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(D) reports prepared by outside consultants.

(4) The workpapers of any audited entity shall contain a notation that the accountant has determined that such entity met the requirements of subparagraphs (A) and (B) of this paragraph.

(A) Filing requirements have been met of the Insurance Code, Article 21.49-1, §3, and the Texas Administrative Code, including but not limited to the requirements that all dividends have been reported to the Department within two business days after declaration and at least ten days prior to payment, and that all dividends have been declared to have been paid in accordance with the provisions of Insurance Code, Articles 3.11, 21.31, 21.32, 21.32A, or 22.08, whichever statute is applicable.

(B) Unencumbered assets have been maintained in an amount at least equal to reserve liabilities as required by Insurance Code, Article 21.39-A.

(h) Accessibility of work papers. The accountant shall provide all work papers to the examiner, whether during or after the preparation of the audited financial report. The examiner may obtain, if necessary, photocopies of work papers as provided by the Insurance Code, Article 1.15A, §17(c), so as not to burden the accountant if a statutory examination is occurring at the same time as an annual audit. Information obtained under this section is subject to the confidentiality standards imposed by Insurance Code, Articles 1.15, §8(b) ; 1.15A, §17(c); 1.18; and 21.49-1, §10.

(i) Non-compliance with this section may result in the Commissioner initiating action pursuant to Insurance Code, Articles 1.10, §7, and 1.15A, §12(d).

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

Issued in Austin, Texas, on December 16, 1994.

TRD-9452566

D. J. Powers
Chief Clerk and General
Counsel
Texas Department of
Insurance

Earliest possible date of adoption: January 23, 1995

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

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 115. Control of Air Pollution From Volatile Organic Compounds

Subchapter C. Volatile Organic Compound Transfer Operations

• 30 TAC §§115.212-115.217, 115.219

The Texas Natural Resource Conservation Commission (TNRCC) proposes amendments to §§115.212, 115.213, 115.214, 115.215, 115.216, 115.217, and 115.219, concerning Loading and Unloading of Volatile Organic Compounds (VOC), to restore an allowance for nonvapor-tight conditions during sampling and gauging of transport vessels, provided that VOC transfer is discontinued prior to sampling and gauging. The amendments are also proposed in order to clarify existing requirements and delete obsolete or unnecessary language.

The proposed amendments to §115.212, concerning Control Requirements, revise the land-based VOC loading and unloading requirements to restore an allowance for nonvapor-tight conditions during sampling and gauging, provided that VOC transfer is discontinued prior to sampling and gauging, the hatch is open for no more than 3.0 minutes, and no more than one nonvapor-tight sampling and/or gauging occurs per vessel per loading event. The marine vessel loading allowance for nonvapor-tight conditions during sampling and gauging is likewise proposed for revision to include these same requirements. The proposed amendments to §115.212 also clarify the Once-In-Always-In (OIAI) language. OIAI is an EPA concept which means that once emissions from a source exceed the applicability cutoff for a particular VOC regulation in the SIP, that source is always subject to the control requirements of the regulation. In addition, the proposed amendments to §115.212 clarify that the use of a vapor balance system is an acceptable method to control VOC emissions.

The proposed changes to §115.213, concerning Alternate Control Requirements, update a rule reference.

The proposed amendments to §115.214, concerning Inspection Requirements, delete a soon-to-be obsolete paragraph, and clarify existing fugitive emission monitoring requirements for marine terminals. The proposed amendments to §115.215, concerning Approved Test Methods, correct the test method for determining true vapor pressure.

The proposed amendments to §115.216, concerning Monitoring and Recordkeeping Requirements, add a requirement for the maintenance of records of nonvapor-tight conditions during sampling and/or gauging, correct a typographical error, clarify the

recordkeeping requirements for tank-truck leak testing, and update rule references.

The proposed amendments to §115.217, concerning Exemptions, clarify the applicability of existing exemptions. In response to EPA comments, the proposed revisions to §115.217 also add language to the 90% and 80% overall VOC loading control options available under §115.217(b)(4)-(5) and §115.217(c)(4)-(5) which specify that all representations in initial control plans and annual reports become enforceable conditions.

The proposed amendments to §115.219, concerning Counties and Compliance Schedules, delete obsolete language and correct a typographical error in a rule reference.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for each year of the first five-year period the proposed sections are in effect, there will be no cost to state and local governments. There are also no economic costs to small businesses, persons, and businesses required to implement the proposed measures.

Mr. Minick also has determined that for each year of the first five-year period the proposed sections are in effect, the public benefit anticipated as a result of implementing the sections will be clarification of existing requirements and deletion of obsolete or unnecessary language.

A public hearing on this proposal will be held in Houston on January 11, 1995 at 7:00 p.m. at the Houston-Galveston Area Council, Conference Room A, 3555 Timmons Lane, Second Floor, Houston. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments not presented at the hearing must be submitted to the TNRCC, Office of Policy and Regulatory Development, P.O. Box 13087, Austin, Texas, 78711-3087, no later than January 27, 1995. Material received by 4:00 p. m. on that date will be considered by the Commission prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the Air Policy and Regulations Section of the TNRCC Air Quality Planning Annex located at 12118 North IH-35, Park 35 Technology Center, Building E, Austin, Texas 78753, and at all TNRCC Air Program regional offices. For further information, contact Eddie Mack at (512) 239-1488.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 239-1459. Requests should be made as far in advance as possible.

The amendments are proposed under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

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

§115.212. Control Requirements.

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

(1) Until November 15, 1996 at volatile organic compound (VOC) loading operations other than gasoline terminals, gasoline bulk plants, and marine terminals, no person shall permit the loading of VOC with a true vapor pressure greater than or equal to 1.5 pounds per square inch absolute (psia) under actual storage conditions to transport vessels unless the vapors are processed by a vapor recovery system or are controlled by a vapor balance system, as defined in §115.10 of this title (relating to Definitions). The vapor recovery system shall control the VOC emissions such that the aggregate true vapor pressure of all VOC does not exceed 1.5 psia.

(2) After November 15, 1996 at VOC loading operations other than gasoline terminals, gasoline bulk plants, and marine terminals, no person shall permit the loading of VOC with a true vapor pressure greater than or equal to 0.5 psia under actual storage conditions to transport vessels unless the vapors are processed by a vapor recovery system or are controlled by a vapor balance system, as defined in §115.10 of this title. The vapor recovery system shall maintain a control efficiency of at least 90%.

(3)-(4) (No change.)

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

(A) All liquid and vapor lines are equipped with fittings which make vapor-tight connections, and [shall be]:

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

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

(B) (No change.)

(C) All gauging and sampling devices are vapor-tight except for necessary sampling and gauging. Any nonvapor-tight gauging and/or sampling shall:

(i) be limited in duration such that the hatch cover is open for no more than 3.0 minutes;

(ii) be limited to one sampling and/or gauging operation per transport vessel per VOC transfer event; and

(iii) not occur while VOC is being transferred.

(6)-(9) (No change.)

(10) After November 15, 1996 for marine terminals in the Houston/Galveston area, the following control requirements shall apply.

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

(C) All gauging and sampling devices shall be vapor-tight except for necessary gauging and sampling. Any nonvapor-tight gauging and/or sampling shall:

(i) be limited in duration such that the hatch cover is open for no more than 3.0 minutes;

(ii) be limited to one sampling and/or gauging operation per marine vessel per VOC transfer event; and

(iii) not occur while VOC is being transferred.

(11) (No change.)

(12) Any loading or unloading operation that becomes subject to the provisions of this subsection by exceeding provisions of §115.217(a) of this title (relating to Exemptions) will remain subject to the provision of this subsection, even if throughput or emissions later fall below exemption limits unless and until emissions are reduced to at or below the controlled emissions level existing prior to implementation of the project by which throughput or emission rate was reduced and less than the applicable exemption limits in §115.217(a) of this title; and

(A) (No change.)

(B) if authorization by [no] permit or standard exemption is not required for the project, the owner/operator has given the Texas Natural Resource Conservation Commission (TNRCC) 30 days notice of the project in writing.

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

(1) At VOC loading operations other than gasoline terminals, no person shall permit the loading of VOC with a true vapor pressure greater than or equal to 1.5 psia under actual storage conditions to a transport vessel unless the vapors are processed by a vapor recovery system or are

controlled by a vapor balance system, as defined in §115.10 of this title. The vapor recovery system shall control the VOC emissions such that the aggregate true vapor pressure of all VOC does not exceed 1.5 psia.

(2) (No change.)

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

(A) All liquid and vapor lines are equipped with fittings which make vapor-tight connections, and [shall be]:

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

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

(B) (No change.)

(4)-(6) (No change.)

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

(1) At VOC loading operations other than gasoline terminals, no person shall permit the loading of VOC with a true vapor pressure greater than or equal to 1.5 psia under actual storage conditions to a transport vessel unless the vapors are processed by a vapor recovery system or are controlled by a vapor balance system, as defined in §115.10 of this title. The vapor recovery system shall control the VOC emissions such that the aggregate true vapor pressure of all VOC does not exceed 1.5 psia.

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

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

(A) All liquid and vapor lines are equipped with fittings which make vapor-tight connections, and [shall be]:

(i) [equipped with fittings which make vapor-tight connections]

which close automatically when disconnected; or

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

(B) (No change.)

(4)-(5) (No change.)

§115.213. Alternate Control Requirements.

(a) For all persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this section may be approved by the Executive Director in accordance with §115.910 of this title (relating to Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

(b) For all persons in Gregg, Nueces, and Victoria Counties, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this section may be approved by the Executive Director in accordance with §115.910 of this title (relating to Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

(c) For all persons in Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis Counties, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this section may be approved by the Executive Director in accordance with §115.910 of this title (relating to Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

§115.214. Inspection Requirements.

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

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

(3) Gasoline tank-truck tanks being loaded shall have been leak tested within one year, in accordance with the requirements of §§115.234-115.237 and 115.239 of this title (relating to Control of Volatile Organic Compound Leaks From Transport Vessels) as evidenced by prominently displayed certification, affixed near the U.S. Department of Transportation certification plate.]

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

(4)[(5)] After November 15, 1996 for marine terminals in the Houston/Galveston area, the following inspection requirements shall apply.

(A) Inspection for visible liquid leaks, visible fumes, or significant odors resulting from VOC transfer operations shall be conducted during each transfer by the owner or operator of the VOC loading and unloading operation or the owner or operator of the marine vessel.

(B) If a liquid leak is detected during the loading operation and can not be repaired immediately (for example, by tightening a bolt or packing gland), then the transfer operation shall cease until the leak is repaired.

(C) If a vapor leak is detected by sight, sound, smell, or hydrocarbon gas analyzer during the loading operation, then a "first attempt" shall be made to repair the leak. Cargo loading operations need not be ceased if the first attempt to repair the leak, as defined by §115.10 of this title (relating to Definitions), to less than 10,000 parts per million by volume (ppmv) or 20% of the lower explosive limit is not successful provided that the first attempt effort is documented by the owner or operator of the marine vessel as soon as practicable and a copy of the repair log made available to a representative of the marine loading facility. No additional loadings shall be made into the cargo tank until a successful repair has been completed and certified by a 40 Code of Federal Regulations (CFR) 61.304(f) or equivalent inspection.

(D) The intentional bypassing of a vapor control device during marine loading operations is prohibited.

(E) All shore-based equipment is subject to the fugitive emissions monitoring requirements of §§115.352-115.359 of this title (relating to Fugitive Emission Control in Petroleum Refining, Natural Gas Processing, and Petro-

chemical Processes). For the purposes of this paragraph, shore-based equipment includes, but is not limited to, all equipment such as loading arms, pumps, meters, shut-off valves, relief valves, and other piping and valves between the marine loading facility and the vapor recovery system and between the marine loading facility and the associated land-based storage tanks, excluding working emissions from the storage tanks.

(5)[(6)] After November 15, 1996, each gasoline terminal, as defined in §115.10 of this title, in the Dallas/Fort Worth, El Paso, and Houston/Galveston areas is subject to the fugitive emissions monitoring requirements of §§115.352-115.359 of this title.

(b) (No change.)

§115.215. Approved Test Methods.

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

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

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

(8)-(10) (No change.)

(b) For Gregg, Nueces, and Victoria Counties, compliance with §115.211(b) of this title and §115.212(b) of this title shall be determined by applying the following test methods, as appropriate:

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

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

(8) (No change.)

§115.216. Monitoring and Recordkeeping Requirements.

(a) For volatile organic compound (VOC) loading or unloading operations in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas affected by §115.211(a) or [and] §115.212(a) of this title (relating to Emis-

sion Specifications; and Control Requirements), the owner or operator shall maintain the following information at the plant as defined by its Texas Natural Resource Conservation Commission (TNRCC) air quality account number for at least two years and shall make such information available upon request to representatives of the TNRCC, United States Environmental Protection Agency (EPA), or any local air pollution control agency having jurisdiction in the area:

- (1)-(2) (No change.)
- (3) For gasoline terminals:

(A) a comprehensive record of all tank-trucks loaded, including the identification [certification] number of the tank-truck and the date of the last leak testing required by §115.214(a) (3)-(4) [§115.214(a)(3)-(5)] of this title (relating to Inspection Requirements);

(B) a daily record of the identification [certification] number of all tank-trucks loaded at the affected terminal;

(C)-(D) (No change.)

- (4) For gasoline bulk plants:

(A) a comprehensive record of all tank-trucks loaded, including the identification [certification] number of the tank-truck and the date of the last leak testing required by §115.214(a)(3)-(4) [§115.214(a)(3)-(5)] of this title;

(B) a daily record of the identification [certification] number of all tank-trucks loaded at the affected bulk plant;

(C)-(D) (No change.)

(5) For VOC loading or unloading operations other than gasoline terminals, gasoline bulk plants, and marine terminals, a daily record of each transport vessel loaded or unloaded, including:

(A) the identification [certification] number of each tank-truck loaded or unloaded and the date of the last leak testing required by §115.214(a)(3) [§115.214(a)(4)] of this title;

(B)-(C) (No change.)

(6) After November 15, 1996 for marine terminals in the Houston/Galveston area:

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

(C) a copy of each marine vessel's first attempt repair log required by §115.214(a)(4)(C) [§115.214(a)(5)(C)] of this title shall be maintained on file by the marine terminal for a minimum of two years.

(D) (No change.)

(7)-(8) (No change.)

(9) Records of each occurrence of nonvapor-tight conditions during sampling and/or gauging shall be maintained, including the time that the hatch cover was opened and the time that the hatch cover was closed.

(b) (No change.)

§115.217. Exemptions.

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

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

(3) Until November 15, 1996, any plant, as defined by its Texas Natural Resource Conservation Commission (TNRCC) air quality account number, excluding gasoline bulk plants, having less than 20,000 gallons (75,708 liters) of VOC loaded into transport vessels per day (averaged over any consecutive 30-day period) with a true vapor pressure greater than or equal to 1.5 pounds per square inch absolute (psia) under actual storage conditions is exempt from the requirements of §115.212(a) of this title. The owner or operator of any VOC loading operation for which the VOC loading operation was previously exempt under §115.217(a)(2) of this title (as in effect October 16, 1992) from the control requirements of this undesignated head, and which does not otherwise qualify for exemption under this paragraph, shall:

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

(4) After November 15, 1996, any plant, as defined by its TNRCC air quality account number, excluding gasoline bulk plants, having less than 20,000 gallons (75,708 liters) of VOC loaded into transport vessels per day (averaged over any consecutive 30-day period) with a true vapor pressure greater than or equal to 0.5 psia under actual storage conditions is exempt from the requirements of §115.212(a) of this title.

(5) (No change.)

(6) The following are exempt from the requirements of §115.212(a) of this title:

(A) all unloading of marine vessels; [and]

(B) until November 15, 1996 in the Houston/ Galveston area, all loading of marine vessels; and [and all loading and unloading of crude oil and condensate.]

(C) until November 15, 1996, all land-based loading and unloading of crude oil and condensate.

(7)-(11) (No change.)

(b) For all persons in Gregg, Nueces, and Victoria Counties, the following exemptions apply.

(1) (No change.)

(2) Any plant, as defined by its TNRCC air quality account number, having less than 20,000 gallons (75,708 liters) of VOC loaded into transport vessels per day (averaged over any consecutive 30-day period) with a true vapor pressure greater than or equal to 1.5 psia under actual storage conditions is exempt from the requirements of §115.212(b) of this title. The owner or operator of any VOC loading operation for which the VOC loading operation was previously exempt under §115.217(b)(2) of this title (as in effect October 16, 1992) from the control requirements of this undesignated head, and which does not otherwise qualify for exemption under this paragraph, shall:

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

(3) (No change.)

(4) VOC loading operations other than gasoline terminals, gasoline bulk plants, and marine terminals are exempt from the control requirements of §115.212(b)(1) of this title if the overall control of emissions at the account from the loading of VOC (excluding VOC loading into marine vessels and VOC loading at gasoline terminals and gasoline bulk plants) with a true vapor pressure between 1.5 and 11 psia under actual storage conditions is at least 90%, and the following requirements are met:

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

(D) All representations in initial control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions unless the owner or operator of the VOC loading operation submits a revised control plan to the TNRCC Austin Office

(Office of Air Quality), the appropriate TNRCC Regional Office, and any local air pollution control program with jurisdiction within 30 days of the change. All control plans and reports shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions continues to be at least 90%. The emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

(5) The owner or operator of a VOC loading operation subject to the control requirements of §115.212(b)(1) of this title may request an exemption determination from the Executive Director if the overall control of emissions at the account from the loading of VOC (excluding VOC loading into marine vessels and VOC loading at gasoline terminals and gasoline bulk plants) with a true vapor pressure between 1.5 and 11 psia under actual storage conditions is at least 80%, and the following requirements are met:

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

(C) All representations in initial control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions unless the owner or operator of the VOC loading operation submits a revised control plan to the TNRCC Austin Office (Office of Air Quality), the appropriate TNRCC Regional Office, and any local air pollution control program with jurisdiction within 30 days of the change. All control plans and reports shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions continues to be at least 80%. The emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

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

(1) (No change.)

(2) Any plant, as defined by its TNRCC air quality account number, having less than 20,000 gallons (75,708 liters) of VOC loaded into transport vessels per day (averaged over any consecutive 30-day period) with a true vapor pressure greater than or equal to 1.5 psia under actual storage conditions is exempt from the requirements of §115.212(c) of this title. The

owner or operator of any VOC loading operation for which the VOC loading operation was previously exempt under §115.217(c)(2) of this title (as in effect October 16, 1992) from the control requirements of this undesignated head, and which does not otherwise qualify for exemption under this paragraph, shall:

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

(3) (No change.)

(4) VOC loading operations other than gasoline terminals, gasoline bulk plants, and marine terminals are exempt from the control requirements of §115.212(c)(1) of this title if the overall control of emissions at the account from the loading of VOC (excluding VOC loading into marine vessels and VOC loading at gasoline terminals and gasoline bulk plants) with a true vapor pressure between 1.5 and 11 psia under actual storage conditions is at least 90%, and the following requirements are met:

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

(D) All representations in initial control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions unless the owner or operator of the VOC loading operation submits a revised control plan to the TNRCC Austin Office (Office of Air Quality), the appropriate TNRCC Regional Office, and any local air pollution control program with jurisdiction within 30 days of the change. All control plans and reports shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions continues to be at least 90%. The emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

(5) The owner or operator of a VOC loading operation subject to the control requirements of §115.212(c)(1) of this title may request an exemption determination from the Executive Director if the overall control of emissions at the account from the loading of VOC (excluding VOC loading into marine vessels and VOC loading at gasoline terminals and gasoline bulk plants) with a true vapor pressure between 1.5 and 11 psia under actual storage conditions is at least 80 percent, and the following requirements are met:

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

(C) All representations in initial control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions unless the owner or operator of the VOC loading operation submits a revised control plan to the TNRCC Austin Office (Office of Air Quality), the appropriate TNRCC Regional Office, and any local air pollution control program with jurisdiction within 30 days of the change. All control plans and reports shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions continues to be at least 80%. The emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

§115.219. Counties and Compliance Schedules.

[(a)] All affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas shall be in compliance with this undesignated head (relating to Loading and Unloading of Volatile Organic Compounds) in accordance with the following schedules.

(1) All affected persons shall be in compliance with §115.211(a)(1)(B), §115.212(a)(2) and (4), §115.214(a)(3) [§115.214(a)(4)], and §115.217(a)(2) and (4) of this title (relating to Emission Specifications; Control Requirements; Inspection Requirements; Approved Test Methods; and Exemptions) as soon as practicable, but no later than November 15, 1996.

(2) All land-based loading and unloading of crude oil and condensate to and from transport vessels, as defined in §115.10 of this title (relating to Definitions), shall be in compliance with §115.211(a), §115.212(a), §115.213(a), §115.214(a), §115.215(a), §115.216(a), and §115.217(a) of this title (relating to Emission Specifications; Control Requirements; Alternate Control Requirements; Inspection Requirements; Monitoring and Recordkeeping Requirements; Approved Test Methods; and Exemptions) as soon as practicable, but no later than November 15, 1996.

[(3)] All persons affected by the deletion of the allowance for nonvapor-tight conditions during sampling and gauging shall be in compliance as soon as practicable, but no later than November 15, 1996.

[(4)] All affected persons shall be in compliance with §115.216(a)(5) of this title as soon as practicable, but no later than May 31, 1994.]

(3)[(5)] All affected marine terminals in Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties shall be in compliance with §115.211(a), §115.212(a), §115.213(a), §115.214(a), §115.215(a), §115.216(a), and §115.217(a) of this title as soon as practicable, but no later than November 15, 1996.

(4)[(6)] All affected gasoline terminals in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Harris, Liberty, Montgomery, Tarrant, and Waller Counties shall be in compliance with §115.212(a)(11) [§115.211(a)(11)], §115.214(a)(5) [§115.214(a)(6)], and §115.216(a)(7) of this title as soon as practicable, but no later than November 15, 1996.

[(b) All affected persons in Gregg, Nueces, and Victoria Counties shall be in compliance with §115.216(b)(5) of this title as soon as practicable, but no later than May 31, 1994.]

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

Issued in Austin, Texas, on November 30, 1994.

TRD-9452579 Mary Ruth Holder
Director, Legal Services
Division
Texas Natural Resource
Conservation
Commission

Proposed date of adoption: April 26, 1995

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

TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 30. Aviation

Subchapter A. Practice and Procedure

• 43 TAC §§30.1-30.53

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

The Texas Department of Transportation proposes the repeal of §§30.1-30.53, concerning the practices and procedures of the Texas Department of Aviation. The sections are no longer necessary due to the provision of House Bill 9, 72nd Legislature, First Called Session, which created the Texas Department of Transportation by merging the Texas

Department of Aviation with the State Department of Highways and Public Transportation.

David Fulton, Director of Aviation, has determined that for the first five-year period the repeals are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Fulton has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed repeals.

Mr. Fulton also has determined that for each year of the first five years the repeals are in effect the public benefits anticipated as a result of enforcing the repeals will be elimination of duplicate procedures in the Texas Administrative Code. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to David Fulton, Director of Aviation, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701. The deadline for receipt of written comments will be at 5:00 p.m. on January 23, 1995.

Pursuant to the Administrative Procedure Act, the Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed repeals. The public hearing will be held at 9:00 a.m., on Thursday, January 12, 1995, in Room 107, 410 East Fifth Street, Austin, Texas, and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Those desiring to make comments or presentations may register starting at 8:30 a.m. Any interested person may appear and offer comments, either orally or in writing, however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Eloise Lundgren, Director of the Public Information Office, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8588 at least two work days prior to the meeting so that appropriate arrangements can be made.

The repeals are proposed under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of

the work of the Texas Department of Transportation.

No statutes, codes, or rules are affected by the proposed repeals.

§30.1. Object of Rules.

§30.2. Scope and Applicability of Rules.

§30.3. Definitions.

§30.4. Sessions of the Commission.

§30.5. Computation of Time.

§30.6. Agreements to be in Writing.

§30.7. Service of Pleadings and Documents in Nonrulemaking Proceedings.

§30.8. Conduct and Decorum.

§30.9. Classification of Parties.

§30.10. Participation as a Party.

§30.11. Participation by Persons not Parties.

§30.12. Appearances Personally or by Representative.

§30.13. Classification of Pleadings.

§30.14. Filing of Pleadings and Other Documents.

§30.15. Form and Content of Pleadings and Other Documents.

§30.16. Time for Filing.

§30.17. Examinations of Pleadings.

§30.18. Motions.

§30.19. Amendments.

§30.20. Incorporation by Reference of Commission Records.

§30.21. Docketing and Notice.

§30.22. Postponement, Continuance, Withdrawal, or Dismissal.

§30.23. Consolidation.