



# Public concern about air toxics affects TACB program

## Identification, minimizing or prevention of health risks at center of agency's planning

State and national interest in an expanded air toxics control program is reflected in the Texas Air Control Board's current and projected activities. Texas is the home of almost one half of the nation's basic petrochemical industry. Most of the production occurs on the Gulf Coast; distribution of hazardous materials by rail and highway for storage, and their use in a wide range of processes throughout the state, however, result in broad concern, TACB finds.

The state has had an air toxics control program since 1972; it is one of four under study by the U.S. General Accounting Office on behalf of a congressional subcommittee dealing with national strategy. The four -- in Texas, New York, New Jersey, and California -- are considered to be pathfinder programs initiated by the states.

The TACB recently submitted a proposed budget for the 1988 and 1989 fiscal years which presents the Legislature with the option of significantly expanding state efforts to identify and prevent or minimize public health risks related to toxic air contaminants.

The TACB has also been working with the EPA to support its efforts to implement an expanded toxics

program nationwide. EPA's efforts are hampered to some degree by the fact that increased funds to support this effort are not available.

The TACB currently conducts a new source review program which considers all air contaminants including those for which federal standards have been set, as well as "toxic" air contaminants.

(Toxic air contaminants are those that are known and suspected to cause adverse health effects when present at relatively low concentrations.

Although most of the air pollutants for which federal standards have been set could also be considered toxic air contaminants, they are usually referred to as "criteria" air contaminants in view of the extensive federal requirements related to them. In common usage, the term "toxic air contaminants" typically refers to those other than the criteria air contaminants.)

The TACB new source review of these toxic air contaminants consists of an engineering evaluation of the production process, the use of mathematical models to calculate the projected emissions so as to predict public exposure, and reviewing the pre-

**State  
recognized  
for  
long-term  
focus  
on problem**

## CALENDAR

### Hearings

**August 12** - 10 a.m., TACB Auditorium, Austin.

Joint public hearing, TACB and Department of Health on proposed Regulation XI (municipal solid waste facilities)

**August 20** - 10 a.m., TACB Auditorium, Austin.

Revisions to Regulation IV (control of air pollution from motor vehicles) and state implementation plan

**August 20** - 2 p.m., TACB Auditorium, Austin.

Revisions to TACB rules, Section 101.24 (inspection fees)

**August 26** - 10 a.m., TACB Auditorium, Austin.

Revisions to state implementation plan for Dallas, Tarrant, and El Paso counties

### Meetings

**August 15** - 10 a.m., Lieutenant Governor's Conference Room, Capitol.

Clean Air Study Committee

**August 22** - 10:30 a.m., TACB Auditorium, Austin.

Texas Air Control Board

**September 26** - 10:30 a.m. (tentative), TACB Auditorium, Austin.

Texas Air Control Board

dicted ambient concentration values to evaluate public exposure. The TACB also conducts limited evaluation of the potential for

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accidental releases.

Catastrophe prevention review would be expanded in the new source review program and would be extended to existing sources if future funding is adequate.

The TACB has general legal authority for this portion of the new source review program under the Texas Clean Air Act which prohibits emissions of air pollutants that are injurious to health and property, and gives the board the authority to promulgate administrative rules pursuant to the legislation's intent.

In addition, the TACB and the Texas Water Commission have adopted, in a joint rulemaking, regulations for control of air pollution from hazardous waste or solid waste management facilities. These rules outline air emission requirements for new and existing facilities required to receive a TWC permit.

A pilot effort currently underway involves the screening of reported excess emissions from process upsets to try to identify those which indicate a potential for adverse public health impacts. Some of the more significant upsets involving toxic air contaminants are selected for more detailed review, including dispersion modeling, to determine potential ambient impacts under worst case conditions.

The results of the review can identify cases where process design changes or operating procedure changes appear warranted to prevent a recurrence of an upset offering a possible public health risk. The pilot effort would also be expanded in the proposed FY

88/89 budget.

Other future activities in regard to air toxics control will include analysis of the results of the Gulf Coast Community Exposure Study to determine whether measured levels may be expected to cause adverse health effects.

The TACB has also begun to establish a statewide emission inventory of toxic air contaminants.

Bill Gill of the Technical Services Division said the TACB guidance document

**Agency gathers  
information  
on locations  
and quantities  
of contaminants,  
potential  
for  
problems.**

for providing emissions inventory information includes a listing of approximately 120 toxic and odorous compounds and classes of compounds, and requests that the company to which it is directed identify any toxic emissions with a rate of one ton or more per year.

In addition, identification will be required of any hazardous chemicals (from a list which includes most pesticides and 23 specific chemicals) existing on the premises in significant quantities.

Also, it is the staff's

goal that at least every four years each major source would report its current emissions inventory to the TACB. By this means any hazardous chemicals would be identified. (For agency purposes, hazardous chemicals are defined as those that have high acute toxicity and may result in large emission rates because of a high vapor pressure, high reactivity, or flammability.)

A recent registration of sources of emissions established before 1971 (when the TACB began issuing permits to construct) provided a one-time update of emissions from such facilities which emit at least one ton per year of toxic emissions. A list of odorous and toxic compounds was included with the registration materials.

Other special projects such as the Gulf Coast Community Exposure Study also generate updated toxic emissions data. The proposed FY 88/89 budget would provide the resources necessary to complete and maintain a statewide toxics emission inventory.

Heightened public interest in the control of hazardous materials in the state includes concern about response to accidental episodes involving toxic air pollutants. The TACB is a member of the state network operating under the Governor's Division of Emergency Management, and the entire agency staff is prepared to work as a team in connection with emergency episodes. Typically, initial response is by personnel in TACB's 12 regional offices.

Currently a response unit is being prepared to  
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make possible emergency field response capability to provide air sampling and monitoring at the scene of chemical spills or other major incidents which may involve the release of toxic or hazardous air pollutants into the atmosphere for an extended period. The agency sought and received a \$125,000 EPA grant to develop this capability; the unit will utilize existing staff specially trained in response work and personnel protection and safety.

The EPA grant funds a staff-designed response trailer containing a field coordination center, a personnel decontamination facility, and additional protective gear including fully encapsulating "moon suits" and self-contained breathing apparatus.

Monitoring done at the scene of an incident will be used to determine the need for citizen evacuation, assess the degree and extent of public exposure or envi-

ronmental damage, and verify the effectiveness of remedial measures and cleanup.

The equipment and procedures developed for emergency response also will be available for use in monitor-

**Emergency  
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improved**

ing air emissions from potentially contaminated areas such as hazardous waste disposal facilities undergoing evaluation or cleanup.

As part of its long-range air toxics program, the TACB is sponsoring a re-

search project to develop biological test systems to assess the possible human health consequences of exposure to complex mixtures of air contaminants. The ultimate objective is to develop a mobile biological monitoring unit in which animals would be placed in the field for a period of several weeks and then assayed to determine the biological effects of such exposure. Such a unit would allow direct measurement of the biological effects of exposure to ambient air contaminants rather than the estimate (based upon available toxicological data and on ambient monitoring or modeling data) that currently is the basis for assessment.

This project, being conducted by Dr. Marvin Legator at the University of Texas Medical Branch at Galveston, is in its third year of development and its second year of laboratory testing. ■

## Revisions made in Gulf Coast study monitoring plan

The list of toxic air contaminants included in a TACB monitoring program in Harris, Galveston, Jefferson, and Orange counties was revised at the end of March after six months of monitoring to add nitrogenated polyaromatic hydrocarbons and to remove five pollutants which had not been detected in the ambient air.

Dr. Maxine Jenks said acrylonitrile, epichlorohydrin, ethylene oxide, polychlorinated biphenyls, and other combustion products, and vinyl chloride were removed from the project, called the Gulf Coast

Community Exposure Study.

"The chemistry laboratory staff detected several nitrogenated polyaromatic hydrocarbons in certain samples," Dr. Jenks said. "While not specifically identified at this time, these compounds belong to a class of compounds that may be carcinogenic or mutagenic, and they appeared in sufficient quantity to warrant incorporating them into the study."

Tom Driscoll, Gulf Coast Community Exposure Study project manager, said the change in protocol is in line with recent agency budget cuts. However, he said,

the revised monitoring plan implemented on May 1 does not deviate from the original purpose of the study, the collection of data in regard to toxic air contaminants in the air on the Gulf Coast in quantities sufficient to be of concern because of the potential to affect human health.

Monitoring in connection with the project will end September 30.

Pilot testing of the monitoring and analysis techniques used for the study began in March 1985 at the Cloverleaf monitoring site in East Harris County.

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## Total of 66 companies penalized

# \$862,475 collected in administrative enforcement actions

Administrative penalties levied since Sept. 1 by the Texas Air Control Board and paid into the state's general revenue fund total \$862,475. At its July 11 meeting in Waco, the board approved 21 staff-recommended assessments totaling \$162,025 for alleged violations by 21 companies, bringing to 66 the number of firms assessed such penalties. These were:

Johnny Johnson, doing business as Johnny's Custom Marble, 361 Debbie Lane, Suite 304, Mansfield, Tarrant County, \$850.

American Buildings Co., Mid-West American Division, 6301 Fairview, Jersey Village, Harris County, \$3,000.

Port Arthur Construction, Inc., Port Arthur, in regard to a renovation operation at 5317 M. L. King Boulevard, Houston, \$3,000.

Dow Chemical Co., Freeport, Brazoria County, \$8,000.

Staker Paving of Texas, Inc., hot mix asphalt plant off Slaughter Lane, Austin, \$2,000.

Fina Oil and Chemical Co., refrigeration vapor recovery unit at gasoline/diesel truck loading terminal on Highway 121 two miles west of Grapevine, Tarrant County, \$29,250.

Timber Tech, 1707 South Peyco Drive, Arlington, Tarrant County, \$3,850.

Product Coatings, Inc., 11502 Charles Street, Houston, \$2,425.

Amax Petroleum Corp., 5511 Cedar Point Road, Chambers County, \$14,550.

HCW Exploration, Inc., natural gas processing plant at the intersection of FM 627 and FM 2724, near

Hobson, Karnes County, \$12,800.

Reynolds Metals Co., disposal ponds on FM 881 approximately 1.5 miles east of FM 136 on the boundary between San Patricio and Aransas counties, \$18,000.

Goodyear Tire and Rubber Co., organic chemicals manufacturing plant, 13441 Bay Area Boulevard, Pasadena, Harris County, \$4,000.

Texaco, Inc., gas processing plant 2.2 miles northeast of Kermit on Highway 115 in Winkler County, \$7,000.

B & R Marble, 3110 Main Street, Rowlett, Dallas County, \$600.

TXO Production Corp., natural gas dehydration

and production tank battery, near Santa Fe, Galveston County, \$1,500.

Mobil Chemical Co., olefins/aromatics plant in Beaumont, Jefferson County, \$5,000.

Lubrizol Corp., chemical manufacturing plants in Pasadena and Deer Park, Harris County, \$32,000.

Sun Publishing Co., 202 Reynolds, League City, Galveston County, \$11,100.

Arlington Marble, Inc., 1200 Commercial Boulevard North, Arlington, \$1,200.

Builders Marble Co., near Princeton, Collin County, \$900.

San Augustine Fiberglass Products, Inc., near San Augustine, San Augustine County, \$1,000. ■

## Gulf Coast Community Exposure Study

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Actual sampling began in October 1985 at four sites: Cloverleaf, Nessler Pool in Galveston County, Lamar University in Jefferson County, and the West Orange police station in Orange County. Additionally, monitoring began in November 1985 in Austin at a background monitoring site, Driscoll said.

More than two years of work went into research necessary to set up the pro-

gram.

A Technical Advisory Committee to assist the staff in designing, developing, and reviewing the study is made up of academic, industrial, and public health experts and is headed by Dr. D. Jack Kilian, TACB board member and professor of occupational medicine, School of Public Health, University of Texas Health Science Center at Houston. ■

The TACB Bulletin is published by the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723. Subscription is free, upon request. John L. Blair, Chairman; Allen Ell Bell, Executive Director; Steve Spaw, Deputy Executive Director; Walter Bradley, Public Information Officer; Lucille Linden, Editor; Mark Steinfeldt, Graphic Artist; Gwen Sharpe, Editorial Assistant. Address inquiries and requests to be placed on the mailing list to Public Information Section, TACB.

The TACB Quality Assurance Division has published a report, **1985 Network Data Summaries - Continuous Air Monitoring**, which is available upon request.

It provides a summary of data collected at the TACB's continuous air monitoring stations (CAMS) during 1985. A fee of \$5.50 is charged to cover the cost of printing, tax, and postage. Orders should be addressed to Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723, attention Larry Butts; a check or money order for \$5.50 must be enclosed.

The data concerns ambient levels of ozone, carbon monoxide, sulfur dioxide, and nitrogen dioxide,

with comparisons made to the appropriate federal ambient standards established by the Environmental Protection Agency.

A separate report (available for a charge of \$2) sum-

marizes 24-hour sampling results for total suspended particulate.

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The TACB has begun the issuance of a new **Quarterly Air Monitoring Report** which is available upon request for a fee of \$2.50 to cover the cost of printing, tax, and mailing.

The first quarter 1986 report is immediately avail-

able. The second quarter report will become available within one or two weeks. Created primarily for use within the agency, the report also is of interest to individuals and groups con-

cerned with environmental issues. Robert Brewer, project coordinator, said the report may serve in indicating trends in air quality.

Requests along with a check or money order for \$2.50 should be sent to the TACB, 6330 Highway 290 East, Austin, Texas 78723, for the attention of Larry Butts. ■

## Quarterly and annual air monitoring reports available

### Total Suspended Particulate

Data showing the 1985 annual geometric means of total suspended particulate in TACB's 12 regions have been reevaluated and some changes noted in TSP information that was presented in the March/April issue of The TACB Bulletin.

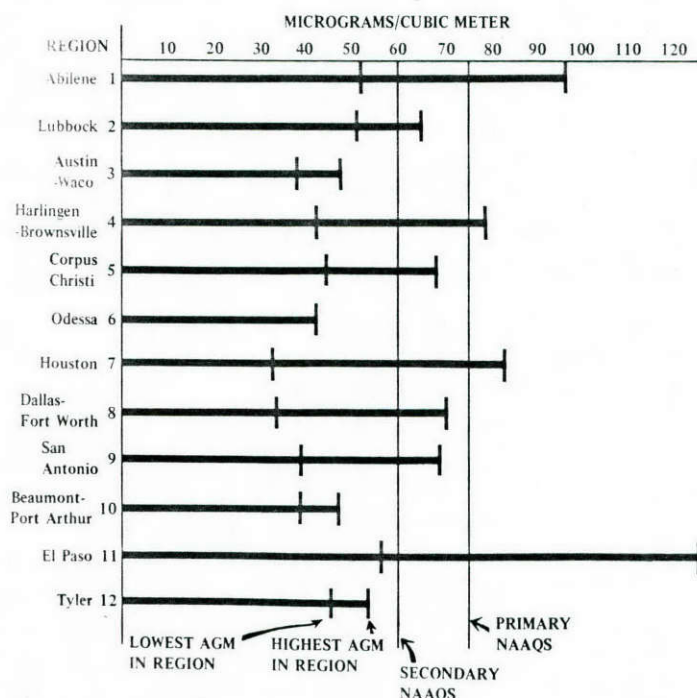
The corrected information is presented here:

There are two annual National Ambient Air Quality Standards for total suspended particulate. The primary standard states that an annual geometric mean of 75 micrograms per cubic meter should not be exceeded. The secondary standard is an annual geometric mean of 60 micrograms per cubic meter, not to be exceeded. In the accompanying graph, the range of annual geometric means observed at all of the TACB monitors is shown by region.

It should be noted that these may include high concentrations due to dust storms; in making a final judgment concerning whether an area exceeded the NAAQS, the data from days affected by dust storms should be excluded. Accordingly, the means in the graph may be slightly higher than the values that would be used to test against the NAAQS.

The only areas where the primary

1985 Total Suspended Particulate Annual Geometric Means (AGM)



NAAQS may have been exceeded in 1985 are Harlingen-Brownsville, Houston, El Paso, and Abilene. The secondary NAAQS may have been exceeded in all regions except Regions 3, 6, 10, and 12. ■

# EPA rescinds call for Harris County CO SIP revision

The Environmental Protection Agency (Region 6) has advised the TACB that it has rescinded a call for revisions to the Harris County State Implementation Plan for carbon monoxide.

The action was taken after the TACB requested and received a two-year time extension (to July 1, 1986) to present new data on CO levels measured in the outdoor air in Harris County. No violations of the federal CO standard were recorded for eight consecutive quarters, according to James Gise, TACB Control Strategy director.

El Paso County, therefore, continues to be the only county in the state where testing of vehicle emissions for carbon monoxide is required. Such testing, conducted while the vehicle's engine runs at idle and using computerized equipment, is scheduled to begin in El Paso on Jan. 1, 1987, in conjunction with

the visual inspection of pollution control equipment which has been required since Jan. 1, 1986.

Dallas and Tarrant counties also initiated visual inspection programs last January. Harris County has had such a program for two years. The inspections are directed by the Department of Public Safety as an extension of the annual vehicle safety check.

## El Paso requirements for 1987 being formulated

The El Paso idle emissions test for CO probably will apply to 1975 and later model automobiles and light duty trucks and vans. The TACB staff will recommend this to the board's Regulation Development Committee at its meeting August 22 prior to the full board meeting.

At a May 8 public hearing in El Paso there was considerable testimony, particu-

larly by some citizens groups, in which the vehicle model year 1968 was recommended as the most appropriate for commencing inspections.

Lane Hartsock, TACB regulation development manager, said the staff will recommend the year 1975, rather than 1968, but will propose stringent requirements for the 1975 and later models.

"We see this compromise as a way to have an effective program and at the same time to mitigate the economic hardship on lower income vehicle owners," Hartsock said.

Sabino Gomez, TACB compliance manager, said preliminary selected data from the counties with visual inspection programs shows an average of 2.5 percent of inspected vehicles fail inspection, based on removal of catalytic converters or the presence of inoperable converters, the emission control parameter that most frequently causes inspection failure.

Gomez said the current total failure rate recorded for Harris County has decreased from 2.5 percent to 0.8 percent. The highest failure rate--4.5 percent--was found in El Paso; Dallas and Tarrant counties both showed failure rates of 2.3 percent.

A preliminary survey made in El Paso by the El Paso City-County Health Unit showed a tampering/misfueling rate of 20 percent; however, these data are insufficient for any valid conclusions to be drawn, Gomez said. ■

## To incorporate minor changes

## **Public hearing is scheduled for Aug. 26 in Austin on three counties' SIP revisions**

The TACB will hold a public hearing at 10 a.m. August 26 in its auditorium at 6330 Highway 290 East, Austin to receive testimony on proposed revisions to the state implementation plan for Dallas, Tarrant, and El Paso counties.

The revisions would include 1) incorporation of additional documentation required by the EPA to ensure the enforceability of the vehicle parameter inspection/maintenance program, and 2) the incorpora-

tion of an implementation schedule for the El Paso idle emissions testing program and two sets of Department of Public Safety rules and regulations that relate to the parameter inspection program.

Copies of the proposals may be seen at the TACB in Austin and at the regional offices in Houston, Fort Worth, and El Paso.

Written testimony will be accepted at the TACB office in Austin until 4 p.m. August 27. ■

## Sierra Club, League of Women Voters join in lawsuit

The Sierra Club and the League of Women Voters of Texas have announced they will file a motion to intervene in support of the TACB in a lawsuit brought against the board by the Texas Association of Business. That lawsuit challenges the legality of the board's administrative penalty powers, enacted by the 69th Legislature in 1985, on the grounds that such powers deny the right of trial by jury and violate the constitutional division of executive (administrative agency) and judicial functions.

### Business group files action in Travis County

The lawsuit was filed in March in Travis County district court. Arguments are scheduled to be heard Oct. 24 before Judge Harley Clark. The business group has indicated that the suit may be amended to include the Texas Water Commission as a defendant; that commission was also empowered by the Legislature last year to assess administrative penalties to enforce state regulations.

Under a 1985 amendment to the Texas Clean Air Act, the TACB may impose administrative fines of up to \$10,000 a day for each day of violation. These penalties are assessed in conjunction with a compliance schedule approved by the board which define actions to be taken to control emissions of air pollutants and, where appropriate, sets deadlines for each action.

Ken Kramer, Sierra Club spokesman, said the club has consistently supported

administrative penalty powers for the air control board.

"The Sierra Club views the administrative penalty authority as an effective enforcement alternative to long, drawn-out court battles," Kramer said. "Some situations may be best dealt with in the courts, but the air control board should have the flexibility to use administrative penalties in appropriate situations. To deny that flexibility is to undercut the agency's ability to enforce the law."

He said the Sierra Club had been "very pleased to see that both the air control board and the Texas Water Commission have been willing and able to use the administrative penalty authority in recent months to secure better compliance with the state's environmental laws."

Evelyn Bonavita, legislative director for the League

### EPA files Superfund suit

The United States government is suing 36 companies, including six in Texas, it believes are responsible for public health threats posed by the Royal N. Hardage Superfund site near Criner, Oklahoma.

Texas companies named are Dal-Worth Industries, Inc., Dallas; Exxon Corp., Houston; Foster Feed and Seed Co., Kenedy; J.O.C. Oil Exploration Co., Inc., Friendswood; Nalco Chemical Co., Sugar Land; and Texas Instruments, Inc., Dallas.

Also cited is Eltex Chemical Supply Co. of Houston, for alleged transport of wastes. ■

of Women Voters, said "we are intervening on the side of the state in this case because we think the power to assess administrative penalties is crucial to the protection of the state's environment. It fills the gap between the issuance of a compliance order by an agency--which heretofore has amounted only to a slap on the wrist of an industry in noncompliance--and having to refer the case to the Attorney General's Office for a possibly protracted and costly court battle."

The League does not see its intervention in the law-

### Opposition not seen as "anti-business"

suit as "anti-business", Ms. Bonavita said. "Our members support judicious development of our state's natural resources, but we believe controlling pollution is in the best interests of the state and its citizens. To do this, state agencies must have adequate enforcement tools."

The Austin law firm of Bickerstaff, Heath and Smiley represent the League in the lawsuit on a pro bono (for the public good) basis, with Doug Caroom, who formerly headed the Attorney General's Environmental Protection Division, handling the suit for the firm, Ms. Bonavita said. Attorney Mary Kelly of Austin represents the Sierra Club.

Kramer said an indication of the significance his organization attaches to the suit is the fact that before the intervention, the action was approved by the national Sierra Club board of directors. ■

The following is a summary of TACB legal activities in April, May, and June.

The Texas Air Control Board requested that the Attorney General file and prosecute lawsuits against the following:

**Georgia Gulf Corp.**, Pasadena, Harris County, for violations of Section 4.01(b) of the Texas Clean Air Act (TCAA) and General Rule 101.20 (compliance with federal new source performance standards).

**M. L. Williams & Sons Excavating Contractors, Inc.**, Fort Worth, Tarrant County for violations of Section 4.01(b) of the TCAA and General Rule 101.20 (compliance with federal new source performance standards).

**Tharon Bean d/b/a Bean Hog Farm**, Brown County, for violations of Board Order 85-12, Sections 4.01 (a) and (b) of the TCAA and General Rule 101.4 (nuisance).

**LaPorte Chemicals, Diamond Shamrock Plastics**, LaPorte plant for violations of Section 4.01(b) of the TCAA, and General Rule 101.20 (compliance with EPA standards) and Board Rule 116.4 (special permit conditions).

**LaPorte Chemicals, Diamond Shamrock Plastics**, Deer Park plant for violations of Section 4.01(b) of the TCAA, General Rule 101.20 (compliance with EPA standards), and Board Rule 116.4 (special permit conditions). -o-

Agreed final judgments entered:

**City of Houston v. Petroleum Wholesale, Inc.** for violations of Board Rules 101.4 (nuisance), 115.131 (1) (vapor recovery on filling of gasoline storage vessel), 115.131(3) (leak test certification for tank

tion 4.01(b) of the TCAA and Rule 111.1 (outdoor burning).

**State of Texas v. West Egg Products, West Flour Mill, Inc.**, McClennan County for alleged violations of Rule 101.4 (nuisance) and Rule 116.1 (construction without a permit). The state received \$7,375 in civil penalties.

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Lawsuits filed in which the TACB is a party:

**City of Houston v. Crown AMC/Jeep/Renault, Inc. and Archer Motor Sales Corp.** for violations of Board Rules 114.1(c)(1) and (2) (sale of motor vehicle without pollution control systems in good operable condition) and 114.1(c)(3) (posting of notice of the requirements of Rule 114.1).

**City of Houston v. Service Transport Co. and Adams Resources & Energy, Inc.** for violations of Board Rules 115.131(2) (unloading of gasoline without a proper vapor recovery system), 115.131(3) and 115.261 (failure to display leak test certificate on gasoline tank truck), and 101.4 (nuisance).

**City of Houston v. Trumix Concrete Co.** regarding the company's operation of a concrete batch plant at 1718 Ahrens, Houston. The lawsuit alleges that the company has violated Rules 101.4 (nuisance), 101.5 (traffic hazard), and 101.6 (failure to notify of a major upset) of the General Rules; 111.21 (opacity) and 111.23 (excessive visible emissions)

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# Legal Activities

truck), 115.132 (vapor balance system test certification for tank truck). The judgment enjoined the company from future violations of the above rules and assessed a civil penalty of \$10,600 to be split equally between the City and the State of Texas.

**State of Texas v. Monte Carlo Fiberglas.** The state received \$5,050 in civil penalties and attorney's fees for violations of Rules 101.4 and 116.1 (construction or modification of a facility without a permit or exemption) at Monte Carlo's Haltom City facility.

**City of Houston and State of Texas v. Houston Junk Co., Inc., et al** in the 334th District Court, Harris County. \$5,400 in civil penalties will be paid in settlement of alleged violations of TACB Rules 101.4 (nuisance), 111.1 (outdoor burning), and 111.52 (ground level particulate concentration), and Sections 4.01(a) and (b) of the TCAA.

**State of Texas v. Circle S. Peaches**, Tarrant County. Defendant was fined \$500 for violations of Sec-



# TACB "Smoke School" to be held in Austin in September

A TACB Visible Emissions Evaluators Course -- usually referred to as a "smoke school" -- will be held Sept. 9, 10, and 11 in Austin. The first day will be devoted to a lecture program for persons seeking certification as evaluators for the first time in Texas and those whose certificates have lapsed for more than six months and who have never attended a lecture session. Field training and certification of evaluators will be conducted on the second and third days.

Phil Clark, course instructor in the TACB Quali-

ty Assurance Division, said the one-day lecture will cover the physical basis of plume opacity, certification requirements, field reading procedures, and various legal aspects of visible emissions evaluation.

Evaluators eligible for certificate renewal are not required to attend the lecture session; however, Clark recommends they attend a classroom session every three years.

Evaluators eligible for certificate renewal may be recertified by successfully passing field tests at Houston (September 30-October

1) and Arlington (October 14-15).

Evaluators must be certified every six months by passing "smoke reading" tests. The field certification test consists of 10 certification runs each of which consists of 25 black smoke plume readings and 25 white smoke plume readings.

There is no charge for the training and testing, and registration before the dates of the course is not required.

Further information is available from Clark and Jan Moneysmith, director of the TACB Quality Assurance Division. ■

## Legal Activities . . . from page eight

of Regulation I and 116.4 (permit/exemption conditions) and 116.5 (representations in permit/exemption application) of Regulation VI.

**City of Houston v. Intermodal Tire & Supply of Texas, Inc.** regarding the operation of a tire retreading facility at 599 E. Cross-timbers, Houston. The lawsuit alleges that the company has violated TACB Rules 101.4 (nuisance) of the General Rules, 111.23 (excessive visible emissions) of Regulation I, and 116.1 (construction without a permit) of Regulation VI.

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Contempt proceedings were requested as follows:

**Isiah Thomas, Florence Thomas, and Patsy Thomas** for violations of a judgment on Sept. 30, 1985 in the 284th Judicial District, Montgomery County. The contempt proceeding was initiated by the Texas De-

partment of Health. TACB regional investigators were to testify regarding unauthorized outdoor burning at the Christine Thomas Landfill in violation of the judgment. The defendants did not appear so the hearing was not held; however, Isiah Thomas did make a verbal commitment to comply with the terms of the judgment by April 16.

**Willie Grant** of Tarrant County for failure to comply with injunctions contained in a May 31, 1985 judgment entered against him. He had failed to immediately extinguish a fire that ignited in February 1986.

**Keeshan & Bost Chemical Co.** of Brazoria County for failure to comply with the injunctions contained in the July 12, 1985 agreed final judgment entered against the company. Keeshan & Bost failed to repair or replace valves, flanges, piping, or pumps to

eliminate observable leakage and failed to maintain records as required in the judgment.

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Lawsuit decision:

By letter dated May 19, 1986, Judge Joe B. Dibrell, Jr., of the 353rd District Court, informed the parties that he had reached a decision in the lawsuit filed by **PACE et al against the TACB** regarding the entry of the **Envirosafe Services of Texas, Inc. (ESTI)** Board Order. Judge Dibrell concluded that the Board had properly exercised its authority in light of the statutory requirements of Administrative Procedures and Texas Register Act and the TCAA in issuing its interlocutory order. Because the order was not a final disposition of the ESTI application, the court lacked jurisdiction to consider the matter, Judge Dibrell found. ■

## **Joint rulemaking hearing Aug. 12**

The TACB has scheduled a public hearing for 10 a.m. August 12 in Austin on a proposed new Regulation XI concerning control of air pollution from municipal solid waste facilities. This proposal involves joint rulemaking with the Department of Health and will outline the requirements to be met by all such facilities prior to and after commencing operations.

The 69th Texas Legislature (1985) amended the Solid Waste Disposal Act making a permit issued by the Texas Department of Health the sole state permit required for a municipal solid waste facility engaged in the storage, processing, treatment, disposal or destruction of solid waste, other than major sources which are subject to PSD permit requirements under EPA regulations.

Under the amendments, the TACB is responsible for conducting air quality reviews of permit applications for such facilities and transmitting recommendations to the Department of Health for consideration.

Copies of the proposed rule changes are available from Lane Hartsock, TACB central office in Austin (512) 451-5711, and at all TACB regional offices. Public comment, both oral and written, on the proposed changes is invited at the hearing. Written testimony should be received by 4 p.m. August 13 at the TACB central office, Control Strategy Division, 6330 Highway 290 East, Austin 78723. ■

## **State-of-art controls for incineration seen as critical by participants in conference**

Sponsors and speakers at a conference in Austin June 24 and 25 on the production of energy from municipal wastes endorsed municipal waste incineration if there are proper controls on emissions. Dr. Tom Dydek of the TACB Effects Evaluation staff said the air control board's staff believes that operation of incineration facilities with state-of-the-art controls will not result in adverse public health effects.

Dr. Dydek, JoAnn Wiersema, Doyle Pendleton, Dr. Maxine Jenks, James Crocker, James Caraway, and James Randall of the TACB Research and Permit divisions and the Monitoring Program attended the conference, which was sponsored by the U.S. Department of Energy and Argonne National Laboratories.

Seminars touched on various options open to cities in the disposal of waste

materials, including landfills and recycling, but the pros and cons of municipal waste incineration were the focus of most of the technical discussions.

"Many European cities have elected to burn their solid wastes for obvious reasons, including lack of land space, high costs, and in some cases the impracticality of garbage recycling, as well as the bonus that incineration provides in terms of supplying low-cost fuel values," Dr. Dydek said.

"Although chosen as the principal means of disposal by these cities, waste incineration still does not solve the problem of what to do with matter that cannot or should not be burned. Also, this method of disposal is not environmentally problem free. There is growing concern over the emission of dioxins, metals, and acid gases." ■

## **Dick Whittington will resign post of EPA Region 6 administrator at end of September**

Dick Whittington, who has been Southwest (Region 6) regional administrator of the EPA for the past five years, announced last week that he would resign from his post at the end of September. He plans to move to South Texas and raise cattle.

He has been responsible for the oversight of EPA activities in Texas, Oklahoma, Arkansas, New Mexico, and Louisiana.

In his letter of resignation he said "one of my most cherished hopes when I assumed the duties of the

regional administrator was to enhance the role of state governments in the implementation of our nation's environmental laws. For the most part, in my judgment, I have done so by more than doubling program delegations to the states during my stay. This will undoubtedly leave a permanent legacy to environmental protection in the Southwest."

Whittington formerly was deputy director of the Texas Department of Water Resources. ■

# "Ozone season" off to slow start, but summer's young

## TACB finds high interest in monitoring data

Texas' "ozone season" (roughly from April 1 through the end of October) got off to a slow start. Nevertheless, TACB meteorologists say that hotter weather in the remainder of July and August/September may provide the meteorological background that usually sees monitored levels in the outside air climb above the national standard of 0.12 parts per million in some areas.

According to the EPA, Texas' ozone season is year-around because high levels may be recorded even in the winter months. Larry Butts, in the TACB Quality Analysis Section, said, however, that during 1984 and 1985 93 percent of the hours of ozone data greater than 0.12 ppm were recorded during the April through October time period. The photochemical reactions that generate ozone as well as many other secondary pollutants are driven by the increased levels of ultra-violet light during hot periods.

Thus far this year, Butts said, "we seem to be having a mild ozone year with most stations showing fewer levels above the standard than for the same time period last year." He said that more frequent rains this year may have slowed the season but "we seem to be getting back to our normal Texas summer now and may see an increasing number of high ozone levels as a result."

Sixty percent of the high

hourly ozone readings in 1984 and 1985 were recorded in the second half of the year.

Butts said there has been unusually high interest in ozone data in several areas of the state where critical planning decisions could depend on this year's ozone levels. These include Austin and Corpus Christi, and Denton and Collin counties. There have been no reports of high readings at monitoring stations in these areas thus far, Butts said.

TACB operates monitors in all areas except Denton County, which is monitored by the Dallas air pollution control program; in Collin County, there are two

monitors, one operated by the TACB and one by the EPA. Data for Denton County is for five months; other data is for six months.

In regard to Denton County, where a monitor in operation since April 1981 has recorded ozone levels higher than the federal standard, the EPA has now called for revisions to the state implementation plan for ozone. The staff submitted a technical review of that monitor high level demonstrating that it resulted from the transport of ozone into the county, but the EPA rejected this. The staff now is beginning to develop a schedule to accomplish the revision to the SIP. ■

## Houston weather pattern classification may show relationship to ozone levels

The TACB Research Division is making available weather pattern classification data for Houston for the months of May through October from 1975 through 1983, except for the year 1979 which is not yet ready for publication.

The Research Division is using the data to test the hypothesis that ozone days in Houston, classified according to high, medium, or low concentrations, will be grouped by the general weather pattern classes. This study uses nine weather pattern classes.

"There is clearly a relationship between meteorology and ozone levels," TACB meteorologist Keith Zimmermann said. "One approach the Research Division has

taken is to classify the synoptic (large scale) weather patterns with respect to the Houston area and compare them to measured ozone levels. The daily weather patterns have been classified and are now available to researchers." A charge of \$18.00 per copy is made for the 100-page report to cover the costs of production and mailing.

Zimmermann said the six-month period generally is referred to by researchers as the "ozone season."

Zimmermann may be contacted about the data at 512/451-5711.

Mail orders: TACB, 6330 Highway 290 East, Austin, Texas 78723, attention Keith Zimmermann. Enclose a \$18 check or money order. ■

# Pesticide monitoring activities revised for flexibility

The TACB is shifting the emphasis in its pesticide monitoring activities from the monitoring of the ambient air by means of a network of fixed stations to source-oriented monitoring.

Dr. Maxine Jenks, director of Sampling and Analysis, said the change is being made in order to use more sophisticated methods and equipment and to provide data on short-term ambient levels of pesticides.

The pesticide monitoring network included stations in Harlingen, China (near Beaumont), Corpus Christi, Lubbock, West, McAllen, and Weslaco. The resources dedicated to the

## Network analysis includes many factors

network will be used for other monitoring critical to the TACB program of safeguarding the state's air quality, Dr. Jenks said.

Ed Gomes, TACB chemist who has been engaged in pesticide sampling and analysis both in private industry and for the state for a number of years, recommended the new approach following an extensive analysis of the network. His survey noted changes in land use, changes in agricultural practices, and developments in the chemical makeup of pesticides.

The toxicity and levels of usage of pesticides are two of the factors the TACB staff considered in redesigning the monitoring program. The network of monitors was developed beginning in 1981 to determine the concentration of air contaminants as a result of pesticide spraying in agricul-

tural areas adjacent to heavily populated areas. Over the four years of network operation, pesticides were detected only twice in the ambient air and then at levels which the TACB health effects evaluation section staff concluded were not significant. In reviewing the network, Gomes found that considerable acreage was reported to have been converted from cultivated crops to pastures, and biological control was significant in some areas.

"The possibility of detectable levels of pesticides in the air varies according to what farmers are using at a particular time for particular crops," Gomes said. "In the Rio Grande Valley, once one of the country's heaviest users of pesticides, usage has declined by 40 percent. In addition, the use of the 'hard stuff' is on the decline as there is more use of synthetic pyrethrins, carbaryl (less toxic than some of the organo-phosphates [OP], which were widely used). A few OP compounds are still being

used; methyl parathion, orthene, and the carbamate, chlordimeform, are used selectively. There appears to be a greater awareness of drift and more concern for the surrounding inhabitants and field workers as a result of new state requirements."

Current figures on the sale of pesticides in the state are not available but a Texas Department of Agriculture (TDA) spokesman said that reduced agricultural acreage as a result of economic factors and the increasing employment of biological means of pest control would have had an effect on the amount of pesticides used. He cited the use of the bacteria *bacillus thuringiensis* (called BT), a worm killer that attacks enzymes in the worm's metabolism. The result is that the insect dies. This bacteria (BT), sold under the brand name DIPEL, is frequently used primarily for the control of caterpillars on cabbage, lettuce, and other leafy vegetables as well as on alfalfa, cotton, and soybeans. ■

## Clean Air Study Committee to begin work on report to Legislature at Aug. 15 meeting

The Clean Air Study Committee has completed its hearings of testimony in regard to the three aspects of air pollution the 69th Legislature directed it to investigate.

The committee will meet August 15 to discuss a draft report to the Legislature, and in September to continue work on the report which will go to the Legislature in December.

Issues under the committee's purview are 1) whether operating permits should be required for the continued operation of facilities constructed prior to the implementation of the TACB permitting program in 1971; 2) a review of operating permits at stated time intervals to determine whether they should be continued and, if so, with or without  
(continued on page thirteen)

## Under proposed inspection fee rule revisions

# Amounts, sources affected unchanged: hearing Aug. 20

Proposed revisions to TACB rules in regard to inspection fees would mean that the agency would collect the same amount for 1987 as was collected for 1986, and the assessments would be based again on 1984 emissions inventory data.

The agency will hold a hearing on the proposed revisions at 2 p.m. August 20 in the TACB auditorium, Austin.

The major revisions:

1. Fees for fiscal year 1987 will be calculated using emissions inventory data from 1984. Thus, the system used in 1985/1986 will be retained for another year with no expansion in the number of accounts assessed fees.

2. The 45 percent supplemental fee assessed this year is combined with the original fee assessments in one table. This combination of tables will not result in an increase in fees assessed.

3. The payment schedule is changed from December-January to November-December, and the 10 percent penalty and the 10-day grace period for late payments deleted.

4. Nitrogen, carbon dioxide, water, methane, and ethane are excluded from consideration as air contaminants.

Separate fees are payable for each account (defined as all of the facilities at a property for which actual emissions in 1984 of total suspended particulates, nitrogen oxides, volatile organic compounds, or any other air contaminant equal

<u>EMISSION RATE (TPY rounded down to the nearest ton)</u>	<u>BASE FEE</u>	<u>INCREMENTAL FEE *</u>
50-99	\$ 725.00	\$17.40/ton
100-249	1,595.00	13.05/ton
250-999	3,552.50	4.35/ton
1,000 & Up **	6,815.00	2.18/ton

\* Incremental fee to be applied to each ton in excess of the initial tonnage in that category

\*\* Maximum fee is \$14,500.00

or exceed 50 tons per year, and for which potential emissions of these contaminants equal or exceed 100 tons per year.

The proposed fee schedule for fees to be paid in November and December 1986 is shown above.

The board may levy an administrative penalty or seek court action against owners of accounts which do not pay fees on time.

The TACB is contemplating development of a revised inspection fee system for fiscal year 1988 based on industrial classification. There was support for such a system among participants in a Fee Review Committee workshop in June, but most commenters felt that the agency's preliminary data base for this

type of system would require much improvement. They suggested that the staff propose an emission-based system for the next year and in the meantime work to develop an accurate and equitable Standard Industrial Code (SIC)-based system.

Written comments to be included in the public hearing record must be received at the TACB Austin office by 4 p.m. August 21. Both oral and written testimony may be presented at the hearing. Questions and cross-examination of witnesses is not permitted.

Inquiries concerning the hearing and proposed revisions should be directed to Lane Hartsock, (512) 451-4711. ■

## Clean Air Study Committee . . . from page twelve

changes; and 3) the regulation of emissions into the air from ships.

At its meeting June 20 the committee heard testimony on the subject of permitting of "grandfathered" facilities. Chairman Hubert Oxford III reported that in a TACB registration of grandfathered facilities earlier this year, more than

6,500 were registered from some 900 different plant sites. He pointed out that at one plant site there could be from one to thousands of facilities, some permitted, some grandfathered, and some exempted from registration because of emission levels. (A facility is a piece of equipment that has or could have emissions into the air.) ■

## EPA studying "tall stacks" regulation effects in state

The EPA is currently reviewing individual sources of air pollutants in the state to determine the effect in Texas of its "tall stacks" regulation effective July 8, 1985.

Tom Diggs, of EPA Region 6, Dallas, recently told the TACB Regulation Development Committee in Austin that the objective is to "ensure that the degree of emission limitation required for the control of any air pollutant is not affected by that portion of any stack height which exceeds good engineering practice (GEP) or by any other dispersion technique."

He said the EPA has required all states (1) to review and revise, as necessary, their state implementation plans (SIP) for the

control of air pollution to include provisions that limit stack height credits and dispersion techniques, and (2) to review all existing emission limitations to determine whether any of these limitations have been affected by stack height credits above GEP or any other dispersion techniques.

The TACB staff had informed EPA that resources were not available to conduct a retrospective review of previously issued permits and that such review was not appropriate considering the lack of any air quality problems and the strict permitting requirements imposed by the TACB. In light of this, EPA assumed the responsibility for the source reviews,

Diggs said. This is being accomplished by the use of EPA regional staff and by contractor assistance funded by transferring \$40,000 from the TACB EPA grant allocation.

"If as a result of the individual source reviews a more restrictive emission limitation is required for particular sources, we (the EPA) will request the state to submit SIP revisions for these cases in order to obtain timely compliance in accordance with the (federal) Clean Air Act," Diggs told the committee.

Steve Spaw, TACB deputy executive director, said all permitted sources had been required by the TACB to implement best available control technology (BACT). ■

*The TACB Bulletin No. 3-1986, July 21*

### **TEXAS AIR CONTROL BOARD**

**6330 HIGHWAY 290 EAST  
AUSTIN, TEXAS 78723**