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reasonably reflect the value of the farm or ranch land stated in the original appraisal.

(f) Earnest money contract. The seller of the farm or ranch land to be acquired and the applicant must enter into a binding earnest money contract. The earnest money contract must contain all terms and conditions agreed to by the parties thereto.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on May 26, 1995.

TRD-9506414 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: June 16, 1995

Proposal publication date: April 7, 1995

For further information, please call: (512) 463-7583

Chapter 30. Young Farmer Loan Guarantee Program

Subchapter A. General Proce- dures

• 4 TAC §30.3

The Board of Directors of the Texas Agricultural Finance Authority (TAFE), a public authority within the Texas Department of Agriculture, adopts an amendment to §30.3, concerning the definition of a first farm or ranch operation under the Texas Young Farmer Loan Guarantee Program, without changes to the proposed text as published in the March 28, 1995, issue of the *Texas Register* (20 TexReg 2257).

The amendment is adopted in order to provide for greater participation by young farmers in the loan guarantee program.

The amendment will function by allowing young farmers to have a greater percentage of farm and ranch income and still be eligible for the loan guarantee program.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Agriculture Code (the Code), §253.007(e), which provides the Board of Directors of the Texas Agricultural Finance Authority with the same authority in administering the Young Farmer Loan Guarantee Program as it has in administering programs established by the board under the Code, Chapter 58; Texas Agriculture Code, §58.022, which provides the board with the authority to adopt rules and procedures for administration of its programs; Texas Agriculture Code, §58.023, which provides the TAFE Board with the authority to adopt rules to establish criteria for eligibility of applicants and lenders under the TAFE Loan Guaranty Program; and Texas Government Code, §2001.004, which requires that the de-

partment adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on May 26, 1995.

TRD-9506415 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: June 16, 1995

Proposal publication date: March 28, 1995

For further information, please call: (512) 463-7583

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 105. Enforcement Rules

• 30 TAC §§105.1, 105.3, 105.11, 105.13, 105.15, 105.21, 105.23, 105.25, 105.31, 105.33, 105.35, 105.41

The Texas Natural Resource Conservation Commission (TNRCC) adopts the repeal of §§105.1, 105.3, 105.11, 105.13, 105.15, 105.21, 105.23, 105.25, 105.31, 105.33, 105.35, and 105.41, concerning Enforcement Rules, without changes to the proposed text as published in the January 3, 1995, issue of the *Texas Register* (20 TexReg 14).

The TNRCC is repealing the entire Chapter 105 because a new Chapter 337 for TNRCC enforcement rules is being adopted concurrently. The new chapter will serve as the procedural rules for TNRCC enforcement, including contested enforcement case hearings and TNRCC mandatory enforcement hearings. The new chapter is not intended to address the informal enforcement settlement process utilized in the majority of enforcement cases.

A public hearing was held January 26, 1995, in Austin. No comments were received regarding the repeal of Chapter 105.

The repeals are adopted under the Texas Health and Safety Code, 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.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on May 24, 1995.

TRD-9506416

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

Effective date: June 16, 1995

Proposal publication date: January 3, 1995

For further information, please call: (512) 239-1966

Chapter 115. Control of Air Pollution From Volatile Organic Compounds

Subchapter C. Volatile Organic Compound Transfer Opera- tions

Loading and Unloading of Volatile Organic Compounds

• 30 TAC §§115.212-115.217, 115.219

The Texas Natural Resource Conservation Commission (TNRCC) adopts amendments to §§115.212-115.217 and 115.219, concerning Loading and Unloading of Volatile Organic Compounds. Sections 115.212, 115.214, 115.216, 115.217, and 115.219 are adopted with changes to the proposed text as published in the December 23, 1994, issue of the *Texas Register* (19 TexReg 10203). Section 115.213 and §115.215 are adopted without changes and will not be republished.

Revisions to Chapter 115, concerning Control of Air Pollution from Volatile Organic Compounds (VOC) and the State Implementation Plan (SIP) are adopted in order to restore an allowance for nonvapor-tight conditions during gauging and unloading of transport vessels. The amendments are also adopted in order to clarify existing requirements and delete obsolete or unnecessary language.

The 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 gauging and sampling, provided that nonvapor-tight conditions are limited in duration to the time necessary to practicably gauge and/or sample, and VOC transfer is discontinued prior to gauging and sampling. The revisions also specify the requirements for minimizing emissions during unloading operations. The marine vessel loading allowance for nonvapor-tight conditions during gauging and sampling has been likewise revised to require that VOC transfer be discontinued prior to gauging and sampling, and that nonvapor-tight conditions be limited in duration to the time necessary to practicably gauge and/or sample. The amendments to §115.212 also clarify the "Once-In-Always-In" language. Once-In-Always-In (OIAI) is a United States Environmental Protection Agency (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 amendments to §115.212

clarify that the use of a vapor balance system is an acceptable method to control VOC emissions.

The changes to §115.213, concerning Alternate Control Requirements, update a reference to §115.910 to reflect a title change.

The amendments to §115.214, concerning Inspection Requirements, delete a paragraph made obsolete because the May 31, 1995 compliance date has passed, and clarify that the existing fugitive emission monitoring requirements for marine terminals include components between the marine loading facility and the vapor recovery system. The amendments to §115.215, concerning Approved Test Methods, correct the test method for determining true vapor pressure.

The amendments to §115.216, concerning Monitoring and Recordkeeping Requirements, correct a typographical error, clarify the recordkeeping requirements for tank-truck leak testing by replacing "certification number" with the more appropriate term "identification number," and update rule references to reflect paragraphs which are being renumbered due to the deletion of obsolete language.

The amendments to §115.217, concerning Exemptions, clarify the applicability of existing exemptions. In response to previous EPA comments, the 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 specifies that all representations in initial control plans and annual reports become enforceable conditions.

The amendments to §115.219, concerning Counties and Compliance Schedules, delete language made obsolete because the May 31, 1995 compliance date has passed, delete language which gave a compliance date for maintaining vapor-tight conditions during gauging and sampling, update rule references to reflect paragraphs which are being renumbered due to the deletion of obsolete language, and correct a typographical error in a rule reference.

A public hearing was held on January 11, 1995 in Houston. Written comments were initially to be accepted through January 13, 1995; however, the comment period was extended to January 27, 1995.

The Texas Chemical Council (TCC) and Texas Mid-Continent Oil & Gas Association (TMOGA) submitted joint comments. Dow Chemical Company (Dow), Exxon Company, U.S.A. -Baytown (Exxon Baytown), and Exxon Chemical Americas (Exxon Chemical) fully supported the TCC/TMOGA comments.

Thirteen commenters submitted testimony on §§115.212, 115.213, 115.214, 115.215, 115.216, 115.217, and 115.219, concerning Loading and Unloading of VOC. The EPA fully supported the proposed revisions, while Amoco, Dow, Exxon Chemical, Exxon Baytown, Galveston-Houston Association for Smog Prevention (GHASP), Hollywood Marine, Inc. (Hollywood), Phillips 66 Company (Phillips), Quantum Chemical Company (Quantum), Texas Instruments (TI), TCC, TMOGA, and Texas Waterway Operators As-

sociation (TWOA) generally supported the proposed revisions but suggested changes.

It has come to the TNRCC's attention that revisions to reorganize §115.212(c)(1) adopted on November 10, 1993 inadvertently excluded gasoline terminals in Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis Counties from the control requirements, while §115.212(c)(1), as in effect prior to that date, clearly included gasoline terminals in the control requirements. The TNRCC has corrected §115.212(c)(1) to make it clear that gasoline terminals in these counties continue to be affected by the control requirements.

Exxon Baytown noted that the phrase "gauging and sampling" was sometimes used, while in other places the phrase "sampling and gauging" was used. Exxon Baytown suggested that this activity be consistently referred to as "gauging and sampling."

The suggested change has been made.

Exxon Chemical, GHASP, and Phillips commented on §115.212(a)(1), (2), (b) (1), and (c)(1). Exxon Chemical and Phillips supported the addition of wording to clarify that a vapor balance system is an acceptable means of controlling emissions. GHASP opposed this change and recommended that both a vapor recovery system and a vapor balance system be required.

The TNRCC disagrees with GHASP. Section 115.10 defines a vapor balance system as "a system which provides for containment of hydrocarbon vapors by returning displaced vapors from the receiving vessel back to the originating vessel," while a vapor recovery system is defined as "any control system which utilizes vapor collection equipment to route VOC to a control device that reduces VOC emissions." If a VOC loading operation is controlled by a vapor recovery system such as a flare or carbon adsorption unit, then a vapor balance would not be applicable because displaced vapors from the receiving vessel would be routed to the vapor recovery system rather than back to the originating vessel. GHASP objected to the 90% control efficiency requirement of §115.212(a)(2) for the Houston/Galveston ozone nonattainment area and suggested that a higher control efficiency be required.

The TNRCC agrees that well-maintained and properly operated control equipment can readily achieve 95% control efficiency or better, and notes further that some control devices can maintain greater than 98% control efficiency. However, a 90% control efficiency was included many years ago in some Chapter 115 rules because it was considered reasonable at that time. Since nitrogen oxide (No.) controls may be important in the future and the major modification threshold for NO_x in the Houston/Galveston area, the lower control efficiency of 90% was adopted for consistency with the existing 90% control requirements for other Chapter 115 rules and to allow and encourage non-combustion methods of control. Additional control requirements, such as a higher minimum control efficiency, will be contemplated in the future if the emission reductions are needed to meet EPA and/or Federal Clean Air Act (FCAA) requirements.

TCC and TMOGA commented on §115.212(a)(5)(A), (b)(3)(A), and (c)(3)(A) and objected to relocating the wording concerning "vapor-tight connections." TCC and TMOGA also suggested that wording be added to clarify that a vapor balance system is an acceptable means of controlling emissions.

As suggested, the TNRCC did not relocate the wording concerning "vapor-tight connections." However, the wording of these rules was slightly altered for improved semantics. The TNRCC added wording to clarify that a vapor balance system is an acceptable means of controlling emissions.

Amoco, Exxon Baytown, GHASP, Hollywood, Phillips, TCC, TMOGA, and TWOA commented on §115.212(a)(5)(C) and (10)(C). Amoco, Exxon Baytown, GHASP, Hollywood, Phillips, TCC, TMOGA, and TWOA objected to the proposed three-minute limit on the time allowed for hatches to be open during gauging and sampling. Hollywood suggested that a six-minute time limit was appropriate, while GHASP stated that this provision would be difficult to enforce. In lieu of a time limit, Amoco and TWOA suggested the inclusion of language limiting nonvapor-tight conditions to the time necessary to practicably gauge and/or sample. Amoco, Exxon Baytown, GHASP, Hollywood, Phillips, TCC, TMOGA, and TWOA also objected to the proposed limitation of one nonvapor-tight gauging or sampling event per vessel per VOC transfer event. GHASP stated that this provision would be difficult to enforce, while Amoco, Exxon Baytown, Hollywood, Phillips, TCC, TMOGA, and TWOA cited circumstances in which multiple gauging and/or sampling is necessary. Amoco, Exxon Baytown, Phillips, TCC, TMOGA, and TWOA supported the inclusion of a requirement that nonvapor-tight gauging or sampling not occur while VOC is being transferred. GHASP stated that emissions from nonvapor-tight gauging or sampling would be hazardous to the person doing the gauging or sampling.

The TNRCC prefers technology which avoids all emissions, but recognizes that in some cases nonvapor-tight gauging and/or sampling will occur. After further consideration, including tours of several loading facilities, the TNRCC staff concluded that gauging and sampling operations are simple and, if required to be made separately from VOC transfer, will not likely be subject to differing opinions on whether a condition of a transport vessel being open to the atmosphere constitutes gauging and sampling. Consequently, the specific time limit has been replaced by language limiting nonvapor-tight conditions to the time necessary to practicably gauge and/or sample, and the limitation of one nonvapor-tight gauging and/or sampling event has been deleted. The requirement that nonvapor-tight gauging and/or sampling not occur while VOC is being transferred has been retained.

For unloading operations, emissions can be reasonably controlled by having sufficiently small openings in the transport vessel during unloading such that a vacuum is maintained across the entire face of each opening. The TNRCC anticipates that immediately prior to initiating unloading of a transport vessel, in-

dustry personnel would fully open the hatch under the auspices of gauging and/or sampling as allowed under §115.212(a)(5)(C), (b)(6), or (c)(5). The TNRCC expects that industry personnel would then close the hatch most, but not all, of the way (i.e., "cracked open") and initiate unloading of the transport vessel. Ambient air will be drawn into the vessel through the partially open hatch, preventing collapse of the vessel and speeding up the unloading operation.

The TNRCC anticipates that immediately after completion of unloading, industry personnel will again fully open the hatch under the auspices of gauging and/or sampling as allowed under §115.212(a)(5)(C), (b)(6), or (c)(5). Industry personnel would then fully close the hatch and return the vessel to vapor-tight conditions. Because gauging and/or sampling does not occur while the hatch is cracked open during actual unloading, the nonvapor-tight conditions would not be allowed under an exemption for "necessary gauging and/or sampling." Consequently, the TNRCC has added new §115.212(a)(5)(D), (b)(3)(C), and (c)(3)(C) which specifically address the nonvapor-tight conditions which may occur during unloading operations. This will permit sufficient openings in the transport vessel during unloading to prevent collapse of the vessel, while at the same time requiring the openings to be sufficiently small so a vacuum is maintained across the face of the opening(s) such that emissions which would constitute a leak, as specified in §115.212(a)(5)(B), (b)(3)(B), and (c)(3)(B), do not occur during unloading. Worker safety issues are regulated by the Occupational Safety and Health Administration.

GHASP commented on §115.212(a)(12), concerning the OIAI requirements, and objected to the inclusion of any exceptions to the OIAI rule.

The OIAI concept is an EPA requirement. There are methods available to remove a source from the OIAI requirements; for example, a federally enforceable permit or the Alternative Means of Control (AMOC) process. On August 11, 1993, the staff met with members of the TCC and EPA Region 6 to discuss this and other issues. EPA firmly stood by its policy, which was first stated in the November 1987 SIP call and which the former Texas Air Control Board was required to include in the Reasonably Available Control Technology (RACT) fixups. EPA indicated the intent was to provide for federal enforcement of sources, not to allow for an exceedance of the exemption level, and to prevent the dismantling of the control device which would result in a significant increase in the emissions inventory (i.e., a throughput reduction of 5.0% could result in an emissions increase of 90% if the control device were removed). A policy memo from G.T. Helms dated August 23, 1990 states that the purpose of this requirement is to discourage a source already subject to the regulation from installing minimal ("less than RACT") controls to circumvent RACT requirements, and to improve the clarity of VOC regulations by minimizing confusing variations in production over whether a particular source is covered by a regulation. The language is the result of negotiations with EPA

and the affected industries to maintain the OIAI concept while allowing an incentive for cost effective and innovative approaches to pollution prevention and waste minimization which would reduce emissions at or below the controlled levels prior to removal of control devices.

GHASP requested the TNRCC define "substantially equivalent" and "continuous compliance" in §115.213, regarding Alternative Control Requirements.

The TNRCC position remains that these terms have the meaning commonly ascribed to them in the field of air pollution control, and the TNRCC does not believe that further definition is necessary.

GHASP commented on §115.214(a)(4)(E) and recommended that the requirements include marine unloading in addition to marine loading.

The majority of emissions created by the transfer of VOC to and from marine vessels result from loading operations. Consequently, unloading of marine vessels is exempt, although additional control requirements will be contemplated in the future if the emission reductions are needed to meet EPA and/or FCAA requirements.

GHASP commented on §115.216, concerning Recordkeeping Requirements, and stated that all records should be kept for five years rather than two years.

The suggested five-year timeframe is being used for compliance history determination for permitting issues. The TNRCC Central Office keeps records of facility violations indefinitely. The two-year period is considered sufficient for a field investigator to determine the facility's daily compliance with applicable rules for routine spot inspections, as well as annual/biennial investigations.

No comments were received on §115.216(a)(3) and (4). However, the reference to the tank-truck leak testing requirements of §115.214(a)(3)-(4) was corrected to §115.214(a)(3).

Amoco, Exxon Baytown, GHASP, Phillips, TCC, TMOGA, and TWAO commented on the proposed requirement to keep records of gauging and sampling, §115.216(a) (9). GHASP suggested that the number of times gauging or sampling occurred also be recorded. Amoco, Exxon Baytown, Phillips, TCC, TMOGA, and TWAO objected to keeping records of nonvapor-tight conditions during gauging and sampling as being burdensome and unnecessary. Exxon Baytown felt that keeping records would not provide any appreciable disincentive for those who are not trying to comply. Exxon Baytown, TCC, and TMOGA noted that if open hatches are found and no gauging or sampling is in progress, the TNRCC can take appropriate enforcement action.

The adopted rule has been simplified by eliminating a specified period of time for gauging and sampling. This simplification eliminates the enforcement value of keeping records of the duration of gauging and sampling; merely recording the occurrence of the operation would not be likely to improve enforceability, either. The proposed recordkeeping require-

ments have been deleted. The TNRCC agrees that appropriate enforcement action as necessary should be taken if open hatches are found and no gauging or sampling is in progress.

TI commented on §115.216 and stated that the recordkeeping requirements were an unreasonable burden for very small operations.

The TNRCC believes that this recordkeeping is not an unreasonable requirement and that it is necessary to allow for adequate determination of compliance with the rule.

Quantum and TI commented on the proposed clarification to §115.217(a)(3) and §115.217(a)(4) and noted that these throughput-based exemptions apply only to VOC loaded into transport vessels, while the exemptions available under §115.217(a)(1) and §115.217(a)(2), which are based upon vapor pressure, apply to loading and unloading. Quantum and TI requested that §115.217(a)(3) and §115.217(a)(4) also apply to unloading operations.

The TNRCC disagrees with the commenters. Control requirements for land-based VOC loading facilities were initially adopted on January 27, 1972. Considerable controversy ensued in recent years concerning the definition of "facility" as it related to land-based VOC loading operations, and this in turn affected which VOC emissions must be controlled and which were exempt.

In order to resolve these issues, on November 10, 1993, the TNRCC revised the basis for the 20,000 gallon per day exemption from the difficult-to-define term "facility" to "TNRCC air quality account number," and concurrently revised previously existing exemptions to specifically exclude low vapor pressure VOCs from the control requirements. The 20,000 gallon per day exemption was the level at which installation of add-on controls is considered reasonable at VOC loading operations, while for unloading operations it is considered reasonable to meet the basic control requirements (for example, no liquid or vapor leaks from the transport vessel and transfer system) at any throughput rate since no add-on controls are necessary. Low vapor pressure VOCs were exempted from the control requirements of §115.212 for both loading and unloading activities because the emissions associated with these VOCs are relatively insignificant compared to VOCs above the threshold vapor pressure.

GHASP commented on §115.217(b)(4)(D), (5)(C), (c)(4)(D), and (5)(C), which provide an exemption from the specific control requirements of §115.212 if a plant has a control plan which achieves a 90% (or 80%) overall reduction in VOC emissions. GHASP objected to allowing an 80% reduction and stated that maximum emission reductions were needed. GHASP also recommended that revised control plan submittals should include the opportunity for public comment and TNRCC approval.

The November 10, 1993 change in the basis for the 20,000 gallon per day exemption from "facility" to "TNRCC air quality account number" in some cases resulted in a previously exempt loading operation now being subject to the control requirements. The TNRCC rec-

ognized that consideration should be given to unique situations, such as relatively small "satellite" loading operations which may be isolated on a plant property from other loading operations such that the cost of control is unreasonable. To address industry's concerns, the TNRCC established the availability of exemptions (which more accurately might be termed alternate control requirements) to provide relief for such unique situations. These exemptions did not include VOC being loaded into marine vessels or gasoline being loaded at gasoline terminals or gasoline bulk plants since these operations are regulated separately from the general land-based VOC loading rules. Sections 115.217(a)(8), 115.217(b)(4), and 115.217(c)(4) established the availability of a 90% overall control option which provided equivalent emission reductions and also provided significant flexibility to industry. Sections 115.217(a)(9), 115.217(b)(5), and 115.217(c)(5) established an 80% overall control level for situations in which it was not economically reasonable to achieve at least 90% control following a detailed case-by-case review. The TNRCC believes that it is appropriate to provide industry with the flexibility to achieve the required reductions in the most cost-effective manner possible while still insuring that the required emission reductions are achieved. Specific TNRCC approval of revised control plans is not necessary to achieve the required emission reductions, particularly since all representations in control plans and annual reports are enforceable conditions. Likewise, sufficiently detailed conditions were included in the 80%/90% overall control rules in order to avoid the need for submittal of the plans to EPA as site-specific SIP revisions, including a public comment period.

GHASP commented on §115.217(a)(6) and objected to the exemption for marine vessel unloading. GHASP also stated that the November 15, 1996 compliance date for controlling emissions from marine vessel loading in the Houston/Galveston nonattainment area (HGA) and from transfer of crude oil and condensate should be accelerated to require immediate compliance.

The majority of emissions created by the transfer of VOC to and from marine vessels result from loading operations. Consequently, unloading of marine vessels is exempt, although additional control requirements will be contemplated in the future if the emission reductions are needed to meet EPA and/or FCAA requirements. The compliance schedule for control of emissions from marine vessel loading and transfer of crude oil and condensate was established in prior rulemaking and is still considered reasonable.

Exxon Baytown commented on the marine vessel loading exemption in §115.217(a)(6)(B) and suggested that the language be revised to clarify that marine vessel loading will continue to be exempt after November 15, 1996, except in the HGA nonattainment area.

The suggested change has been made.

On January 4, 1995, the TNRCC adopted new §115.219(c) which established marine vessel loading as a contingency measure for the Beaumont/Port Arthur ozone

nonattainment area, as published in the January 13, 1995, issue of the *Texas Register* (20 TexReg 221). Because §115.219(b) is being deleted, §115.219(c) has been renumbered as §115.219(5).

The reference in §115.219(1) to §115.214(a)(3) (formerly §115.214(a) (4)) has been deleted because the requirements of §§115.234-115.237 and 115.239 referenced in §115.214(a)(3) have a compliance date of May 31, 1995.

The amendments are adopted 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.

§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:

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

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

sions to a vapor recovery system or a vapor balance system.

(B) (No change.)

(C) All gauging and sampling devices are vaportight except for necessary gauging and sampling. Any nonvaportight gauging and/or sampling shall:

(i) be limited in duration to the time necessary to practicably gauge and/or sample; and

(ii) not occur while VOC is being transferred.

(D) Any openings in a transport vessel during unloading are limited to minimum openings which are sufficient to prevent collapse of the transport vessel.

(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 to the time necessary to practicably gauge and/or sample; and

(ii) 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 permit or standard exemption is 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:

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

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

(B) (No change.)

(C) Any openings in a transport vessel during unloading are limited to minimum openings which are sufficient to prevent collapse of the transport vessel.

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

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

(1) 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, Matagorda, San Patricio, or Travis Counties.

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

(A) All liquid and vapor lines are:

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

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

(B) (No change.)

(C) Any openings in a transport vessel during unloading are limited to minimum openings which are sufficient to prevent collapse of the transport vessel.

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

§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) 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 legk 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) 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 and Petrochemical Processes). For the purposes of this paragraph, shore-based equipment includes, but is not limited to, all equipment such as loading arms, pumps, meters, shutoff 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) 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.)

§115.216. 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 §115.212(a) of this title (relating to Emission Specifications; and Control Requirements), the owner or operator shall maintain the following information at the plant as defined by its Texas Natural Resource Conservation Com-

mission (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 number of the tank-truck and the date of the last leak testing required by §115.214(a)(3) of this title (relating to Inspection Requirements);

(B) a daily record of the identification 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 number of the tank-truck and the date of the last leak testing required by §115.214(a)(3) of this title;

(B) a daily record of the identification 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 number of each tank-truck loaded or unloaded and the date of the last leak testing required by §115.214(a)(3) 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) 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.)

(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 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;

(B) all loading of marine vessels in ozone nonattainment areas other than the Houston/Galveston area;

(C) until November 15, 1996 in the Houston/Galveston area, all loading of marine vessels; and

(D) 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%, 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.* 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), and §115.217(a)(2) and (4) of this title (relating to Emission Specifications; Control Requirements; 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 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) 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), 115.214(a)(5), and 115.216(a)(7) of this title as soon as practicable, but no later than November 15, 1996.

(5) All affected marine terminals in Hardin, Jefferson, and Orange 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 three years after the Texas Natural Resource Conservation Commission publishes notification in the *Texas Register* of its determination that this contingency rule is necessary as a result of failure to attain the national ambient air quality standard for ozone by the November 15, 1999 attainment deadline or failure to demonstrate reasonable further progress as

set forth in the 1990 Amendments to the Federal Clean Air Act, §172(c)(9).

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on May 26, 1995

TRD-9506392 Lydia Gonzalez-Gromatzky
Acting Director, Legal
Services Division
Texas Natural Resource
Conservation
Commission

Effective date: June 16, 1995

Proposal publication date: December 23, 1994

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

Chapter 331. Underground Injection Control

The Texas Natural Resource Conservation Commission (TNRCC or commission) adopts the repeal of §331.62 and the adoption of new §331.62, concerning underground injection control. New §331.62 is adopted with changes to the proposed text as published in the December 20, 1994, issue of the *Texas Register* (19 TexReg 10080).

Section 331.62 was originally proposed for public comment in the June 28, 1994, issue of the *Texas Register* (19 TexReg 5022). Due to the nature of the public comments received in response to the rules, the proposed new §331.62 was withdrawn and republished in the December 20, 1994, issue of the *Texas Register* (19 TexReg 10080) for additional comment. The public comment period was extended on January 27, 1995 until February 20, 1995.

Comments were received from: Brown McCarroll & Oaks Hartline, Gardere & Wynne, L.L.P., the Texas Chemical Council (TCC), Monsanto, Terra Dynamics, and concerned citizens. The TCC, Monsanto and Brown McCarroll were basically in favor of the proposed regulation, with a few modifications requested to the language. Gardere & Wynne and the individual were opposed to the proposed language, arguing that the proposal was less protective than the federal construction rules.

Several commenters opposed the requirement in §331.62(4)(A) that wells be drilled according to established TNRCC guidance, since this requirement would have the effect of elevating guidance to the status of rules. The agency agrees and has deleted any reference to "established TNRCC guidance" from the requirement. Several commenters also recommended that the word "minimize" should be substituted for "prevent." The agency agrees and has changed the language.

It was also recommended that the language in §331.62(5) be modified to be consistent with §331.62(1) so that the language reads "and to prevent movement of fluids along the

borehole into or between USDWs or freshwater aquifers and to prevent the movement of fluids along the borehole out of the injection zone." The commission agrees with this comment and the language has been modified.

Commenters, in opposition to the proposal, expressed concern that the rulemaking effort was an attempt to help Gibraltar Chemical Resources, Inc., Winona, Texas (now known as American Ecology Environmental Services) obtain a no-migration petition for WDW-229 by weakening the construction standards. The commission disagrees with this comment because the proposed cementing standards are for wells constructed or converted to Underground Injection Control (UIC) Class I status after the promulgation of these rules and the proposed changes are not intended as a "fix" for any previously converted or constructed well. The performance standard of §331.62(5) is the only part of these construction standards that will apply to WDW-229 or other previously constructed or converted wells.

The opposing commenters further stated that the proposed rules were less protective than current state and federal regulations. A concern was expressed that the construction performance standard §331.62(5) would be difficult or impossible to enforce. The commission disagrees that the performance standard is unenforceable because the U.S. Environmental Protection Agency (EPA) has approved methods to test for fluid movement along the borehole, such as the radioactive tracer log (RAT), oxygen activation log (OAL) or temperature log. These tools are routinely used to test for fluid movement along the borehole of all UIC Class I wells. The RAT, which tests for fluid flow along the wellbore out of the injection zone, is required to be run annually and the rest of the wellbore is tested at least every five years, using the OAL or temperature log. If one of these tests shows that there is fluid flow along the wellbore either out of the injection zone or into or between an Underground Source of Drinking Waters (USDWs), then the commission can require corrective action to ensure that the construction performance standard is met (see 30 TAC §331.44(b)(7)).

The commission also disagrees with commenters' argument that the proposed rule is less protective because it does not require that cement be circulated to the surface or be "continuous." As the commenters acknowledged, while the current federal requirement relies heavily on cement being circulated to the surface, or being continuous when staged, such a requirement does not assure that fluid does not leave either the injection zone or move into or between USDWs, along the borehole. This argument relies on the use of the word "continuous" in the federal regulation. The commission believes that this reliance is misplaced because "continuous" only appears in the federal construction regulations once in reference to the staging of cement in 40 CFR §146.65(c)(4). The agency believes that the real issue that should be considered is not whether cement is "continuous" or "to the surface," but whether the well's construction prevents or allows the vertical movement of fluid out of the injection zone or into or between USDWs. The agency

believes that the emphasis of the construction rules should be whether an injection well's construction is protective.

Commenters discussed a federal court decision which vacated a "no-migration" petition which had been issued by the EPA to Gibraltar Chemical Resources, Inc. Brent Kay, *et al v. United States Environmental Protection Agency, et al*, No. 5:9cv582 (E.D. Tex June 30, 1992). We do not believe that this court decision has an impact on this rulemaking.

The commission believes that the intent of the federal construction standard is to ensure that there is no fluid movement along the wellbore either out of the injection zone or into or between USDWs. According to 40 CFR 145.11(b)(1), "States need not implement provisions identical to the provisions listed in paragraphs (a)(1)-(31) of this section. Implemented provisions must, however, establish requirements at least as stringent as the corresponding listed provisions. States may impose more stringent requirements. ..." 40 CFR 145.11(b)(1) indicates that it is not necessary to use the exact wording as the comparable federal rule nor be identical to the federal standard, as long as the state standard is as stringent (protective) as the federal standard. Since the proposed State standard requires that standard be tested directly and met before initial or continued injection is allowed as found in §331.44(b)(7), §331.45(1)(J), and §331.62(5), the proposed State standard is as stringent as the federal standard and therefore meets the test.

Subchapter D. Standards for Class I Wells Other than Salt Cavern Solid Waste Disposal Wells

• 30 TAC §331.62

The repeal is adopted under the Texas Water Code, §5.103 and §5.105, which authorizes the TNRCC to promulgate rules necessary to carry out the powers and duties under the provisions of the Texas Water Code, Chapter 27, and other laws of the state; and under the Texas Health and Safety Code, §361.017 and §361.024, which further authorizes the TNRCC to promulgate rules necessary to manage industrial solid and municipal hazardous waste.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

Issued in Austin, Texas, on May 25, 1995.

TRD-9506356 Lydia Gonzalez-Gromatzky
Acting Director, Legal
Services Division
Texas Natural Resource
Conservation
Commission

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For further information, please call: (512) 239-6087