, a synthetic organic chemicals plant at 10801 Choate Road, Pasadena, Harris County, violating Board Rule 101.20(1), Section 382.085 of the Act, and Agreed Board Order No. 90-01(c) by failing to submit a timely report of an inspection which indicated a defect in the internal floating roof of a volatile organic liquid storage tank and by failing to repair the internal floating roof or empty the tank, \$14,000.

**BAKER HUGHES TUBULAR SERVICES**, a pipe coating facility at 1505 South Fulton Road, Odessa, Ector County, violating Board Rules 101.4, 101.6, and 116.4; Sections 382.085(a) and (b) of the Act; and a condition of its TACB permit by causing excessive smoke and odor emissions from a thermal clean oven, by failing to timely notify the TACB of a major upset condition, and by operating the

facility without air pollution abatement equipment being maintained in good working order and operating properly, \$10,000.

**BUNKER PLASTICS, Inc.**, an acrylic mirror manufacturing plant on Highway 80 East, one-half mile east of Grand Saline, Van Zandt County, violating Board Rule 116.1 and Sections 3.27(a) and 4.01(b) [redesignated as Sections 382.051(a) and 382.085(b)] of the Act by constructing and operating a lacquer spray coating unit without a permit or without qualifying for a standard exemption, \$500. Subsequent to the notice of violation, the company submitted an application for a permit.

**COMPOSITE TECHNOLOGY**, a Unit of W. R. Grace and Co., a fiberglass products manufacturing plant at 1005 Blue Mound Road, Blue Mound, Tarrant County, violating Board Rules 101.4 and 115.121 and Sections 382.085(a) and (b) of the Act by discharging excessive air contaminants and by discharging excessive volatile organic compound emissions in the vent gas, \$28,000.

**FINA OIL AND CHEMICAL Co.**, a refrigeration vapor recovery unit

at its gasoline/diesel truck loading terminal on Highway 121, near Grapevine, Tarrant County, violating Board Rules 115.111(2)(E) and 116.4, Section 4.01(b) [redesignated as Section 382.085(b)] of the Act, and Board Order No. 86-52 by emitting volatile organic compounds in excess of the emission allowable and by failing to maintain the VRU in good working order, \$81,000.

**GRIMES IRON AND METAL**, a salvage yard at 8460 Boles Road, Odessa, Ector County, violating Board Rules 101.4 and 111.101 and Sections 382.085(a) and (b) of the Act by discharging excessive smoke emissions and by causing, suffering, allowing, or permitting outdoor burning, \$5,000.

**KERLEY AG PRODUCTS**, an ammonium bisulfite/ammonium thiosulfate production unit at 1050 Jefferson Road, Pasadena, Harris County, violating board Rule 116.1 and Sections 382.051(a) and 382.085(b) of the Act by constructing the production unit without a permit or without qualifying for a standard exemption, \$7,000. Subsequent to the notice of violation, the

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## AGREED ENFORCEMENT ORDERS

company submitted an application for a permit.

**LACY FEED CO.**, a feed mill at 11th Street and Jackson, Waco, McLennan County, violating Board Rules 101.4 and 101.6 and Section 4.01(b) [redesignated as Section 382.085(b)] of the Act by discharging excessive air contaminants and by failing to report a major upset condition, \$14,400.

**L. H. LACY CO.**, a concrete batch plant 600 feet north of the intersection of North Colony Blvd. and Northpointe Dr. in Denton County, violating Board Rule 116.4, Section 4.01(b) [redesignated as Section 382.085(b)] of the Act, and a special provision of its TACB permit by starting construction of its portable concrete batch plant at a new location without prior written approval, \$500.

**LUBRIZOL PETROLEUM CHEMICAL Co.**, a chemical unit in Deer Park, Harris County, violating board Rule 115.272(a)(1) by failing to perform annual monitoring at its Low Molecular Weight Polyisobutylene Unit in 1989, \$2,000.

**W. A. MCKENZIE ASPHALT Co** an asphalt plant in Greenville, Hunt County, violating Board Rules 111.111(a)(1)(B) and 116.4, Section 4.01(b)

[redesignated as Section 382.085(b)] of the Act, and a special provision of its TACB permit by causing excessive visible emissions, by failing to sprinkle the in-plant roads and aggregate stockpiles as necessary, and by operating the facility without all abatement equipment being installed and operating properly, \$1,200.

**O'GRADY CONTAINERS, INC.**, a corrugated box manufacturing operation at 2400 Shamrock Avenue, Fort Worth, Tarrant County, violating Board Rule 116.1 and Sections 382.051(a) and 382.085 of the Act by constructing and operating the facility without a permit or without qualifying for a standard exemption. Subsequent to the notice of violation, the company submitted an application for a permit. No monetary penalty except that a penalty of \$50 per day could be assessed for each day information requested by the TACB to complete its review of the application is late and a penalty of \$15,865 could be assessed if it is determined after review that substantial additional controls are necessary.

**PRESBYTERIAN HOSPITAL OF KAUFMAN**, a hospital at the intersection of Highways 75 and 243 in Kaufman, Kaufman County, violating Board Rules

101.6 and 116.4, Section 382.085(b) of the Act, and Agreed Board Orders No. 87-09(u) and 89-07(q) by operating a pathological incinerator with visible emissions and by failing to promptly report a major upset (the malfunctioning of the pathological incinerator's secondary burner), \$10,000.

**PVI INDUSTRIES, INC.**, a water heater manufacturing plant at 3209 Galvez Avenue, Fort Worth, Tarrant County, violating Board Rules 115.191 and 116.5 and Section 4.01(b) [redesignated as Section 382.085(b)] of the Act by emitting excessive volatile organic compounds in its water heater surface coating operation and in its miscellaneous metal parts coating operation, by using fluoropolymer paint instead of enamel paint, and by using more than its authorized number of gallons of paint per year without an amendment to its TACB permit, \$3,400.

**SHELL OIL Co.**, a chemical plant on Highway 225 at the company's Deer Park Manufacturing Complex in Deer Park, Harris County, violating Board Rules 101.20(1), 101.20(2), 115.251, 115.252, 115.253, 115.271, 115.272, 115.273, and 116.4; Section 4.01(b) [redesignated as Section

382.085(b)] of the Act; and Agreed Board Order No. 88-08(y) by failing to monitor each pump in light liquid service at Lube Hydrotreater-2 Unit (LHT-2) and the Medium Viscosity Index Unit (MVIU); by failing to comply with applicable new source performance standards; by failing to monitor valves in volatile organic compound service at the Catalytic Cracking Unit (CCU); by failing to repair two leaking valves at the CCU within 15 days after leaks were detected; by failing to record the method used to repair pumps in light liquid service at the MVIU; by failing to record the instrument readings following repair of leaking components at the MVIU; by failing to submit an initial semiannual report for the Lube Extraction Unit (LEU); by failing to monitor the closed vent system of the Phenol Acetone Unit (PAU); by failing to record in 1988 the dates that leaks were detected in valves, the dates that repairs were attempted, and the repair methods used at the following units: PAU, Selective Hydrocracking Unit (SHCU), Catalytic Reformer-3 (CRU-3), Thermal Cracking Units (TCUs), West Aromatic Concentration, and Aromatics ABC; by failing to record in a leaking-components log the reasons for delays in

repairing leaking components that were not repaired within 15 days after leaks were detected, the signature of the owner or operator whose decision it was that repairs could not be made without a shutdown of the plant, and the expected date of repairs; by failing to record a list of identification numbers for valves that are designated as difficult-to-monitor, and explanation stating why the valves are difficult to monitor, and the monitoring schedule for each valve; by failing to monitor benzene sources at the LHT-2 prior to November 1988; by failing to comply with national emission standards for hazardous air pollutants; by failing to properly calibrate the instrument used to monitor valves at the Aromatics Unit; by failing to include in its semiannual report the results of performance tests to determine whether the following units were in compliance: PAU, LHT-2, Olefins-3 Unit (O-3U), Aromatics, and Aromatics ABC; by failing to make every reasonable effort to repair various valves and pumps at the following units within 15 days after detection of leaks: Distilling Unit-2 (DU-2), Heavy Viscosity Index Unit (HVIU), Platoformer-II (PLAT-II), CCU, MVIU, and Lube Hydrotreater-1

(LHT-1); by failing to measure emissions from the CCU from all compressor seals, pipeline valves in gaseous service, and pressure relief valves in gaseous service; by failing to measure emissions from the Gasoline Treating Unit (GTU) and Gasoline Treater No. 3 (GT-3) from pump seals, pipeline valves in liquid service, process drains, and all valves elevated more than two meters above any permanent structure; and by failing to record in a leaking-components log the dates of repairs which were performed for components found leaking at the TCU, SHCU, CRU-3, and Solvent Hydrotreating Unit (SHTU); \$7,000.

**TRECO SALES, INC.**, an oil field bulk sand operation on Highway 79, Carthage, Panola County, violating Board Rule 116.1 and Sections 382.051(a) and 382.085(b) of the Act by constructing and operating the facility without a permit or without qualifying for a standard exemption, \$7,300. Subsequent to the notice of violation, the company submitted an application for a permit.

**TRINITY INDUSTRIES, INC.**, a railcar refurbishing facility on Highway 80 East, Longview, Harrison County, violating Board Rule 116.4 by emitting excessive

volatile organic compounds, \$4,000

**TYSON FOODS, INC.**, a chicken processing and rendering facility in Center, Shelby County, violating Board Rule 116.1 and Sections 382.051(a) and 382.085(b) of the Act by constructing and operating an expansion of the rendering plant (the installation of a new continuous cooker and expanded feather cooking operation) without a permit or without qualifying for a standard exemption, \$14,244. Subsequent to the notice of violation, the company submitted an application to amend its TACB Permit No. R-5939.

*October*

**ASSOCIATION OF TEXAS**

**ELECTRIC COOPERATIVES, INC.**, an electrical transformer remanufacturing and recycling plant at 8140 Burnet Road, Austin, Travis County, violating Board Rules 116.4 and 116.1 and Sections 382.051(a) and 382.085(b) of the Act by failing to comply with a condition of a standard exemption by operating a heat strip oven to combust material containing halogenated organic compounds and by

constructing and operating a second heat strip oven without a permit or without qualifying for a standard exemption, \$500. Subsequent to the notice of violation, the company ceased operation of the heat strip oven in violation of a standard exemption and qualified the second heat strip oven for a standard exemption.

**ALAMO MARBLE COMPANY, INC.**

a synthetic marble products manufacturing facility at 221 Austin Street, Garland, Dallas County, violating Board Rule 116.4 and Board Order 86-113(b) by exceeding the resin usage allowable as specified in its TACB permit, \$500. Subsequent to the notice of violation, the company submitted an application to amend its permit.

**DOW CHEMICAL, U.S.A.**, an operating unit of the Dow Chemical Company, a petrochemical manufacturing plant in Freeport, Brazoria County, violating Board Rules 101.20(2), 101.4, and 116.4 and Sections 382.085(a) and (b) of the Act by failing to monitor pumps in benzene service monthly to detect leaks; by failing to operate pressure relief devices in gas/vapor service with no detectable emissions, as indicated by an instrument reading of at least

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500 ppm above background; by failing to return pressure relief devices in gas/vapor services to a condition of no detectable emissions, as indicated by an instrument reading of at least 500 ppm above background as soon as practicable but no later than five calendar days after each pressure release; by discharging excessive chlorine emissions; and by failing to perform the required fugitive emission monitoring on the ethylene dichloride/vinyl chloride monomer system; \$27,500.

**GENERAL PACKAGING CORPORATION**, a wooden pallet and crate manufacturing plant at 4522 Fitzhugh, Dallas, Dallas County, violating Board Rule 116.1 and Sections 382.051(a) and 382.085 of the Act by constructing and operating a saw dust collector without a permit or without qualifying for a standard exemption. No monetary penalty. Subsequent to the notice of violation, the company met the conditions for qualifying for a standard exemption.

**GIBRALTAR CHEMICAL RESOURCES, Inc.**, a hazardous waste disposal facility including a railcar unloading station on FM 3311, one-half mile south of the intersection of Hwy. 271 and FM 3311, Smith County, violating Board Rule 101.4 and Sections

382.085(a) and (b) of the Act by discharging excessive odor emissions, \$8,000.

#### GULF STATES UTILITIES

**COMPANY**, a power plant at West Roundbunch Road, Orange County, violating Board Rules 101.20(1) and 116.4 by failing to maintain its continuous monitoring system for measuring the opacity of emissions, sulfur dioxide emissions, nitrogen oxides emissions, and carbon dioxide emissions from Unit No. 5 during fuel oil firing, \$3,000.

#### HOECHST CELANESE CORPORATION

, a high density polyethylene manufacturing plant at 12212 Port Road, Pasadena, Harris County, violating Board Rules 115.332(2) and (4) and 115.125(2) and Section 382.085(b) of the Act by failing to make all technically feasible repairs to two leaking valves in gas volatile organic compound (VOC) service and four leaking valves in liquid VOC service within 15 days after the leaks were found; by failing to equip nine valves at the ends of pipelines with a second valve, blind flange, plug, or cap; and by failing to monitor the presence of a flare pilot flame using a thermocouple or any other equivalent device to detect the presence of a flame; \$14,000.

#### LANDMARK CHEVROLET

**CORPORATION**, owner and operator of two spray painting facilities at 9111 North Freeway, Houston, Harris County, violating Board Rule 116.1 and Sections 3.27(a) and 4.01(b) [redesignated as Sections 382.051(a) and 382.085(b)] of the Act by constructing and operating the two spray painting facilities without a permit or without qualifying for a standard exemption, \$3,100. Subsequent to the notice of violation, the company submitted an application for a permit.

#### DAVE LEONARD CONSTRUCTION

**COMPANY**, a demolition operation at Andrews Hwy. at Midland Drive in Midland, Midland County, violating Board Rule 101.20(2) and Section 382.085(a) of the Act by failing to provide written notice of intention to demolish or renovate a facility containing less than 80 linear meters of friable asbestos on pipes or at least 15 square meters on other facility components to the TACB at least 20 days before demolition began, \$450.

**LONE STAR MARBLE**, a synthetic marble products manufacturing plant at 112 Regency Drive, Wylie, Collin County, violating Board Rules 116.4 and 116.5, Section 382.085(b), and Board Order 87-

03(k) by exceeding the maximum allowable emission rate for acetone set forth in its TACB permit, by failing to maintain records of the daily resin usage and hours of operation, and by installing an unabated exhaust fan in the grinding area without an amendment to its permit, \$500. Subsequent to the notice of violation, the company submitted an application to amend its permit.

#### OCCIDENTAL CHEMICAL

**CORPORATION**, an organic chemical manufacturing plant on Tidal Road, Deer Park, Harris County, violating Board Rules 101.20(2) and 116.4; Section 382.085(b) of the Act; Board Orders 88-08(s), 89-06(p), 90-01(s), and 90-05(k); and a special provision of its TACB permit by discharging excessive vinyl chloride to the atmosphere from a collection header vent on incinerator HCIN-3; \$3,500.

**PARKER BROTHERS & COMPANY, Inc.**, a rock crushing facility on Wald Road in New Braunfels, Comal County, violating Section 382.085(b) of the Act by failing to comply with a provision of Board Order 89-06(r) by failing to keep all air pollution abatement equipment in good working order and operating properly during normal operation, \$16,000.

#### QUANTUM CHEMICAL CORPORATION

**TION**, a chemical plant at 11603 Strang Road, Deer Park, Harris County, violating Board Rule 115.271(4) by operating seven valves at the end of a pipe or line containing VOCs without sealing the pipe or line with a second valve, a blind flange, a plug, or a cap, \$3,000.

**RAM'S READY MIX**, a concrete batch plant at 300 Cienegas Road, Del Rio, Val Verde County, violating Board Rule 116.1 and Sections 382.051(a) and 382.085(b) of the Act by constructing and operating the plant without a permit or without qualifying for a standard exemption, \$450. Subsequent to the notice of violation, the company submitted an application for a permit.

**STRAIN BROTHERS, INC.**, a rock crusher unit in Brewster County, violating Board Rule 116.4 and Section 4.01(b) [redesignated as Section 382.085(b)] of the Act by failing to install and operate water sprays on the crusher that are required by a special provision of its TACB permit, \$6,000.

**TENNECO NATURAL GAS LIQUIDS CORPORATION**, a natural gas processing plant at 1200 North Broadway, La Porte, Harris County, violating Board Rule 115.271(2) and Section 382.085(b) of the Act by operating a synthetic organic chemical,

polymer, or resin manufacturing process without making every reasonable effort to repair leaking components within 15 days after the leaks were found, \$1,500.

**TEXACO CHEMICAL COMPANY**, a petrochemical manufacturing plant at the intersection of Hwy. 73 and Savannah Avenue, Port Arthur, Jefferson County, violating Board Rule 101.20(1) and Section 4.01(b) [redesignated as Section 382.085(b)] of the Act by failing to equip six open-ended valves or lines located in the propylene drying unit and the light olefins unit with a cap, blind flange, plug, or a second valve, \$3,000.

**TEXACO REFINING AND MARKETING, INC.**, a petroleum refinery at the intersection of Houston Avenue and 19th Street, Port Arthur, Jefferson County, violating Board Rule 101.20(1) and Section 4.01(b) [redesignated as Section 382.085(b)] of the Act by failing to equip several open-ended valves or lines in volatile organic compound service with a cap, blind flange, plug, or a second valve and by failing to conduct recordkeeping and monitoring as required by new source performance standards, \$3,500.

**TONKA TOYS, INC.**, a toy manufacturing plant at 9050

Viscount Blvd., El Paso, El Paso County, violating Board Rule 116.1 and Sections 3.27(a) and 4.01(b) [redesignated as Sections 382.051(a) and 382.085(b)] of the Act by constructing and operating a vapor degreaser and four spray paint booths without a permit or without qualifying for a standard exemption, \$39,525.

**TROPHY TRUCKS OF TEXAS**, a custom vehicle painting facility on FM 1389, four miles south of Hwy. 175, Combine, Kaufman County, violating Board Rule 116.1 and Sections 382.051(a) and 382.085(b) of the Act by constructing and operating the facility without a permit or without qualifying for a standard exemption. No monetary penalty. Subsequent to the notice of violation, the company ceased operation of the facility.

**U. S. CLINICAL PRODUCTS, INC.** a medical products sterilizing facility at 1900 Jay Ell Drive, Richardson, Dallas County, violating Board Rule 116.1 and Sections 382.051(a) and 382.085(b) of the Act by constructing and operating an ethylene oxide sterilizer without a permit or without qualifying for a standard exemption, \$625. Subsequent to the notice of violation, the company ceased operation of the sterilizer.

**VI-CHEM, DIVISION OF INTERFLUX ELECTRONICS**, a chemical blending plant at 2914 Ladybird Lane, Dallas, Dallas County, violating Board Rule 116.1 and Sections 382.051(a) and 382.085 of the Act by constructing and operating the plant without a permit or without qualifying for a standard exemption. Subsequent to the notice of violation, the company submitted an application for a permit. No monetary penalty except that a penalty of \$50 per day could be assessed for each day information requested by the TACB to complete its review of the application is late and a penalty of \$500 could be assessed if it is determined after review that substantial additional controls are necessary.

**WILLIAMS PAVING & EXCAVATION, INC.**, a demolition operation at the intersection of Andrews Hwy. and Midland Drive, Midland, Midland County, violating Board Rule 101.20(2) and Section 382.085(a) of the Act by failing to provide written notice of intention to demolish or renovate a facility containing less than 80 linear meters of friable asbestos on pipes or at least 15 square meters on other facility components to the TACB at least 20 days before demolition began, \$450. ♦

# REGULATIONS UNDER REVISION

These articles are summaries of recent regulation development activities since August 1990. For additional copies of TACB regulations, address correspondence to TACB Regulations Development.

## REGULATION I

*At its October 12 meeting, the board adopted revisions to Regulation I.*

The board adopted several changes to its rules concerning incinerators. Although the changes address all incinerators, the emphasis of the new language is on hospital medical waste incinerators.

"The staff met extensively with a variety of individuals and organizations, and received nearly 150 written comments during the public comment period, which was one of the most active we have had in years. We addressed concerns of hospitals, legislators, and the Texas Hospital Association (THA), all of which were very concerned with the economic plight of small rural hospitals," said Lane Hartsock, director of Planning and Development.

For medical waste incinerators, the board adopted rules that establish three tiers of control based on the amount of waste burned. Each category will require that the incinerators maintain a specific minimum temperature, ensure opacity limits, and maintain written records. Smaller incinerators burning less than 100 pounds per hour would only be required to purchase a temperature monitor as long as they adhered to daylight operating hours, explained Mr. Hartsock.

Large hospital medical waste incinerators will be required to meet the same requirements that were previously established for commercial waste incinerators. The compliance dates for hospital medical waste incinerators vary with the controls required and extend from December 31, 1991 for small hospitals to December 31, 1992 for the largest units.

In addition, the TACB adopted incinerator-related definitions that will be consistent with those of the Texas Department of Health and established

exemption levels for certain types of incinerators.

New incinerator regulations were promulgated last fall in response to the passage of House Bill 2468. That bill was passed because new federal regulations required an increase in the amount of medical waste materials burned instead of landfilled. The bill required the TACB to develop new regulations concerning commercial infectious waste incinerators to ensure that this potential increase in medical waste incineration be properly controlled.

The rules promulgated gave strict restrictions for commercial incinerators, but less stringent ones for other incinerators burning the same material. During the hearing process, public testimony questioned the different restrictions for commercial versus hospital facilities. The hearings on the current rules also addressed this issue.



*At its October 12 meeting, the board approved staff recommendations to hold public hearings on proposed revisions to the following regulations:*

## GENERAL RULES

The proposed changes concern Notification Requirements for Major Upset and

Notification Requirements for Maintenance.

The new amendments will add specifications which are intended to clarify the purpose of the sections, emphasize the differences between the two sections, and improve the source operator's understanding of actions required following a major upset or during preparation for scheduled maintenance.

Owners of facilities that experience a major upset will be required to provide specific information such as cause of the upset, equipment involved, date and time of the upset, the duration of the upset, and the compound-specific types and quantities of emissions released during the upset. The owners shall also be required to perform a technical evaluation of the upset event upon request.

The notification requirements for maintenance, start-up, or shutdown that may cause excessive emissions is also clarified in the draft language.

It includes the submission of a plan which contains detailed explanation of the means by which emissions will be minimized during the process. Also for those emissions that will be released into the atmosphere, the plan shall include the reasons such emissions cannot be



reduced further.

The rule language also specifies that upsets and maintenance activities must not create a nuisance condition.

The Sierra Club spent nearly nine months studying upsets and has provided strong support for the changes in the regulations.

"For a three year period, we found there had been over 8,000 incidents, and there were some serious omissions in the reporting. About eighty percent did not list the contaminant. We believe the TACB was not being given the information it needed to properly assess what is happening to our air because the reports are so incomplete," said George Smith, chairman of the Air Quality Committee of the Sierra Club.

"We welcome the rule that will require the companies to report the amount and types of contaminants. But we are still concerned with the repetitiveness of the upsets at some plants. Enforcement on those repeat upsets is not addressed in the rule language, and we'll be discussing that during the hearing process," added Mr. Smith.

Public hearings are set for December 4. The first hearing will be at the Central Office Auditorium in Austin at 10 a.m. Another hearing will be at the City of Houston Pollution Control

Building Auditorium, 7411 Park Place Boulevard, Houston starting at 7 p.m.

### REGULATION VI

An amendment is proposed to Regulation VI, concerning Consideration for Granting Permits to Construct and Operate. The amendment proposed will change the date of August 1, 1987 to October 17, 1988 to reflect the latest amendments to the Prevention of Significant Deterioration (PSD) of air quality regulations promulgated by the U.S. Environmental Protection Agency (EPA).

The October 17, 1988 date promulgation established the maximum increases in ambient nitrogen dioxide concentrations to be allowed in certain areas and is a necessary part of the TACB rule on PSD permitting. The TACB is proposing to incorporate the EPA rules by reference.

A public hearing on the amendment is scheduled for November 21 in the Central Office Auditorium in Austin, starting at 10 a.m.

### REGULATION II

The staff recently received a letter from the Sierra Club requesting the agency to take action to enforce requirements of

Regulation II. The request was accepted as a petition for rulemaking.

The specific rule requires that, when available, new proven technology be used to remove sulfur dioxide from the emissions of solid fossil fuel-fired steam generators (power plants).

"Technology to remove sulfur dioxide does exist, is proven, and is in operation at plants in Texas. Lime scrubbers, dry scrubbers, spray dryers, and sorbant injection are all being used today in the U.S. We are concerned that there are several solid fuel fired generators operating in Texas without any of these sulfur controls," said George Smith, chairman of the Air Quality Committee of the Sierra Club in his letter to the agency.

The staff proposes changing the existing language because it is too general for effective enforcement. The new wording would be more precise and enforceable and will specifically require federal New Source Performance Standards for those power plants which lack sulfur dioxide controls.

The new wording should also enhance the enforceability of the current rule by bringing all power plants under a set of standards which are based upon proven performance of readily available

control technology.

"We are encouraged by the progress the board is making to address this problem. Texas already has more scrubbers on power plants than most states. This will require additional scrubbers on some old emitters of sulfur, and maybe put us in the forefront of solid fuel scrubbers," added Mr. Smith.

A hearing date, time, and location has not been determined. ♦

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# NEWS BRIEFS



## GREGG COUNTY REDESIGNATED TO ATTAINMENT

The TACB has been notified by the U.S. Environmental Protection Agency (EPA) that Gregg County has been redesignated from nonattainment to attainment for ozone. The redesignation became effective on September 13.

Gregg County had been designated a rural ozone nonattainment area in 1977. The TACB adopted a State Implementation Plan which provided for regulations and controls to meet federal standards. Last year the board made the redesignation request. Air quality data showed no exceedances of the ozone National Ambient Air Quality Standard for the most recent three year period, which is a requirement for redesignation.

The redesignation is

contingent upon the state maintaining an adequate ozone ambient monitoring network and continuing full implementation of the nonattainment plan.



## CONTINUOUS MONITORING REPLACED NEAR BRIO SITE

The Monitoring Program staff has replaced the current monitor at Weber Elementary School in Friendswood with a new automated sampler.

"The automated sampler will collect a 24-hour composite sample every day. The citizens of the community have been asking us to conduct daily sampling, which has been difficult because of regional staff resource constraints," said Scott Mgebroff, director, Sampling and Analysis.

"With the previous monitor, we were only able to take samples twice a week because the system required someone to

physically go by the site and pick up the samples. The Region 7 staff in Houston was responsible for this task," added Mr. Mgebroff.

Now the daily samples can be picked up once a week because the system is automated. It will mean the laboratory in Austin will have more samples to provide increased information about the air quality around the school.

The monitoring site at Weber Elementary School was established in November 1989. Concerned citizens in the neighborhood had requested the monitoring be performed due to remediation activities at the adjacent Brio Superfund site. The cost of the new automated sampler is about \$9,000, paid for out of research funds.



## REDESIGNATION FOR VICTORIA COUNTY TO BE REQUESTED

A petition to the EPA is being prepared which will request redesignation of Victoria County to attainment for ozone.

The justification for the

request is based on data analysis techniques developed by TACB staff in collaboration with Dr. Thomas W. Sager, director, Center for Statistical Sciences, University of Texas at Austin.

"We were able to develop a statistical method for predicting, with a high degree of statistical confidence, the likelihood of high ozone values occurring in Victoria County based on data collected in San Antonio and Corpus Christi," said Jim Gise, director, Data Analysis Division.

"Ongoing application of this methodology will allow us to discontinue monitoring in Victoria County if EPA concurs, without forfeiting our ability to assess the probability of adverse ozone pollution impacts in the Victoria area," he added.

One outgrowth of the development of this technique is that the agency should be able to use it in other areas, such as Houston, to identify monitors which can be discontinued without any loss in the overall effectiveness of the network to characterize ambient air quality. The ability of the agency to shift resources in this manner may be significant as the efforts continue to expand toxic monitoring.



## ACID RAIN RELATED ACTIVITIES

The staff is continually involved in several acid rain related activities through the Research and Special Services and Monitoring Programs.

Dr. Tom Porter, Research Division, has recently updated its Directory of Acid Rain Researchers in Texas. The purpose of the document is to provide a listing of individuals in the state who are currently active in some area of acid rain research and/or monitoring. Each entry contains the individual's name, address, telephone number, and a short statement of disciplinary interests relating to acid rain.

The Sampling and Analysis Division submits a quarterly acid rain report to the EPA as part of federal grant requirements.

The TACB operates event monitoring sites in Austin, Houston, Beaumont, Tyler and Austin. All samples are collected using a method developed in the agency's Inorganic Laboratory which prevents the dissolution of particulates which might affect pH and conductivity measurements. Samples are collected during rains and returned to the

laboratory for analysis.

In addition, the TACB operates a seven-day sampler at a site north of Nacogdoches in cooperation with the staff of Sam Houston State University. The laboratory analyzes these samples for pH, conductivity, and selected cations and anions.

In connection with the acid rain monitoring, the staff has a working agreement with the Audubon Club of Houston. They utilize a network of volunteers to collect rain samples at various locations in the Houston area. Under TACB guidance, pH and conductivity measurements are made at the north Harris Community College and the data are submitted to the TACB for validation and inclusion in the quarterly report.

Acid rain is not a problem of immediate concern throughout most of Texas because of the strongly alkaline soils characteristic of more northern states. Texas does not currently have any identified effects linked to acid rain. ♦

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## CHANGES ON ENFORCEMENT

changes would require bills to be introduced in the upcoming Texas Legislative session.

One section in the act to be addressed involves how administrative penalties are assessed. In addition to the current factors used to determine penalties, the board could consider an additional factor. The board would have the option of considering the economic value of noncompliance.

This is intended to change the attitude that polluters may have that paying a small fine makes it worth violating air pollution laws. Also, a section of the TCAA that deals with criminal sanctions is being reviewed for change.

"We will be very careful in pursuing the language that addresses criminal penalties. We don't want a person to fear incriminating themselves, which in turn could impede us in getting the pollution problems corrected. These criminal proceedings can be lengthy. Our use of criminal sanctions must be restrictive and address flagrant and deliberate cases," said Dick Whittington, Chairman. ♦

# CEMENT KILNS TO BE STUDIED FOR COMPLIANCE/UPSET

The TACB is initiating a series of measures to address concerns relating to the operations of cement kilns.

"Such measures are needed because there has been increasing interest by the cement industry in burning hazardous wastes in the kilns, which has triggered substantial citizen concern," said Steve Spaw, executive director.

One major component of the efforts will be a review of the

compliance patterns of all cement kilns with applicable rules and standards. The frequency of process upsets has emerged as a particular concern.

"A pattern of upsets may indicate significant operating problems at a site and may constitute rule violations. Concern about upset patterns is magnified when someone proposes to introduce hazardous waste burning at a site. An upset pattern that may be tolerable for

a regular cement kiln may not be acceptable where hazardous waste is being burned," said Jim Myers, deputy director for Regulatory Operations.

"Earlier this year, the staff identified upset response as one of a number of needs going largely unmet due to resource constraints. Presently, we are trying to secure resources so our upset tracking and response capability can be substantially improved," added Bill Campbell, deputy executive director.

Another important agency initiative will be to try and plug a loophole in federal law that allows cement kilns to burn hazardous waste without meeting the more stringent

requirements that apply to hazardous waste incinerators.

The staff will introduce rule language to address these loopholes during the Regulation Development Committee meeting in November.

Mr. Spaw also noted that a legislative subcommittee will be studying the cement kiln situation and indicated that he hoped the study would aid the subcommittee.

"Given the evident legislative interest in the issue, we would also want to provide an opportunity to factor any legislative decision into the review of permit applications for cement kilns to burn hazardous waste," said Mr. Spaw. ♦

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