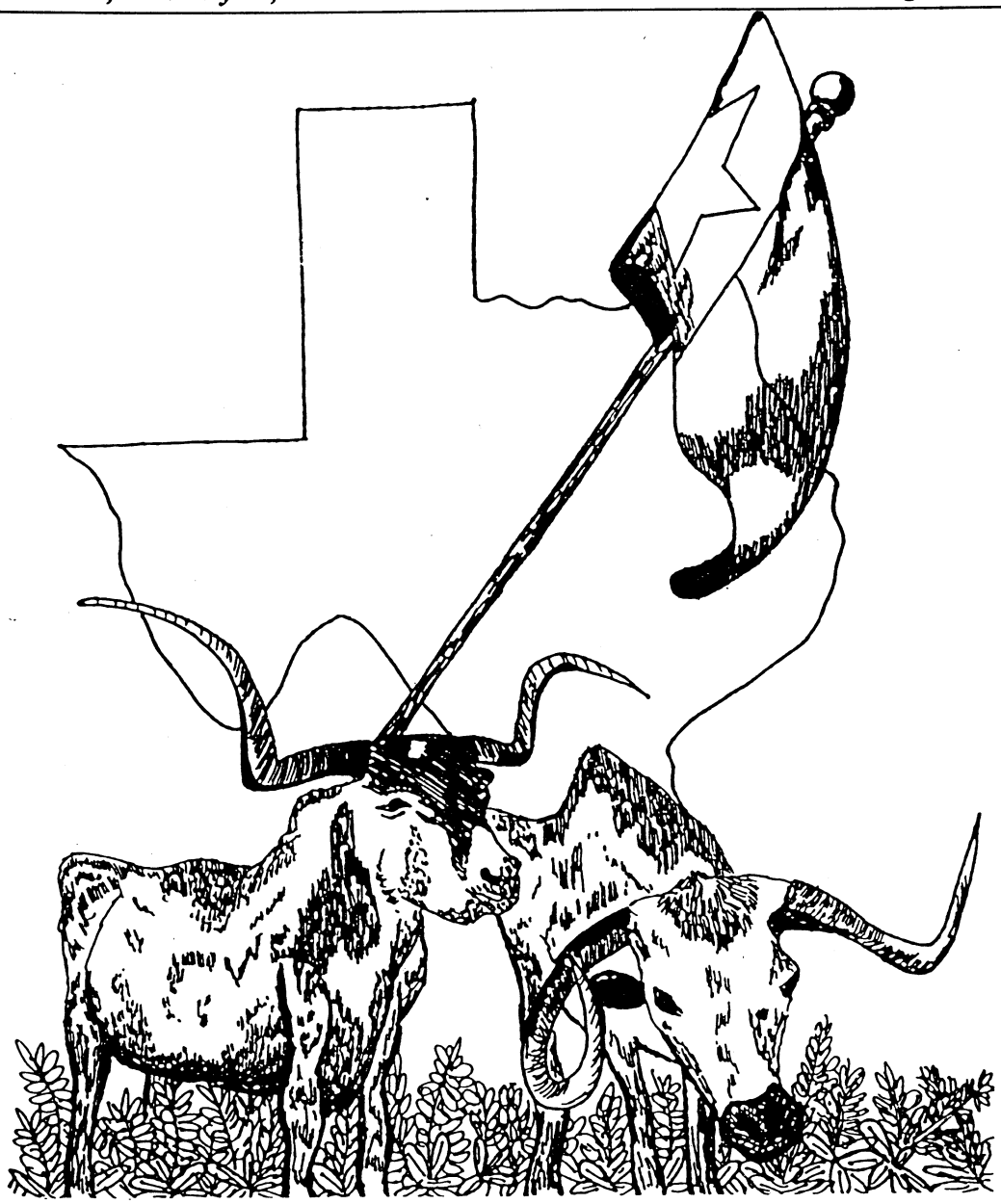
TEXAS REGISTER

Volume 21, Number 15, February 27, 1996 *Pages 1526-1631*

Part II



(C) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(D) sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

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 February 15, 1996.

TRD-9602207

Kevin McCalla

Director, Legal Services Division

Texas Natural Resource Conservation Commission

Effective date: March 7, 1996

Proposal publication date: September 5, 1995

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

Chapter 115. Control of Air Pollution From Volatile Organic Compounds

The Texas Natural Resource Conservation Commission (TNRCC) adopts amendments to §115.10, concerning Definitions; §§115.112, 115.114, 115.116, and 115.117, concerning Storage of Volatile Organic Compounds (VOC); §§115.121-115.123, 115.126, 115.127, and 115.129, concerning Vent Gas Control; §115.212 and §115.219, concerning Loading and Unloading of VOC; §§115.412, 115.413, 115.416, 115.417, and 115.419, concerning Degreasing Processes; §§115.421-115.423, 115.425-115.427, and 115.429, concerning Surface Coating Processes; §§115.433, 115.435-115.437, and 115.439, concerning Graphic Arts (Printing) by Rotogravure and Flexographic Processes; §§115.442, 115.443, 115.445, and 115.446, concerning Offset Lithographic Printing; §§115.512, 115.513, and 115.517, concerning Cutback Asphalt; §§115.541-115.543, 115.546, 115.547, and 115.549, concerning Degassing or Cleaning of Stationary, Marine, and Transport Vessels; and §§115.600, 115.614, and 115.617, concerning Consumer Products. The TNRCC withdraws the proposed repeal of §115.950, concerning Standard Construction Permits for VOC Control Projects, as published in the September 5, 1995 and September 8, 1995 issues of the *Texas Register (20 TexReg 6910 and 7020).*

Adopted with changes as published in the September 5, 1995, issue of the *Texas Register* (20 TexReg 6889) and the September 8, 1995, issue of the *Texas Register (20 TexReg 7020) are §115.10; §115.114; §115.126, and §115.127; §115.219; §§115.421, 115.423, 115.426, 115.427, and 115.429; §115.541 and §115.542; and §115.614.*

Adopted without changes are §§115.112, 115.116, and 115.117; §115.123 and §115.129; §115.212; §§115.412, 115.413, 115.416, 115.417, and 115.419; §§115.422, and 115.425; §§115.433, 115.435- 115.437, and 115.439; §§115.442, 115.443, 115.445, and 115.446; §§115.512, 115.513, and 115.517; §§115.543, 115.546, 115.547, and 115.549; and §115.600 and §115.617. These sections will not be republished.

Revisions to Chapter 115, concerning Control of Air Pollution from VOC and the State Implementation Plan (SIP) are adopted in response to receipt of several petitions for rulemaking, and in order to make a variety of changes which reduce requirements, clarify or correct rule language, delete obsolete language, eliminate duplicative requirements, and update terminology and references.

The revisions to §115.10, concerning Definitions, revise the definition of VOC to exclude acetone, parachlorobenzotrifluoride (PCBTF), and volatile methyl siloxanes (VMS). The United States Environmental Protection Agency (EPA) has ruled that these compounds have negligible photochemical reactivity, and thus do not appreciably contribute to the formation of urban ozone (final rules at 59 Federal Register (FR) 50693 and 60 FR 31633). The revisions to the definition of VOC make the TNRCC definition consistent with the EPA definition. The revision to the definition of VOC is also being made in response to a company's petition to exclude VMS from the definition of VOC.

The revisions to §115.10 also add definitions of high-bake coatings, low-bake coatings, mechanical shoe seal, and remote reservoir cold solvent cleaning; revise the definitions of gasoline bulk plant and gasoline terminal to clarify that these do not include marine loading operations, which are separately regulated; delete the definition of specified solvent-using processes and relocate and clarify the associated definitions of cold solvent cleaning, open-top vapor degreasing, and conveyorized degreasing; and revise the definition of VOC to correct typographical errors. In addition, the changes to §115.10 delete the definition of automobile refinishing and replace it with a definition of vehicle refinishing (body shops) which more accurately describes the activities included in this definition. In addition, the definitions of automotive basecoat/clearcoat system, automotive precoat, automotive pretreatment, automotive primer or primer surfacers, automotive sealers, automotive specialty coatings, automotive three-stage system, and automotive wipe-down solutions have been revised to include a reference to vehicle refinishing (body shops). The changes to §115.10 also revise the definitions of external floating roof and internal floating cover to specify that an external floating roof storage tank which is equipped with a self-supporting fixed roof (typically a bolted aluminum geodesic dome) is considered to be an internal floating roof storage tank.

The revisions to §§115.112, 115.114, 115.116, and 115.117, concerning Storage of VOC, clarify existing requirements, update terminology, establish separate inspection requirements for internal and external floating roof tanks, and establish a repair schedule with the availability of extensions.

The revisions to §§115.121-115.123, 115.126, 115.127, and 115.129, concerning Vent Gas Control, respond to a recent policy decision to exempt general vent gas streams originating from sources which are addressed by more specific rules elsewhere in Chapter 115. In addition, to address concerns raised by a company, the amendments revise the synthetic organic chemical manufacturing industry (SOCMI) reactor processes and distillation operations vent gas stream control requirements through the addition of exemptions (by reference to the corresponding federal New Source Performance Standards) which are based upon the total resource effectiveness (TRE) index value for individual vent gas streams. The TRE index is a decision tool used to determine if the annual cost of controlling

a given SOCMI reactor/distillation vent gas stream is acceptable when considering the emissions reduction achieved. The amendments also add an exemption for combustion units which are not used as a control device for vent gas streams originating from non-combustion sources, clarify existing requirements, update rule references, and delete obsolete or unnecessary language.

The revisions to§115.212 and §115.219, concerning Loading and Unloading of VOC, remove the requirement to upgrade the vapor collection systems at gasoline terminals with vacuum-assisted vapor collection in response to a petition for rulemaking, and implement Chapter 115 marine vessel loading requirements in the Beaumont/Port Arthur (B/PA) ozone nonattainment area, but only if absolutely necessary.

The revisions to §§115.412, 115.413, 115.416, 115.417, and 115.419, concerning Degreasing Processes, delete the requirements concerning acetone usage at polyester resin operations (cultured marble and fiber-reinforced plastic manufacturing) because the definition of VOC has been concurrently revised to exclude acetone. The changes also update a rule reference, and delete exemptions which do not provide any flexibility beyond that already available in §115.412(a)(2)(D) and §115.412(b)(2)(D). In addition, the TNRCC has changed the title of the undesignated head from Degreasing and Clean-up Processes to Degreasing Processes to reflect the content of the amendments.

The revisions to §§115.421-115.423, 115.425-115.427, and 115.429, concerning Surface Coating Processes, change the basis for all surface coating emission limitations from pounds of VOC per gallon of solids to pounds of VOC per gallon of coating (minus water and exempt solvent). This provides essentially the same emission limitations using different units of measurement which are more readily understood by the regulated community. The changes also add current terminology ("high-bake coatings" and "low-bake coatings") to more clearly define operations which include "air or forced air driers," define the term "daily weighted average" for clarity, delete obsolete language, update rule references, change references from "automobile refinishing" to "vehicle refinishing (body shops)" for consistency with Standard Exemption 124, delete a redundant exemption for customized (decorative) top coating of automobiles and trucks, and correct a reference to an EPA guidance document.

The revisions to §§115.433, 115.435, 115.436, 115.437, and 115.439, concerning Graphic Arts (Printing) by Rotogravure and Flexographic Processes, update rule references, correct a reference to an EPA guidance document, correct an unintended loophole in order to ensure that exempted printing operations must maintain records to document qualification for exemption status, and delete obsolete language.

The revisions to §§115.442, 115.443, 115.445, and 115.446, concerning Offset Lithographic Printing, correct an unintended loophole to ensure the applicability of the cleaning solution standards, clarify that the cleaning solutions VOC content limitations are based upon volume percentages, update rule references, and correct a reference to an EPA guidance document.

The revisions to §§115.512, 115.513, and 115.517, concerning Cutback Asphalt, delete obsolete language, update a rule reference, and clarify the intent of an existing exemption for pothole patching material made with cutback asphalt.

The revisions to §§115.541, 115.542, 115.543, 115.546, 115.547, and 115.549, concerning Degassing or Cleaning of Stationary, Marine, and Transport Vessels, correct typographical errors and change VOC transport vessel and VOC marine vessel to transport vessel and marine vessel, respectively, for consistency with the remainder of Chapter 115 and the definitions of these terms contained within §115.10. The changes also update a rule reference and delete the attainment date from the contingency rules because this date may be revised in the future.

The revisions to §§115.600, 115.614, and 115.617, concerning Consumer Products, substitute the term "consumer" for "person" in the definition of "consumer product," delete the definition of "device," and simplify the definition of "pesticide." The revisions also provide for the registration of an innovative product just prior to its introduction into the Texas market. This will allow an innovative product to be marketed upon registration without waiting for approval from the TNRCC, thus avoiding unnecessary lengthy review and further encouraging innovative approaches for reducing VOCs. If, upon evaluation, a lack of equivalent reductions is determined, then enforcement procedures sufficient to deter noncompliance and make up lost SIP emission reduction credits will be implemented. In addition, the revisions delete subsections which have become obsolete because the referenced procedural rules have been repealed, and correct the exemption for adhesives sold in containers of one fluid ounce or less by eliminating reference to a measure of weight.

The TNRCC has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated Section 2007.043. The following is a summary of that assessment. The specific purpose of the rule amendment is to revise Chapter 115 to make a variety of changes which reduce requirements, clarify or correct rule language, delete obsolete language, eliminate duplicative requirements, update terminology and references, and add a schedule for repairing seals on storage tanks. The rule amendment will substantially advance this specific purpose by changing rule language as appropriate. Promulgation and enforcement of this rule amendment will not affect private real property which is the subject of the rule because no new control requirements are added by this adoption.

Public hearings were held September 26, 1995 in Beaumont and September 27, 1995, in Houston. The comment period closed on October 5, 1995, with the exception of the consumer products rules for which the comment period closed on October 8, 1995.

Texas Chemical Council (TCC) and Texas Mid-Continent Oil & Gas Association (TMOGA) submitted joint comments. Amoco Corporation (Amoco), Dow Chemical Company (Dow), DuPont Specialty Chemicals (DuPont), and Mobil Oil Corporation (Mobil) fully supported the TCC/TMOGA comments.

Thirteen commenters submitted testimony on §115.10, concerning Definitions. Chemical Specialties Manufacturers Association (CSMA) and Northrop Grumman (Northrop) fully sup-

ported the proposed revisions, while Amoco, Centapp Enterprises (Centapp), Citgo Petroleum Corporation (Citgo), City of Dallas (Dallas), Conservatek Industries, Inc. (Conservatek), Houston Lighting and Power (HL & P), Star Enterprise (Star), TGB Partnership (TGB), TCC, TMOGA, and Union Carbide Corporation (UCC) generally supported the proposed revisions but suggested changes or clarifications.

Eight commenters submitted testimony on §§115.112, 115.114, 115.116, and 115.117, concerning Storage of VOC. UCC fully supported the proposed revisions, while Citgo, EPA, Exxon Company, U.S.A. (Exxon), GATX Terminals Corporation (GATX), Star, TCC, and TMOGA generally supported the proposed revisions but suggested changes or clarifications.

Ten commenters submitted testimony on §§115.121, 115.122, 115.123, 115.126, 115.127, and 115.129, concerning Vent Gas Control. DuPont, Exxon, and Shell Chemical Company (Shell) fully supported the proposed revisions; Dallas, HL & P, Pennzoil Company (Pennzoil), TCC, TMOGA, and UCC generally supported the proposed revisions but suggested changes or clarifications; and Galveston Houston Association for Smog Prevention (GHASP) opposed the proposed revisions.

Nine commenters submitted testimony on §115.212 and §115.219, concerning Loading and Unloading of VOC. Citgo, Star, Shell, and the Southeast Texas Regional Planning Commission (SETRPC) fully supported the proposed revisions; EPA, Exxon, TCC, and TMOGA generally supported the proposed revisions but suggested changes or clarifications; and GHASP opposed the proposed revisions.

One commenter submitted testimony on §§115.412, 115.413, 115.416, 115.417, and 115.419, concerning Degreasing Processes. Dallas generally supported the proposed revisions but suggested changes or clarifications.

Five commenters submitted testimony on §§115.421, 115.422, 115.423, 115.425, 115.426, 115.427, and 115.429, concerning Surface Coating Processes. Browning-Ferris Industries (BFI) and GHASP fully supported the proposed revisions, while Brault Auto Paint and Supply (Brault), Centapp, and EPA generally supported the proposed revisions but suggested changes or clarifications.

No commenters submitted testimony on §§115.433, 115.435, 115.436, 115.437, and 115.439, concerning Graphic Arts (Printing) by Rotogravure and Flexographic Processes; §§115.442, 115.443, 115.445, and 115.446, concerning Offset Lithographic Printing; and §§115.512, 115.513, and 115.517, concerning Cutback Asphalt.

Four commenters submitted testimony on §§115.541, 115.542, 115.543, 115.546, 115.547, and 115.549, concerning Degassing or Cleaning of Stationary, Marine, and Transport Vessels. Dallas, TCC, and TMOGA generally supported the proposed revisions but suggested changes or clarifications, while GHASP opposed the proposed revisions.

Four commenters submitted testimony on §§115.600, 115.614, and 115.617, concerning Consumer Products. CSMA, The Cosmetic, Toiletry, and Fragrance Association (CTFA), and EPA generally supported the proposed revisions but suggested changes or clarifications; and GHASP opposed the proposed revisions.

Five commenters submitted testimony on §115.950, concerning Standard Construction Permits for VOC Control Projects. Amoco, DuPont, HL & P, TCC, and TMOGA opposed the proposed repeal of this section.

Definitions. Amoco, CSMA, Dow, HL&P, Mobil, TCC, and TMOGA supported the proposed changes to the definition of VOC which add acetone, PCBTF, and VMS to the list of compounds that are not classified as VOC. Northrop expressed support for the inclusion of acetone on the list of non-VOCs.

The EPA has ruled that these compounds have negligible photochemical reactivity, and thus do not appreciably contribute to urban ozone formation. The definition of VOC is designed to capture only those organic compounds which contribute to ozone smog formation. The TNRCC has made this change in order to maintain consistency with the federal requirements.

Amoco, TCC and TMOGA commented that the definition of VOC should continue to exempt perchloroethylene.

Perchloroethylene (tetrachloroethylene) is currently exempt from the Chapter 115 definition of VOC. In this rulemaking, it was inadvertently not published on the list of compounds excluded from the definition of VOC, although it is exempt. The error has been corrected and perchloroethylene will remain on the list.

The UCC requested clarification as to how the exclusion of acetone from the definition of VOC would impact control plans submitted to comply with exemption requirements under the Industrial Wastewater and Loading/Unloading sections of Chapter 115. They asked if the TNRCC-approved plan could still be followed, if it no longer meets the requirements for 90% or 80% control, or would additional controls have to be implemented to continue to meet the control levels in the plan. They asked if additional time for compliance would be allowed if the plans have to be changed.

Both the industrial wastewater and the loading/unloading rules contain an exemption from control requirements for facilities that provide a control plan which demonstrates 90% overall control of affected emissions. The industrial wastewater rules also allow exemption for 80% overall control and case-by-case justification for remaining uncontrolled components. The control plan is required to assure that a flexible control approach will achieve timely initial compliance, and subsequently, maintain compliance.

The TNRCC reviewed each of the 90% overall control plans received (no 80% control plans were submitted) and verified with company representatives that unspeciated VOC reductions did not include acetone. The staff found that the plans that included acetone will still meet the overall 90% control efficiency after the exclusion of acetone. If emitted at all, acetone represents only a small fraction of total VOC emissions at the facilities affected by the loading or wastewater rules. Therefore, the TNRCC does not plan to revise the compliance dates of these rules as a result of delisting acetone.

Although the delisting of acetone by the TNRCC causes a slight decrease in the percent reduction of VOC in some initial control plans, a control plan would not need to be revised unless the owner or operator varies from a representation made in the plan. Companies may submit a revised plan to reflect the effect of the

agency's action on the plan, but such changes are not required by rule.

Citgo, Conservatek, Star, TGB, TCC, and TMOGA commented on the proposed revisions to the definition of external floating roof and internal floating cover. Citgo, Conservatek, Star, TGB, TCC, and TMOGA stated that an external floating roof tank with a geodesic dome roof should be treated as an internal floating roof tank for all purposes.

The TNRCC has reviewed the various storage tank guidance documents (EPA's Alternative Control Techniques documents and AP-42 (Fifth Edition, January 1995)), which specify that an external floating roof tank with a geodesic dome roof is considered to be an internal floating roof tank. Consequently, the TNRCC has made the suggested change for consistency with these federal guidelines.

TCC and TMOGA commented on the definitions of cold solvent cleaning, open-top vapor degreasing, and conveyorized degreasing which were proposed to replace the existing definition of specified solvent-using processes. They suggested that the definitions be revised for consistency with the Halogenated Solvent Cleaning Maximum Achievable Control Technology (MACT), promulgated on December 2, 1994, to avoid possible confusion for those sources subject to both the Chapter 115 degreasing processes rules and the MACT. They also suggested that the definition of remote reservoir cold solvent cleaning, as used in the MACT, be adapted to the definition of cold solvent cleaning in order to reflect the intended applicability of relevant Chapter 115 requirements.

The TNRCC agrees with TCC and TMOGA that it is helpful in reducing possible confusion for sources subject to both the MACT and Chapter 115 to update Chapter 115 definitions to reflect the newer terminology used in the federal MACT regulations. The existing and proposed definitions are based upon EPA's Control Techniques Guideline (CTG) for degreasing processes, and the TNRCC believes that it is important to maintain consistency with the CTG. Therefore, the TNRCC has incorporated elements of the MACT definitions which clarify the definitions while retaining major elements of the original definitions. The TNRCC notes that the EPA's CTG definition of cold solvent cleaner is broader than the MACT definition of remote reservoir cold solvent cleaning. Remote reservoir cold solvent cleaners are merely a specialized type of cold solvent cleaners. The suggested change would exclude cold solvent cleaners not equipped with remote reservoirs from regulation as cold solvent cleaners, while the CTG and Chapter 115 rules clearly regulate cold cleaners both with and without remote reservoirs. Because the existing Chapter 115 rules use the term "remote reservoir" in the cold solvent cleaning rules but do not define it, the TNRCC has added a definition of remote reservoir cold solvent cleaning to make the applicability of the rules more clear.

TCC and TMOGA suggested that the definition of gasoline bulk plant include a statement that a facility which is primarily used for the purpose of dispensing motor vehicle fuel is not a gasoline bulk plant. TCC and TMOGA stated that this would clarify that gasoline dispensing facilities which also happen to load small tanks or drums mounted on small trucks (such as pickup trucks for farm equipment use) are not included.

The suggested change does not appear to be necessary because the definition of gasoline bulk plant already states that "a motor vehicle fuel dispensing facility is not a gasoline bulk plant." The filling of small tanks or drums mounted on small trucks (such as pickup trucks for farm equipment use) at a motor vehicle fuel dispensing facility would not cause the facility to then be considered a gasoline bulk plant, although it should be noted that a gasoline bulk plant and a motor vehicle fuel dispensing facility can exist adjacent to each other on the same property.

TCC and TMOGA stated that the definition of mechanical shoe seal should not include the phrase "impervious to VOC" in regards to the flexible coated fabric (envelope) which spans the annular space between the metal sheet and the floating roof. TCC and TMOGA stated that "impervious to VOC" was nebulous and that "coated fabric" was sufficient to minimize VOC emissions from the seal area.

The TNRCC has made the suggested change to be consistent with the corresponding federal New Source Performance Standards Subpart Ka definition.

Centapp and HL& Lcommented on the proposed definition of vehicle refinishing (body shops). Centapp noted that the current definition of automobile refinishing includes the wording "commercial operations." Centapp expressed the understanding from the Auto Body Shop Task Force meetings that this wording was used to exclude painting operations by private individuals (for example, an individual painting a project car at his house), but includes in-house commercial operations such as a company's fleet refinishing paint booths. Centapp stated that the existing definition of automobile refinishing includes both in-house body shops and the typical for-profit body shops, but excludes non-business related vehicle refinishing, and suggested the addition of a sentence to the definition of vehicle refinishing (body shops) stating that "the repair and recoating of vehicles by private individuals is not included." HL&P commented that the current definition of automobile refinishing includes the wording "commercial operations." HL&P stated that HL&P's in-house vehicle refinishing operations are "non-commercial" and, therefore, are exempt from the vehicle refinishing rules.

It was the intention of the Auto Body Shop Task Force to include in-house (fleet) vehicle refinishing operations in the Chapter 115 auto body shop rules negotiated in 1992-1993. However, the definition of automobile refinishing (initially adopted in 1988) was inadvertently not revised concurrently with the development of the auto body shop rules in 1992-1993. Because the purpose of the current rulemaking is to clarify requirements and not to expand the applicability of the rules, the TNRCC has revised the definition of vehicle refinishing (body shops) to include the wording "commercial operation" and a statement that "the repair and recoating of trailers, construction equipment, vehicles at in-house (fleet) vehicle refinishing operations, and vehicles by private individuals are not included."

Storage of VOC. The EPA commented on §115.112(a)(2)(A), which states, in part, that all openings in a floating roof except for automatic bleeder vents (vacuum breaker vents) and rim space vents must provide a projection below the liquid surface or be equipped with a cover, seal, or lid. The EPA

suggested that §115.112(a)(2)(A) be revised to require that all roof openings meet both conditions (i.e., a projection below the liquid surface and a cover, seal, or lid) be met.

The scope of the current rulemaking is intended to be limited to clarifying and simplifying requirements, rather than developing additional control measures. The EPA's suggested change is more stringent than current requirements and, therefore, will not be made at this time.

Citgo, EPA, Exxon, GATX, Star, TCC, TMOGA, and UCC commented on §115.114. The UCC supported the proposed changes, while Citgo suggested that §115.114 allow 45 days to repair floating roof failures, with the availability of a 60-day extension. Exxon suggested that §115.114 allow 90 days to repair floating roof failures, with the availability of a 90-day extension. TCC and TMOGA recommended that §115.114 allow 60 days to repair floating roof failures, with the availability of up to two 30-day extensions since this would be consistent with 40 CFR §63.140 (a MACT standard). GATX and Star recommended that §115.114 allow 45 days to repair floating roof failures, with the availability of up to two 30-day extensions. The EPA suggested that any request for an extension should include a demonstration of the unavailability of alternate storage capacity and a schedule that will assure that the repairs will be completed as soon as possible.

The TNRCC believes that the most appropriate schedule would allow 60 days to repair floating roof failures, with the availability of up to two 30-day extensions as suggested by TCC and TMOGA, and has revised §115.114 accordingly. The TNRCC agrees with EPA that any request for an extension should include a statement concerning the unavailability of alternate storage capacity and a repair schedule, and has revised §115.114 accordingly. The TNRCC regional office shall make all decisions concerning storage tank repair schedule extensions, with input as appropriate from any local air pollution control program with jurisdiction. Therefore, the owner or operator of the storage tank will be required to send a copy of each extension request to any local program with jurisdiction to ensure the flow of information necessary to facilitate the regional office's decision on the request.

TCC and TMOGA suggested that visible gaps between the seal and the wall of the storage tank be included in the list of defects requiring repair. TCC and TMOGA suggested further that the defect of the floating roof not resting on the surface of the VOC inside the storage tank be modified, to exclude the case of the floating roof resting on the leg supports.

As noted by the TCC and TMOGA, the proposed changes make the subsection consistent with EPA requirements for floating roof storage tanks. The suggested changes have been made.

TCC and TMOGA suggested that annual visual "through the hatch" inspections be required for internal floating roof storage tanks.

The TNRCC has incorporated this suggested change into §115.114(a)(1) for ozone nonattainment counties. The current storage tank rules specify more stringent levels of control and recordkeeping and reporting requirements for ozone nonattainment counties than the attainment counties. In particular, there are no requirements specified in the rules for recordkeeping and reporting for storage tank control equipment in the attainment counties. Therefore, it is not appropriate to include the suggested change for attainment counties at this time.

Exxon suggested that §115.114(c) be deleted because this would apply in attainment counties.

The TNRCC disagrees with Exxon. A repair schedule in all affected counties is both necessary and beneficial because it guarantees industry a definite amount of time to make repairs and allows a reasonable extended repair time if needed, while also setting an upper limit on the repair time in order to prevent excessive emissions. The rule allows no repair time currently and a facility would now be considered out of compliance until the repair is made. In addition to reducing the stringency of the rule, the change makes the repair schedule consistent with federal requirements.

EPA, TCC, and TMOGA commented on the phrase "at storage conditions" in §115.116 and §115.117. The EPA stated that the rules should be based on the maximum true vapor pressure as determined at the highest monthly average temperature. TCC and TMOGA suggested the use of the long-term annual average daily temperature provided in AP-42 for ambient storage tanks, and the average actual product temperature measured (with at least one measurement taken each month for twelve months) for heated storage tanks.

Vapor pressure, a measure of the evaporability of VOC, increases with temperature, and is frequently used to define rule applicability in Chapter 115. The term "storage conditions" qualifies vapor pressure in several Chapter 115 rules, including storage, loading and unloading, transport vessel leaks, and vessel degassing or cleaning. The TNRCC gave notice in the September 5, 1995 rule proposal of its intent to define the temperature used to establish vapor pressure for all of the above source categories, but did not propose any actual rule language to define "storage conditions". The hearing record for the storage tank rules effective August 22, 1980 shows that the former Texas Air Control Board staff suggested in a list of recommendations that the tables specifying storage tank control requirements, "should be revised to...specify average monthly storage temperature, and other sections revised accordingly." The rule language submitted and adopted by the Board added a new recordkeeping section, requiring maintenance of records of the average monthly true vapor pressure of the stored liquid. However, the rule language submitted by the staff and adopted by the Board did not include a clarifying footnote to the tables specifying that storage conditions are determined on a monthly average basis. Because no clear interpretation has been widely publicized, in order to allow an appropriate determination and to ensure that the final determination is conclusively conveyed to the public, the TNRCC intends to publish a proposed rule to define "storage conditions" in the near future, rather than taking any further action at this time.

TCC and TMOGA suggested that §115.116(a)(1) and (b)(1) be revised to indicate that the exemptions from secondary seal requirements are contained in §115.117(a)(5), (6), and (7) rather than (a)(1), (6), and (7).

The TNRCC disagrees with the commenters. Sections 115.117(a)(1), (6), and (7) and 115.117(b)(1), (6), and (7) provide exemptions to secondary seal requirements which are

based upon the vapor pressure of the VOC being stored, while §115.117(a)(5) and (b)(5) provide exemptions which are not based upon vapor pressure. Consequently, vapor pressure records are necessary to document qualification for exemptions under §115.117(a)(1), (6), and (7) and §115.117(b)(1), (6), and (7), while these records are not necessary for tanks which qualify for §115.117(a)(5) and (b)(5).

Vent Gas Control. TCC and TMOGA commented on §115.121(a)(1), (a)(2), and (a)(3) and suggested that "burned" be replaced with "controlled" to indicate that methods other than burning are appropriate. TCC and TMOGA stated further that §115.122(a)(1) should specify a 90% control efficiency rather than a minimum temperature of 1300øF.

The suggested changes are unnecessary because §115.123 allows the use of "alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements...if emission reductions are demonstrated to be substantially equivalent." Section 115.123 also states that alternate vapor recovery systems which achieve the percent reduction efficiencies equivalent to direct-flame incinerators do not require Executive Director approval. Therefore, a control device which meets or exceeds the required control efficiency is already acceptable under the existing rule.

It has come to the TNRCC's attention that the proposed changes to §115.126(a)(5)(A) inadvertently included deletion of a reference to the 1990 emissions inventory. This reference has been retained.

TCC and TMOGA noted that the proposed changes to §115.127(a)(2)(B) inadvertently left out the word "pounds" in "0.009 pounds per square inch absolute." Dallas commented that the units of true partial pressure should be given in pounds per square inch absolute and parts per million.

The TNRCC has made these corrections.

DuPont, TCC, and TMOGA commented on §115.127(a)(4)(D)-(E) and supported the addition of TRE-based exemptions for SOCMI reactor processes and distillation operations vent gas streams.

The adopted revision makes the Chapter 115 vent gas exemptions more consistent with the federal CTG guidance for SOCMI vent gas streams.

Dallas commented on §115.127(a)(6), (b)(3), and (c)(3) and suggested that the undesignated heads be listed explicitly rather than using the wording "another undesignated head."

The specific Chapter 115 undesignated heads vary as rules are adopted, repealed, or renamed. Also, Chapter 115 presently contains 30 undesignated heads, and it is impractical to list all of these undesignated heads.

Exxon, HL&P, Pennzoil, TCC, and TMOGA expressed support for the proposed exemptions under §115.127(a)(6), (b)(3), and (c)(3) to exempt from the general vent gas rules any source which is already subject to a more specific Chapter 115 requirement, while GHASP objected to this change. TCC and TMOGA suggested that the exemptions be revised to state "A vent gas stream is exempt from this undesignated head (relating to Vent Gas Control) if all of the VOCs in the vent gas stream originate from a source(s) for which this or another undesignated head within Chapter 115 (for example, Storage of VOC) has established a control requirement(s), emission specification(s), or exemption(s) which applies to that VOC source category in that county."

The specific wording suggested by TCC and TMOGA cannot be made because referencing the exemption to itself could exempt all vent gas streams from the vent gas rules. However, the TNRCC agrees that the addition of an exemption from the general vent gas rule is appropriate for vent gas streams which are regulated by, or are exempt from, vent gas rules which have a different control requirement than the general vent gas rule, including air oxidation SOCMI processes, liquid phase polypropylene manufacturing processes, liquid phase slurry high-density polyethylene manufacturing processes, continuous polystyrene manufacturing processes, SOCMI reactor processes, SOCMI distillation operations, and bakeries. This exemption has been added as new §115.127(a)(2)(D) and (E).

TCC and TMOGA recommended that other duplicative requirements be eliminated in future fixups, such as tanks subject to both wastewater storage tank control and VOC storage tank control.

The TNRCC will continue to work with affected persons to evaluate ways to streamline existing rules.

Pennzoil commented that some vent gas streams include emissions from sources which are subject to a more specific Chapter 115 rule as well as emissions which are not subject to a more specific Chapter 115 rule. Pennzoil suggested that in the case of such "mixed" vent gas streams, the exemptions should exclude emissions from sources which are subject to a more specific Chapter 115 rule. Pennzoil cited an example in which vent streams from 10 storage tanks and two process units are routed to a control device (a condenser) which has a control efficiency of 70%, with the tank vents having total emissions of 50 pounds per 24-hour period and the process units having emissions of 35 and 25 pounds per 24-hour period, respectively. Pennzoil commented that except for the prohibition against circumvention, it would be in this facility's best interest to separate all of the vent gas streams, each of which would then be individually exempt (on a mass emission rate basis).

Pennzoil did not provide the concentration of the "mixed" vent gas stream in their example. If the concentration is above the exemption level of 612 parts per million (ppm), then under the current version of the vent gas rule this "mixed" stream must be routed to a control device with an efficiency of at least 90%, and consequently this scenario would represent a violation of the current general vent gas rule since the control efficiency Pennzoil cited is only 70%. The rules cannot anticipate every possible scenario but do allow for case-by-case consideration (for example, bubbles under §101.23, and alternate means of control under §115.910) in special circumstances. In addition, Pennzoil's suggested change would result in a difficult-to-enforce rule because stack sampling of a "mixed" vent would not allow a determination of the contributions from the individual vent gas streams.

HL&P suggested that vent gas streams which originate from combustion sources (such as boilers, heaters, and internal combustion engines) be exempted from the vent gas control

requirements. HL&P stated that although combustion units qualify for existing exemptions, applicability of the vent gas rules to vent gas streams which originate from combustion sources will result in unnecessary documentation and recordkeeping because Chapter 122 requires that all applicable requirements be listed in Title V operating permits applications.

The TNRCC notes that the general vent gas rule is intended to apply to process vents. The exhaust stream from a combustion unit which is used solely as a process unit (i.e., does not also function as a control device for any vent gas stream which is subject to the Vent Gas Control undesignated head and which originates from a non-combustion source) would not normally be expected to exceed the vent gas rule exemption levels. In addition, the cost of fuel provides an economic incentive to minimize VOC emissions in a combustion device. The TNRCC agrees that the exhaust stream from a combustion unit used solely as a process unit can be exempted from the general vent gas rule without having an adverse impact on necessary VOC emission reductions, while also avoiding potentially burdensome Title V recordkeeping for these combustion units.

However, in the case of a combustion unit that also serves as a control device for a vent gas stream which is subject to the Vent Gas Control undesignated head and which originates from a non-combustion source, the monitoring and recordkeeping required by §115.126 is necessary to insure that the combustion unit meets the minimum control requirements given in §115.122. Therefore, the TNRCC has added an exemption for combustion units which are not used as a control device for vent gas streams originating from non-combustion sources.

Pennzoil requested that TNRCC clarify how §115.127(a)(6) will apply in terms of the "once-in, always-in" language of §115.122(a)(4). UCC requested that TNRCC clarify how the revised definition of VOC (which will now exclude acetone, PCBTF, and VMS) will relate to the "once-in, always-in" requirement of §115.122(a)(4).

Once-in, always-in (OIAI) is an EPA concept which means that once emissions from a source exceed the applicability cutoff for a particular VOC regulation in the State Implementation Plan (SIP), that source is always subject to the control requirements of the regulation. The purpose of this requirement is two-fold. First, it serves to discourage a source already subject to regulation from installing minimal controls to circumvent Reasonably Available Control Technology (RACT) requirements. Second, it improves the clarity of VOC regulations by minimizing the confusion over whether variations in production cause a particular source to be covered by a regulation. In the event of revised rules which are less stringent than previous requirements (for example, the addition of §115.127(a)(6), or the revised definition of VOC which excludes acetone, PCBTF, and VMS), the OIAI requirements will apply to the extent that emissions from a source exceed the applicability cutoff for the revised version of the rules.

Loading and Unloading of VOC. Citgo, TCC, and TMOGA supported the deletion of §115.212(a)(11)(A), concerning the requirement for vacuum-assisted vapor collection at gasoline terminals in the Dallas/Fort Worth, El Paso, and Houston/Galveston ozone nonattainment areas. GHASP opposed the removal of the vacuum-assist vapor collection requirement at gasoline terminals. GHASP further noted that the installation of vacuum-assist is necessary because tank trucks often leak even when tank maintenance and leak checks are conducted annually.

The TNRCC agrees with GHASP that tank trucks may continue to leak even with annual maintenance and leakage checks. However, EPA has recently concluded that, partly as a result of tank trucks being subject to annual Method 27 leak-tightness testing, the emissions which could be prevented as a result of installing vacuum-assist are only about 1.3% of the total leakage emission rate. EPA also believes that this additional capture efficiency is too small to be demonstrated in practice and does not justify the additional cost that would be incurred by installing vacuum-assist. The elimination of the vacuum assist requirement in the Chapter 115 gasoline terminal rule is consistent with the adopted federal MACT standard for gasoline terminals.

Exxon requested that §115.214(a)(6) be amended to allow an option for fugitive monitoring to be conducted using new petroleum marketing terminal factors accompanied by an audio, visual, and olfactory leak detection and repair program (LDAR) on a daily basis. Exxon noted that this new approach has been evaluated and approved by the TNRCC New Source Review program.

The TNRCC appreciates the comment submitted by Exxon. However, §115.214 is not currently open for amendment. Evaluation and consideration of this comment will be deferred to future rulemaking.

Exxon requested an amendment to §115.212(a)(11)(B) to provide for a short-term emergency allowance to continue to operate for 48 hours when the vapor recovery system is out of service or not properly operating. Exxon noted that operational flexibility is needed because unforeseen circumstances could prevent the immediate repair of a vapor recovery system.

The TNRCC disagrees with Exxon. The TNRCC believes that any necessary repairs of vapor recovery systems can be phased in without adverse disruptions to the operation of gasoline terminals. An emergency allowance to operate gasoline terminals without vapor collection would discourage operators from the necessity of consistently maintaining the vapor recovery systems and keeping spare parts on the premises to be able to deal with any problem as it arises.

EPA, GHASP, SETRPC, TCC, and TMOGA commented on §115.219(5) and the proposed §115.219(6), concerning the compliance schedule for the marine vessel loading contingency rule in the B/PA ozone nonattainment area. EPA stated that the requirement to implement RACT for marine terminals is contained in §182(b)(2)(C) of the Federal Clean Air Act (FCAA), which requires implementation of RACT at non-CTG major sources. EPA stated that there are major VOC sources in B/PA which have marine terminals, and, therefore, RACT must be implemented on these marine terminals. EPA stated that this requirement will not change if B/PA is reclassified as a moderate ozone nonattainment area. GHASP stated that marine loading controls should be implemented in B/PA to ensure large reductions of VOCs and air toxics which are affecting nearby communities. SETRPC fully supported the

proposed revisions, while TCC and TMOGA suggested that these paragraphs be combined, for clarity.

On September 19, 1995, EPA published final standards for marine vessel loading in the Federal Register (pages 48388-48417). These standards included MACT requirements for air toxics under §112 of the FCAA, as well as RACT requirements under §183(f) of the FCAA. EPA's promulgation of marine vessel loading RACT under §183(f) establishes what EPA considers to be the minimum requirements for marine vessel loading under §182(b)(2)(C). EPA's actions under §183(f) have satisfied the marine vessel loading RACT requirements without any further action necessary on the state's part. In response to TCC and TMOGA, the TNRCC has combined the paragraphs as suggested.

Degreasing Processes. Dallas commented on the proposed deletion of §115.417(a)(5) and expressed misgivings about the proposed deletion of this exemption.

Sections 115.412(a)(2)(D) and 115.412(b)(2)(D) establish four control options for open-top vapor cleaning. The control option available under §115.412(a)(2)(D)(ii) and §115.412(b)(2)(D)(ii) is a properly sized refrigerated chiller, and the control option available under §115.412(a)(2)(D)(iv) and §115.412(b)(2)(D)(iv) is a carbon adsorption system. The exemptions under §115.417(a)(5) and §115.417(b)(5) which are proposed for deletion exempt any open-top vapor degreaser with an open area less than 10 ft2 (1 m2) from the refrigerated chiller or the carbon adsorber requirements in §115.412(a)(2)(D)(ii) and (iv) and §115.412(b)(2)(D)(ii) and (iv). However, any open-top vapor degreaser with an open area less than 10 ft2 (1 m2) must still meet one of the other two control options available under §115.412(a)(2)(D) and §115.412(b)(2)(D). Consequently, the exemptions available under §115.417(a)(5) and §115.417(b)(5) are entirely redundant with the flexible control options already available in §115.412(a)(2)(D) and §115.412(b)(2)(D), and these exemptions will be deleted as proposed.

Surface Coating Processes. BFI fully supported the proposed revisions. Centapp, EPA, and GHASP supported the proposed change of the coating limits basis in §115.421 from pounds of VOC per gallon of solids to pounds of VOC per gallon of coating (minus water and exempt solvents).

The return to the more conventional units greatly simplifies rule compliance and was widely supported by both governmental authorities and the regulated community.

Centapp commented on §115.421 and stated that the wording of §115.421 (which states that most surface coating limits are based on the daily weighted average) conflicts with the requirements of §115.421(a)(8)(B) (coating limits for body shops), and §115.426(a)(1)(B) (which allows the monthly recordkeeping of Standard Exemption No. 124 for body shops). Centapp stated that the Auto Body Shop Task Force developed coating limits which could easily be met without averaging and that the monthly recordkeeping of Standard Exemption No. 124 does not give enough information to tell if a body shop is complying if they are averaging. Centapp suggested revising §115.426(a)(1)(B) to state that if a body shop uses any coating which exceeds the limits of §115.421(a)(8)(B), then they have to keep daily records showing the daily averaging instead of monthly records.

The TNRCC agrees and has revised §115.426(a)(1)(B) as suggested.

The EPA commented on §115.421(a) and (b) and stated that the procedure for calculating the daily weighted average should be modified to exclude water and exempt solvents from the coating volume in the calculation.

The TNRCC has made the suggested change.

Brault commented on §115.421(a)(8)(B)(ix) and suggested changing the emission limitation for auto body shop wipe-down solutions from 1.4 pounds of VOC per gallon to 6.4 pounds of VOC per gallon, with a concurrent change in the usage limit of Standard Exemption 124 (as referenced in §116.211 of this title (relating to Standard Exemption List)), from 50 gallons per month to 10 gallons per month.

The TNRCC is willing to consider revising the auto body shop wipe-down solution emission limit. However, at this time there is not a consensus among auto body shops, trade associations, wipe-down solution manufacturers, and auto body shop suppliers concerning a possible revision to the auto body shop wipe-down solution emission limit. Consequently, the TNRCC is not revising the limit at this time. The TNRCC suggests that affected auto body shops, trade associations, wipe-down solution manufacturers, and auto body shop suppliers provide detailed information concerning the auto body shop wipe-down solution emission limit, including justification for revising the limit.

The EPA requested that TNRCC confirm that equivalency determinations under §115.423(a)(2) using transfer efficiency and §115.423(a)(3) using add-on controls are on a pounds of VOC per gallon of solids basis.

As noted in §115.423(a)(1), equivalency determinations (for example, bubbles under §101.23, alternate means of control under §115.910, or other demonstrations of equivalency with the specified emission limits) shall be based on the pounds of VOC per gallon of solids for all affected coatings. Therefore, all such equivalency determinations are on the basis of pounds of VOC per gallon of solids.

The EPA suggested the inclusion of formulas in §115.423(a)(1) and (3) which determine the conversion of emission specifications to a pounds of VOC per gallon of solids basis and the required overall control efficiency for facilities with add-on controls, respectively.

The TNRCC has added the suggested coating emission specification conversion formula to §115.423(a)(1) and (b)(1). However, §115.423(a)(3) and §115.423(b)(3) were not proposed for revision. Therefore, the suggested formula for the required overall control efficiency for facilities with add-on controls cannot be added at this time. The TNRCC will consider making this change in future rulemaking.

It has come to the TNRCC's attention that §115.423(b)(4) and §115.427(b)(2) incorrectly refer to §115.421(b)(9) rather than §115.421(b)(8), and that §115.427(b)(3) incorrectly refers to §115.421(b)(10) rather than §115.421(b)(9). These sections have been corrected.

In addition, it has come to the TNRCC's attention that in rare instances the change of the coating limits basis in §115.421 from pounds of VOC per gallon of solids to pounds of VOC

per gallon of coating could result in a product which meets the pounds of VOC per gallon of solids limits but exceeds the pounds of VOC per gallon of coating limits. Therefore, the TNRCC has added new §115.429(b) which provides for a transition period in such instances.

Degassing or Cleaning of Stationary, Marine, and Transport Vessels. TCC and TMOGA commented on the proposed change of "VOC transport vessel" and "VOC marine vessel" to "transport vessel" and "marine vessel," respectively, in §115.541 and §115.542 and suggested minor wording changes to avoid misinterpretation that these vessels must be kept vaportight regardless of whether or not they were transporting VOCs.

The TNRCC agrees and has revised the wording of §115.541 and §115.542. Although §115.542(b)(1)-(2) were inadvertently not proposed for change, the TNRCC has also revised the wording in these paragraphs for consistency with the other paragraphs in §115.541 and §115.542.

Dallas commented on §115.541(a)(1) and suggested the inclusion of a definition of "stationary vessel."

This term is not used within this undesignated head. The term "stationary storage tank" is used, however. It should be noted that §115.547(2) exempts any stationary storage tank with a nominal storage capacity of less than 1,000,000 gallons. Storage tanks with a nominal storage capacity of 1,000,000 gallons or more will not be portable. Marine vessels are defined separately. Therefore, the suggested change does not appear to be necessary.

GHASP commented on §115.549(b)(c) and objected to removal of the November 15, 1996 date for these contingency rules.

The specific attainment date is being deleted because this date may be revised through future federal or congressional action. Removal of the attainment date does not affect the actual rule requirements but merely makes the rules more flexible in the event of such action.

Consumer Products. CSMA and CTFA commented on §115.614(c)(2)(D) and stated that the proposed penalty procedure should be amended to provide the TNRCC with the flexibility to assess appropriate civil penalties needed to maintain the integrity of the SIP. CSMA and CTFA strongly believed that it is inappropriate to impose an offset requirement solely as a punitive measure. CSMA indicated that a company should not be required to obtain an offset in excess of the level needed to make the necessary SIP emission reduction requirements. CTFA, however, indicated that any required offset in excess of the level needed to maintain the SIP whole should be assessed by the Executive Director, taking into account whether a company has acted in good faith when the exemption registration was sought.

The innovative product registration process is designed to provide manufacturers maximum flexibility to introduce innovative products and reduce emissions while allowing the opportunity to avoid disclosure of new products until the last possible instance. Delaying required disclosure of these products should remove the competitive pressures upon a manufacturer to enter a market before new product testing is complete. The manufacturer must know prior to registration that the emissions of an innovative product meet the emission reduction requirements of the rule. It is left to the discretion of the manufacturer to decide when adequate testing has been done to ensure the compliance. Dispensing with pre-market approval for an innovative product places the larger share of the burden for maintaining the integrity of the SIP upon the innovative product manufacturer. A manufacturer has more diverse concerns about an innovative product than simply whether it meets emission reduction requirements. Therefore, in order to ensure a manufacturer gives proper consideration to air quality issues, the minimum sanctions for failure to comply must be certain, computable, nonnegotiable, and must sufficiently discourage noncompliance.

Requiring a 2:1 offset of excess emission achieves some of these objectives, while channeling penalty dollars directly to improvements in air quality. Any particular offset will not be large, (the total emissions due to any one product in the four ozone non-attainment areas is typically about one ton a year), and the purchase of the offset is unlikely to be the only sanction imposed in instances of non-compliance. However, the 2:1 offset will allow manufacturers to estimate the minimum cost of non-compliance should an innovative product's emission reductions, or the manufacturer's demonstration of those reductions, be inadequate.

In addition to discouraging noncompliance, a 2:1 offset of excess emissions (as compared to a 1:1 offset) provides a compensatory benefit to the environment which balances the delay in achieving reductions caused by a noncompliant innovative product. The steps to recoup lost emission reductions caused by marketing a noncompliant innovative product are lengthy: Review of a manufacturer's innovative claims and usage testing, laboratory analysis of product formula, issuance of a product removal order, and finally, securing the necessary offsets.

CSMA commented that the TNRCC should amend §115.614(c)(2)(C) to allow manufacturers to supplement original test data by conducting newly-identified tests or tests requested by the TNRCC. CSMA is concerned that they may be held accountable for not conducting tests that may not have been widely accepted (or in existence) at the time that the original testing was conducted.

As noted in the response to the previous comment, the new registration process removes any pressure under these rules to introduce a new product before the manufacturer is convinced the product will meet the emission reduction requirements of the rule. The TNRCC can request additional testing data at any time, however, the manufacturer may not rely on this post-registration data to justify decisions taken prior to the creation of the data. Doing otherwise would remove incentives for manufacturers to conduct adequate testing prior to product registration.

If the TNRCC or the manufacturer determines that subsequent test methods or data more accurately demonstrate a product's emissions, nothing in these rules prohibits a manufacturer from re-registering an innovative product based upon the new information.

CTFA commented that the proposed §115.614(c)(2)(F) does not give confidential status to the information submitted in the registration form. Consequently, CTFA believes that the registration form should contain only basic information such as a

general description of the product and the facts about its status as innovative. Additional specific information requested by the TNRCC must be granted confidential status.

The confidential status of information submitted to the TNRCC is governed by the Texas Open Records Act. Under that act, the Texas Attorney General bears responsibility for determining what information, submitted to an agency as confidential, can be protected or released under the act. The TNRCC must comply with the requirements of the Open Records Act and can neither expand nor contract the protection afforded under that act.

CTFA commented that public hearings held in accordance with the Texas Administrative Procedures Act to revoke or modify an innovative product approval (§115.614(f), shall provide the same level of protection that was initially granted under the repealed reference to §103.31 and §103.33 of this title.

Prior hearing requirements in Chapter 103 were intended to meet the minimum statutory requirements of the Administrative Procedures and Texas Register Act, (now the Administrative Procedures Act). The TNRCC repealed Chapter 103 in May of 1994 and prior references to Chapter 103 must be removed or updated. All TNRCC contested case hearings are now held before the State Office of Administrative Hearings under the consolidated hearing rules of the agency. The TNRCC is engaged in an ongoing project to update these rules, and ensure that the rules are clear, concise, necessary and make sense. Hearing requirements under the new rules must meet, and are intended to exceed, the minimum requirements of the APA. Therefore, no substantive or procedural rights related to revocation or modification hearings have been lost by this change in the innovative product rules.

EPA commented that §115.614(c)(2)(C) should be modified to allow Texas to have the right to undertake a review of a registered exemption at its own discretion, not based only on reasonable suspicion or citizen enforcement.

The TNRCC agrees with EPA's intent. Nothing, however, in these rules prohibits the TNRCC from undertaking an inspection of a registered exemption at its own discretion. The TNRCC finds no need to modify §115.614(c)(2)(C).

The EPA further commented that the TNRCC should provide the assurance that at a minimum, the Executive Director shall conduct a minimum evaluation of the suspected or reported noncompliance, to determine if the report of noncompliance has any merit.

The TNRCC agrees with EPA and has made the recommended change.

The EPA indicated that the TNRCC should be aware that this rulemaking does not grant federal innovative product waivers once the national Consumer Products rule is promulgated.

The TNRCC is aware of the consumer products national rulemaking and agrees with EPA that approval of innovative products under this rule does not constitute an approval under the national rule when the national rule is promulgated.

GHASP opposed allowing innovative products to be put on the market without being approved, as this will place the TNRCC under pressure to keep the product on the market even if it was later found to be out of compliance.

The TNRCC disagrees with GHASP. The adopted rule language under §115.614(c)(2)(D) clearly states that the innovative product shall be withdrawn from the market if found out of compliance. Furthermore, the requirement to provide VOC emission reduction credits in each nonattainment area equivalent to twice the excess emissions determined to have occurred and the civil penalties that may be assessed should provide compelling incentives for manufacturers to make sure that innovative products will continue to be in compliance with the rules over time.

Standard Construction Permits for VOC Control Projects. Amoco, DuPont, TCC, and TMOGA opposed the repeal of the standard permit in §115.950 until the industry group currently working with TNRCC has reached resolution on the need to eliminate standard permits under Chapter 115 and 117. Amoco, TCC, and TMOGA stated that they do not believe that the standard permit in Chapter 116 is redundant with the standard permit in §115.950 because the Chapter 116 requirements are more restrictive. HL&P, TCC, and TMOGA commented that Chapter 116 standard permits also include incorporation of standard permits at permit renewal, record retention requirements, registration requirements, and fee requirements. HL&P, TCC, and TMOGA also stated that repeal of §115.950 would complicate compliance requirements for those already using this standard permit.

The TNRCC has withdrawn the proposed repeal of §115.950. It is the TNRCC's intention to pursue negotiation of potential changes to Chapter 116, Subchapter F, concerning Standard Permits, concurrently with the repeal of §115.950 and §117.550, concerning Standard Construction Permits for NOx RACT Projects. The TNRCC expects that all standard permit issues can be satisfactorily addressed at that time.

Subchapter A. Definitions

30 TAC §115.10

The amendment is 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.

§115.10. Definitions.

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

Automotive basecoat/clearcoat system (used in vehicle refinishing (body shops)) - A topcoat system composed of a pigmented basecoat portion and a transparent clearcoat portion. The volatile organic compound (VOC) content of a basecoat (bc)/clearcoat (cc) system shall be calculated according to the following formula: Figure 1: 30 TAC §115.10 where: VOC $T_{bc/cc}$ is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, in the basecoat/clearcoat system; VOC_{bc} is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given basecoat; and VOC_{cc} is the VOC content, in pounds of

VOC per gallon (less water and exempt solvent) as applied, of any given clearcoat.

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

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

Automotive primer or primer surfacers (used in vehicle refinishing (body shops)) - Any base coat, sealer, or intermediate coat which is applied prior to colorant or aesthetic coats.

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

Automotive specialty coatings (used in vehicle refinishing (body shops)) - Coatings or additives which are necessary due to unusual job performance requirements. These coatings or additives prevent the occurrence of surface defects and impart or improve desirable coating properties. These products include, but are not limited to, uniform finish blenders, elastomeric materials for coating of flexible plastic parts, coatings for non-metallic parts, jambing clear coatings, gloss flatteners, and anti-glare/safety coatings.

Automotive three-stage system (used in vehicle refinishing (body shops)) - A topcoat system composed of a pigmented basecoat portion, a semitransparent midcoat portion, and a transparent clearcoat portion. The volatile organic compound (VOC) content of a three-stage system shall be calculated according to the following formula:Figure 2: 30 TAC §115.10 where: VOC $T_{3\text{-}stage}$ is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, in the three-stage system; VOC_{bc} is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given basecoat; VOC_{mc} is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given midcoat; and VOC_{cc} is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given clearcoat.

Automotive wipe-down solutions (used in vehicle refinishing (body shops)) - Any solution used for cleaning and surface preparation.

Cold solvent cleaning - A batch process that uses liquid solvent to remove soils from the surfaces of metal parts or to dry the parts by spraying, brushing, flushing, and/or immersion while maintaining the solvent below its boiling point. Wipe cleaning (hand cleaning) is not included in this definition.

Conveyorized degreasing - A solvent cleaning process that uses an automated parts handling system, typically a conveyor, to automatically provide a continuous supply of metal parts to be cleaned or dried using either cold solvent or vaporized solvent. A conveyorized degreasing process is fully enclosed except for the conveyor inlet and exit portals.

External floating roof - A cover or roof in an open-top tank which rests upon or is floated upon the liquid being contained and is equipped with a single or double seal to close the space between the roof edge and tank shell. A double seal consists of two complete and separate closure seals, one above the other, containing an enclosed space between them. An external floating roof storage tank which is equipped with a self-supporting fixed roof (typically a bolted aluminum geodesic dome) shall be considered to be an internal floating roof storage tank.

Gasoline bulk plant - A gasoline loading and/or unloading facility, excluding marine terminals, having a gasoline throughput less than 20,000 gallons (75,708 liters) per day, averaged over any consecutive 30-day period. A motor vehicle fuel dispensing facility is not a gasoline bulk plant.

Gasoline terminal - A gasoline loading and/or unloading facility, excluding marine terminals, having a gasoline throughput equal to or greater than 20,000 gallons (75,708 liters) per day, averaged over any consecutive 30-day period.

High-bake coatings - Coatings designed to cure at temperatures above 194 degrees Fahrenheit.

Internal floating cover - A cover or floating roof in a fixed roof tank which rests upon or is floated upon the liquid being contained, and is equipped with a closure seal or seals to close the space between the cover edge and tank shell. An external floating roof storage tank which is equipped with a self-supporting fixed roof (typically a bolted aluminum geodesic dome) shall be considered to be an internal floating roof storage tank.

Low-bake coatings - Coatings designed to cure at temperatures of 194 degrees Fahrenheit or less.

Mechanical shoe seal - A metal sheet which is held vertically against the storage tank wall by springs or weighted levers and is connected by braces to the floating roof. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

Open-top vapor degreasing - A batch solvent cleaning process that is open to the air and which uses boiling solvent to create solvent vapor used to clean or dry metal parts through condensation of the hot solvent vapors on the colder metal parts.

Remote reservoir cold solvent cleaning - Any cold solvent cleaning operation in which liquid solvent is pumped to a sink-like work area that drains solvent back into an enclosed container while parts are being cleaned, allowing no solvent to pool in the work area.

Vehicle refinishing (body shops) - The repair and recoating of vehicles, including, but not limited to, motorcycles, passenger cars, vans, light-duty trucks, medium-duty trucks, heavy-duty trucks, buses, and other vehicle body parts, bodies, and cabs by a commercial operation other than the original manufacturer. The repair and recoating of trailers, construction equipment, vehicles at in-house (fleet) vehicle refinishing operations, and vehicles by private individuals are not included.

Volatile organic compound -Any compound of carbon or mixture of carbon compounds excluding methane, ethane, 1,1,1-trichloroethane (methyl chloroform), methylene chloride (dichloromethane), perchloroethylene (tetrachloroethylene), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12),

chlorodifluoromethane (HCFC-22), trifluoromethane (HFC-23), 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113), 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115), 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123), 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124), pentafluoroethane (HFC-125), 1,1,2,2-tetrafluoroethane (HFC-134), 1,1,1,2-tetrafluoroethane (HFC-134a), 1,1-dichloro-1-fluoroethane (HCFC-141b), 1-chloro-1,1-difluoroethane (HCFC-142b), 1,1,1-trifluoroethane (HFC-143a), 1,1-difluoroethane (HFC-152a), parachlorobenzotrifluoride (PCBTF), cyclic, branched, or linear completely methylated siloxanes, acetone, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, and perfluorocarbon compounds which fall into these classes:

(A) cyclic, branched, or linear, completely fluorinated alkanes;

(B) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(C) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(D) sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

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 February 15, 1996.

TRD-9602208
Kevin McCalla
Director, Legal Services Division
Texas Natural Resource Conservation Commission
Effective date: March 7, 1996
Proposal publication date: September 5, 1995
For further information, please call: (512) 239-1970

Subchapter B. General Volatile Organic Compound Sources

Storage of Volatile Organic Compound

30 TAC §§115.112, 115.114, 115.116, 115.117

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.

§115.114. 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) For internal floating roof storage tanks, the internal floating roof and the primary seal or the secondary seal (if one is in service) shall be visually inspected through a fixed roof inspection hatch at least once every 12 months. If the internal floating roof is not resting on the surface of the volatile organic compounds (VOC) inside the storage tank and is not resting on the leg supports; or liquid has accumulated on the internal floating roof; or the seal is detached; or there are holes or tears in the seal fabric; or there are visible gaps between the seal and the wall of the storage tank, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank in accordance with §§115.541-115.547 of this title (relating to Degassing or Cleaning of Stationary, Marine, and Transport Vessels). If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate Texas Natural Resource Conservation Commission (TNRCC) regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

(2) For external floating roof storage tanks, the secondary seal gap shall be physically measured at least once every 12 months to insure compliance with §115.112(a)(2)(F) of this title (relating to Control Requirements). If the secondary seal gap exceeds the limitations specified by §115.112(a)(2)(F) of this title, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank in accordance with §§115.541-115.547 of this title. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate TNRCC regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

(3) If the tank is equipped with a mechanical shoe or liquid-mounted primary seal, compliance with §115.112(a)(2)(F) of this title can be determined by visual inspection.

(4) For external floating roof storage tanks, the secondary seal shall be visually inspected at least once every six months to ensure compliance with §115.112(a)(2)(E)-(H) of this title. If the external floating roof is not resting on the surface of the VOC inside the storage tank and is not resting on the leg supports; or liquid has accumulated on the external floating roof; or the seal is detached; or there are holes or tears in the seal fabric; or there are visible gaps between the seal and the wall of the storage tank, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank in accordance with §§115.541-115.547 of this title. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate TNRCC regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

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

(1) If during an inspection of an internal floating roof storage tank, the internal floating roof is not resting on the surface of the VOC inside the storage tank and is not resting on the leg supports; or liquid has accumulated on the internal floating roof; or the seal

is detached; or there are holes or tears in the seal fabric; or there are visible gaps between the seal and the wall of the storage tank, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate TNRCC regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

(2) For external floating roof storage tanks, the secondary seal gap shall be physically measured at least once every 12 months to insure compliance with §115.112(b)(2)(F) of this title. If the secondary seal gap exceeds the limitations specified by §115.112(b)(2)(F) of this title, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate TNRCC regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

(3) If the tank is equipped with a mechanical shoe or liquid-mounted primary seal, compliance with §115.112(b)(2)(F) of this title can be determined by visual inspection.

(4) For external floating roof storage tanks, the secondary seal shall be visually inspected at least once every 12 months to insure compliance with §115.112(b)(2)(E)-(F) of this title. If the external floating roof is not resting on the surface of the VOC inside the storage tank and is not resting on the leg supports; or liquid has accumulated on the external floating roof; or the seal is detached; or there are holes or tears in the seal fabric; or there are visible gaps between the seal and the wall of the storage tank, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate TNRCC regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

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

(1) If during an inspection of an internal floating roof storage tank, the internal floating roof is not resting on the surface of the VOC inside the storage tank and is not resting on the leg supports; or liquid has accumulated on the internal floating roof; or the seal is detached; or there are holes or tears in the seal fabric; or there are visible gaps between the seal and the wall of the storage tank, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate TNRCC regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

(2) If during an inspection of an external floating roof storage tank, the external floating roof is not resting on the surface of the VOC inside the storage tank and is not resting on the leg supports; or liquid has accumulated on the external floating roof; or the seal is detached; or there are holes or tears in the seal fabric; or there are visible gaps between the seal and the wall of the storage tank, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate TNRCC regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

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 February 15, 1996.

TRD-9602209
Kevin McCalla
Director, Legal Services Division
Texas Natural Resource Conservation Commission
Effective date: March 7, 1996
Proposal publication date: September 5, 1995
For further information, please call: (512) 239-1970

Vent Gas Control

30 TAC §§115.121-115.123, 115.126, 15.127, 115.129

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.

§115.126. Monitoring and Recordkeeping Requirements.

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the owner or operator of any facility which emits volatile organic compounds (VOC) through a stationary vent shall maintain records at the facility for at least two years and shall make such records available to representatives of the Texas Natural Resource Conservation Commission (TNRCC), United States Environmental Protection Agency (EPA), or any local air pollution control agency having jurisdiction in the area upon request. These records shall include, but not be limited to, the following.

(1) Records for each vent required to satisfy the provisions of §115.121(a)(1)-(3) of this title (relating to Emission Specifi-

cations) shall be sufficient to demonstrate the proper functioning of applicable control equipment to design specifications, including:

(A)-(E) (No change.)

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

(5) For bakeries affected by §115.122(a)(3)(C) and (D) of this title, the following additional requirements apply.

(A) No later than six months after the TNRCC publishes notification in the *Texas Register* as specified in §115.129(a)(4) of this title (relating to Counties and Compliance Schedules), the owner or operator of each bakery shall submit an initial 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 which demonstrates that the overall reduction of VOC emissions from the bakery's 1990 baseline emissions inventory will be at least 30%. At a minimum, the control plan shall include the EPN and the FIN of each bakery oven and any associated control device, a plot plan showing the location, EPN, and FIN of each bakery oven and any associated control device, and the 1990 VOC emission rates (consistent with the bakery's 1990 emissions inventory). The projected VOC emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

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

(b) (No change.)

§115.127. Exemptions.

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

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

(2) The following vent gas streams are exempt from the requirements of §115.121(a)(1) of this title:

(A) a vent gas stream having a combined weight of volatile organic compounds (VOC) equal to or less than 100 pounds (45.4 kg) in any continuous 24-hour period;

(B) a vent gas stream specified in §115.121(a)(1) of this title with a concentration of VOC less than 0.009 pounds per square inch absolute (psia) true partial pressure (612 parts per million (ppm));

(C) until November 15, 1998 for facilities which have been assigned the code number 26 as described in the document Standard Industrial Classification (SIC) Manual, 1972, as amended by the 1977 Supplement, a vent gas stream specified in §115.121(a)(1) of this title with a concentration of VOC less than 0.44 psia true partial pressure (30,000 ppm);

(D) a vent gas stream which is subject to §115.121(a)(2), (3), or (4) of this title; and

(E) a vent gas stream which qualifies for exemption under paragraphs (3), (4), or (5) of this subsection.

(3) The following vent gas streams are exempt from the requirements of §115.121(a)(2) of this title:

(A) a vent gas stream having a combined weight of VOC equal to or less than 100 pounds (45.4 kilograms) in any continuous 24-hour period;

(B) a vent gas stream from any air oxidation synthetic organic chemical manufacturing process with a concentration of VOC less than 0.009 pounds psia true partial pressure (612 ppm)); and

(C) a vent gas stream from any liquid phase polypropylene manufacturing process, any liquid phase slurry high-density polyethylene manufacturing process, and any continuous polystyrene manufacturing process with a concentration of VOC less than 0.006 psia true partial pressure (408 ppm).

(4) For synthetic organic chemical manufacturing industry (SOCMI) reactor processes and distillation operations:

(A) Any reactor process or distillation operation that is designed and operated in a batch mode is exempt from the requirements of §115.121(a)(3) of this title. For the purposes of this subparagraph, batch mode means any noncontinuous reactor process or distillation operation which is not characterized by steady-state conditions, and in which the addition of reactants does not occur simultaneously with the removal of products.

(B) Any reactor process or distillation operation operating in a process unit with a total design capacity of less than 1,100 tons per year, for all chemicals produced within that unit, is exempt from the requirements of §115.121(a)(3) of this title.

(C) Any reactor process or distillation operation vent gas stream with a flow rate less than 0.011 standard cubic meters per minute or a VOC concentration less than 500 parts per million by volume is exempt from the requirements of §115.121(a)(3) of this title.

(D) Any distillation operation vent gas stream which meets the requirements of 40 Code of Federal Regulations (CFR) 60.660(c)(4) or 60.662(c) (concerning Subpart NNN - Standards of Performance for VOC Emissions From SOCMI Distillation Operations) is exempt from the requirements of §115.121(a)(3) of this title.

(E) Any reactor process vent gas stream which meets the requirements of 40 CFR 60.700(c)(2) or 60.702(c) (concerning Subpart RRR - Standards of Performance for VOC Emissions From SOCMI Reactor Processes) is exempt from the requirements of §115.121(a)(3) of this title.

(5) Bakeries are exempt from the requirements of §115.121(a)(4) and §115.122(a)(3) of this title (relating to Emission Specifications and Control Requirements) if the total weight of VOC emitted from all bakery ovens on the property, when uncontrolled, is less than 25 tons per calendar year.

(6) A vent gas stream is exempt from this undesignated head (relating to Vent Gas Control) if all of the VOCs in the vent gas stream originate from a source(s) for which another undesignated head within Chapter 115 (for example, Storage of VOC) has established a control requirement(s), emission specification(s), or exemption(s) which applies to that VOC source category in that county.

(7) A combustion unit exhaust stream is exempt from this undesignated head (relating to Vent Gas Control) provided that the

unit is not being used as a control device for any vent gas stream which is subject to this undesignated head and which originates from a non-combustion source.

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

(1) (No change.)

(2) The following vent gas streams are exempt from the requirements of §115.121(b) of this title:

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

(3) A vent gas stream is exempt from this undesignated head (relating to Vent Gas Control) if all of the VOCs in the vent gas stream originate from a source(s) for which another undesignated head within Chapter 115 (for example, Storage of VOC) has established a control requirement(s), emission specification(s), or exemption(s) which applies to that VOC source category in that county.

(4) A combustion unit exhaust stream is exempt from this undesignated head (relating to Vent Gas Control) provided that the unit is not being used as a control device for any vent gas stream which is subject to this undesignated head and which originates from a non-combustion source.

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

(1) (No change.)

(2) The following vent gas streams are exempt from the requirements of §115.121(c)(1) of this title:

(A) (No change.)

(B) a vent gas stream having a concentration of the VOC specified in §115.121(c)(1)(B) and (C) of this title less than 0.44 psia true partial pressure (30,000 ppm); and

(C) (No change.)

(3) A vent gas stream is exempt from this undesignated head (relating to Vent Gas Control) if all of the VOCs in the vent gas stream originate from a source(s) for which another undesignated head within Chapter 115 (for example, Storage of VOC) has established a control requirement(s), emission specification(s), or exemption(s) which applies to that VOC source category in that county.

(4) A combustion unit exhaust stream is exempt from this undesignated head (relating to Vent Gas Control) provided that the unit is not being used as a control device for any vent gas stream which is subject to this undesignated head and which originates from a non-combustion source.

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 February 15, 1996.

TRD-9602210
Kevin McCalla
Director, Legal Services Division
Texas Natural Resource Conservation Commission
Effective date: March 7, 1996
Proposal publication date: September 5, 1995
For further information, please call: (512) 239-1970

Subchapter C. Volatile Organic Compound Transfer Operations

Loading and Unloading of Volatile Organic Compounds

30 TAC §115.212, §115.219

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.

§115.219. 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)-(4) (No change.)

(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 (relating to Emission Specifications; Control Requirements; Alternate Control Requirements; Inspection Requirements; Approved Test Methods; Monitoring and Recordkeeping Requirements; and Exemptions) as soon as practicable but no later than three years after the earliest of the following occurs:

(A) 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 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);

(B) the United States Environmental Protection Agency (EPA) publishes notification in the *Federal Register* of its determination to deny the petition to redesignate the Beaumont/Port Arthur ozone nonattainment area as an ozone attainment area; or

(C) EPA publishes notification in the *Federal Register* of its determination to deny approval of the demonstration of attainment for the Beaumont/Port Arthur ozone nonattainment area based upon Urban Airshed Model modeling.

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 February 15, 1996.

TRD-9602211
Kevin McCalla
Director, Legal Services Division
Texas Natural Resource Conservation Commission
Effective date: March 7, 1996
Proposal publication date: September 5, 1995
For further information, please call: (512) 239-1970

Subchapter E. Solvent-Using Processes

Degreasing Processes

30 TAC §§115.412, 115.413, 115.416, 115.417, 115.419

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.

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 February 15, 1996.

TRD-9602212
Kevin McCalla
Director, Legal Services Division
Texas Natural Resource Conservation Commission
Effective date: March 7, 1996
Proposal publication date: September 5, 1995
For further information, please call: (512) 239-1970

Surface Coating Processes

30 TAC §§115.421-115.423, 115.425-115.427, 115.429

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.

§115.421. Emission Specifications.

(a) No person in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas as defined in §115.10 of this title (relating to Definitions) may cause, suffer, allow, or permit volatile organic compound (VOC) emissions from the surface coating processes as defined in §115.10 of this title affected by paragraphs (1)-(13) of this subsection to exceed the specified emission limits. These limitations are based on the daily weighted average of all coatings delivered to each coating line, except for those in paragraph (10) of this subsection which are based on paneling surface area and those in paragraph (11) of this subsection which are based on the VOC content of architectural coatings sold or offered for sale. For the purposes of this undesignated head (relating to Surface Coating Processes), daily weighted average means the total weight of VOC emissions from all coatings, divided by the total volume of all coatings (minus water and exempt solvent) applied each day.

(1) Large appliance coating. VOC emissions from the application, flashoff, and oven areas during the coating of large appliances (prime and topcoat, or single coat) shall not exceed 2.8 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.34 kg/liter).

(2) Metal furniture coating. VOC emissions from metal furniture coating lines (prime and topcoat, or single coat) shall not exceed 3.0 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.36 kg/liter).

(3) Coil coating. VOC emissions from the coating (prime and topcoat, or single coat) of metal coils shall not exceed 2.6 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.31 kg/liter).

(4) Paper coating. VOC emissions from the coating of paper (or specified tapes or films) shall not exceed 2.9 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.35 kg/liter).

(5) Fabric coating. VOC emissions from the coating of fabric shall not exceed 2.9 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.35 kg/liter).

(6) Vinyl coating. VOC emissions from the coating of vinyl fabrics or sheets shall not exceed 3.8 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.45 kg/liter). Plastisol coatings should not be included in calculations.

(7) Can coating. The following VOC emission limits shall be achieved, on the basis of solvent content per gallon of coating (minus water and exempt solvent) delivered to the application system: Figure 1: 30 TAC §115.421(a)(7)

(8) Vehicle coating.

(A) (No change.)

(B) VOC emissions from the coatings or solvents used in vehicle refinishing (body shops) as defined in §115.10 of this title shall not exceed the following limits, as delivered to the application system:

(i) 5.0 pounds per gallon (0.60 kg/liter) of coating (minus water and exempt solvent) for primers or primer surfacers, as defined in §115.10 of this title;

(ii) 5.5 pounds per gallon (0.66 kg/liter) of coating (minus water and exempt solvent) for precoat, as defined in §115.10 of this title;

(iii) 6.5 pounds per gallon (0.78 kg/liter) of coating (minus water and exempt solvent) for pretreatment, as defined in §115.10 of this title;

(iv) 5.0 pounds per gallon (0.60 kg/liter) of coating (minus water and exempt solvent) for single-stage topcoats;

(v) 5.0 pounds per gallon (0.60 kg/liter) of coating (minus water and exempt solvent) for basecoat/clearcoat systems, as defined in §115.10 of this title;

(vi) 5.2 pounds per gallon (0.62 kg/liter) of coating (minus water and exempt solvent) for three-stage systems, as defined in §115.10 of this title;

(vii) 7.0 pounds per gallon (0.84 kg/liter) of coating (minus water and exempt solvent) for specialty coatings, as defined in §115.10 of this title;

(viii) 6.0 pounds per gallon (0.72 kg/liter) of coating (minus water and exempt solvent) for sealers, as defined in §115.10 of this title; and

(ix) 1.4 pounds per gallon (0.17 kg/liter) of wipe-down solutions, as defined in §115.10 of this title.

(C) Additional control requirements for vehicle refinishing (body shops) are referenced in §115.422 of this title (relating to Control Requirements).

(9) Miscellaneous metal parts and products coating.

(A) VOC emissions from the coating of miscellaneous metal parts and products shall not exceed the following limits for each surface coating type:

(i) 4.3 pounds per gallon (0.52 kg/liter) of coating (minus water and exempt solvent) delivered to the application system as a clear coat; or as an interior protective coating for pails and drums;

(ii) 3.5 pounds per gallon (0.42 kg/liter) of coating (minus water and exempt solvent) delivered to the application system as a low-bake coating; or that utilizes air or forced air driers;

(iii) 3.5 pounds per gallon (0.42 kg/liter) of coating (minus water and exempt solvent) delivered to the application system as an extreme performance coating, including chemical milling maskants;

(iv) 3.0 pounds per gallon (0.36 kg/liter) of coating (minus water and exempt solvent) delivered to the application system for all other coating applications, including high-bake coatings, that pertain to miscellaneous metal parts and products; and

(v) 3.5 pounds per gallon (0.42 kg/liter) of coating (minus water and exempt solvent) delivered to the application system as a prime coat for the exterior of aircraft.

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

(10)-(11) (No change.)

(12) Surface coating of mirror backing.

(A) VOC emissions from the coating of mirror backing shall not exceed the following limits for each surface coating application method:

(i) 4.2 pounds per gallon (0.50 kg/liter) of coating (minus water and exempt solvent) delivered to a curtain coating application system;

(ii) 3.6 pounds per gallon (0.43 kg/liter) of coating (minus water and exempt solvent) delivered to a roll coating application system.

(B) (No change.)

(13) (No change.)

(b) No person in Gregg, Nueces, and Victoria Counties may cause, suffer, allow, or permit VOC emissions from the surface coating processes as defined in §115.10 of this title affected by paragraphs (1)-(9) of this subsection to exceed the specified emission limits. These limitations are based on the daily weighted average of all coatings delivered to each coating line, except for those in paragraph (9) of this subsection which are based on paneling surface area. For the purposes of this undesignated head (relating to Surface Coating Processes), daily weighted average means the total weight of VOC emissions from all coatings, divided by the total volume of all coatings (minus water and exempt solvent) applied each day.

(1) Large appliance coating. VOC emissions from the application, flashoff, and oven areas during the coating of large appliances (prime and topcoat, or single coat) shall not exceed 2.8 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.34 kg/liter).

(2) Metal furniture coating. VOC emissions from metal furniture coating lines (prime and topcoat, or single coat) shall not exceed 3.0 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.36 kg/liter).

(3) Coil coating. VOC emissions from the coating (prime and topcoat, or single coat) of metal coils shall not exceed 2.6 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.31 kg/liter).

(4) Paper coating. VOC emissions from the coating of paper (or specified tapes or films) shall not exceed 2.9 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.35 kg/liter).

(5) Fabric coating. VOC emissions from the coating of fabric shall not exceed 2.9 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.35 kg/liter).

(6) Vinyl coating. VOC emissions from the coating of vinyl fabrics or sheets shall not exceed 3.8 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.45 kg/liter). Plastisol coatings should not be included in calculations.

(7) Can coating. The following VOC emission limits shall be achieved, on the basis of solvent content per gallon of coating (minus water and exempt solvent) delivered to the application system: Figure 2: 30 TAC §115.421(b)(7)

(8) Miscellaneous metal parts and products coating.

(A) VOC emissions from the coating of miscellaneous metal parts and products shall not exceed the following limits for each surface coating type:

(i) 4.3 pounds per gallon (0.52 kg/liter) of coating (minus water and exempt solvent) delivered to the application system as a clear coat; or as an interior protective coating for pails and drums;

(ii) 3.5 pounds per gallon (0.42 kg/liter) of coating (minus water and exempt solvent) delivered to the application system as a low-bake coating; or that utilizes air or forced air driers;

(iii) 3.5 pounds per gallon (0.42 kg/liter) of coating (minus water and exempt solvent) delivered to the application system as an extreme performance coating, including chemical milling maskants; and

(iv) 3.0 pounds per gallon (0.36 kg/liter) of coating (minus water and exempt solvent) delivered to the application system for all other coating applications, including high-bake coatings, that pertain to miscellaneous metal parts and products;

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

(9) (No change.)

§115.423. Alternate Control Requirements.

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

(1) Emission calculations for surface coating operations performed to satisfy the conditions of §101.23 of this title (relating

to Alternate Emission Reduction "Bubble" Policy), §115.910 of this title (relating to Availability of Alternate Means of Control), or other demonstrations of equivalency with the specified emission limits in this section shall be based on the pounds of volatile organic compounds (VOC) per gallon of solids for all affected coatings. The following equation shall be used to convert emission limits from pounds of VOC per gallon of coating to pounds of VOC per gallon of solids: Figure 3: 30 TAC §115.423(a)(1)

(2) Any alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria, such as use of improved transfer efficiency in this section, may be approved by the Executive Director in accordance with §115.910 of this title if emission reductions are demonstrated to be substantially equivalent.

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

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

(1) Emission calculations for surface coating operations performed to satisfy the conditions of §101.23 of this title, §115.910 of this title, or other demonstrations of equivalency with the specified emission limits in this section shall be based on the pounds of VOC per gallon of solids for all affected coatings. The following equation shall be used to convert emission limits from pounds of VOC per gallon of coating to pounds of VOC per gallon of solids: Figure 4: 30 TAC §115.423(b)(1)

(2) Any alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria, such as use of improved transfer efficiency in this section, may be approved by the Executive Director in accordance with §115.910 of this title if emission reductions are demonstrated to be substantially equivalent.

(3) (No change.)

(4) For any surface coating process or processes at a specific property the Executive Director may approve requirements different from those in §115.421(b)(8) of this title based upon his determination that such requirements will result in the lowest emission rate that is technologically and economically reasonable. When he makes such a determination, the Executive Director shall specify the date or dates by which such different requirements shall be met and shall specify any requirements to be met in the interim. If the emissions resulting from such different requirements equal or exceed 25 tons a year for a property, the determinations for that property shall be reviewed every two years. Executive Director approval does not necessarily constitute satisfaction of all federal requirements nor eliminate the need for approval by the EPA in cases where specified criteria for determining equivalency have not been clearly identified in applicable sections of this chapter.

§115.426. Monitoring and Recordkeeping Requirements.

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

(1) Any person affected by §115.421(a) of this title (relating to Emission Specifications) shall satisfy the following recordkeeping requirements.

(A) (No change.)

(B) Records shall be maintained of the quantity and type of each coating and solvent consumed during the specified averaging period. Such records shall be sufficient to calculate the applicable weighted average of VOC for all coatings. As an alternative to the recordkeeping requirements of this subparagraph, any vehicle refinishing (body shop) operation affected by §115.421(a)(8)(B) of this title may substitute the recordkeeping requirements specified in Standard Exemption 124 as referenced in §116.211 of this title (relating to Standard Exemption List) provided that all coatings and solvents meet the emission limits of §115.421(a)(8)(B) of this title. If an affected vehicle refinishing (body shop) operation uses any coating(s) or solvent(s) which exceeds the limits of §115.421(a)(8)(B) of this title, then that vehicle refinishing (body shop) operation shall maintain daily records of the quantity and type of each coating and solvent consumed in sufficient detail to calculate the daily weighted average of VOC for all coatings and solvents.

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

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

(b) (No change.)

§115.427. Exemptions.

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following exemptions shall apply:

(1) The following coating operations are exempt from the application of §115.421(a)(9) of this title (relating to Emission Specifications):

(A) exterior of fully assembled aircraft, except as required by §115.421(a)(9)(A)(v) of this title;

(B) vehicle refinishing (body shops), except as required by §115.421(a)(8)(B) and (C) of this title;

(C) exterior of fully assembled marine vessels; and

(D) exterior of fully assembled fixed offshore structures.

(2) (No change.)

(3) The following exemptions shall apply to surface coating operations, except for aircraft prime coating controlled by §115.421(a)(9)(A)(v) of this title and vehicle refinishing (body shops) controlled by §115.421(a)(8)(B) and (C) of this title.

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

(4) (No change.)

(5) Automobile refinishing facilities in Hardin, Jefferson, and Orange Counties are exempt from the requirements of §115.421(a)(8)(B) of this title and §115.422(1) and (2) of this title (relating to Control Requirements).

(b) For Gregg, Nueces, and Victoria Counties, the following exemptions shall apply:

(1) (No change.)

(2) The following coating operations are exempt from the application of §115.421(b)(8) of this title:

(A) (No change.)

(B) vehicle refinishing (body shops);

(C) exterior of fully assembled marine vessels; and

(D) exterior of fully assembled fixed offshore structures.

(3) The following coating operations are exempt from the application of §115.421(b)(9) of this title:

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

§115.429. Counties and Compliance Schedules.

(a) All wood parts and products surface coating affected by §115.421(a)(13) of this title (relating to Emission Specifications) in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Harris, Liberty, Montgomery, Tarrant, and Waller Counties shall be in compliance with this undesignated head (relating to Surface Coating Processes) as soon as practicable, but no later than November 15, 1996.

(b) For persons affected by the change from gallon of solids to gallon of coating (minus water and exempt solvents) for calculating VOC content in §115.421 of this title, any coating operation which does not meet the emission limits (pounds of VOC per gallon of coating, minus water and exempt solvent) in §115.421 of this title but which meets the emission limits (pounds of VOC per gallon of solids) in §115.421 of this title (as in effect June 16, 1995) shall be in compliance with the emission limits (pounds of VOC per gallon of coating, minus water and exempt solvent) in §115.421 of this title as soon as practicable, but no later than December 31, 1996. All such coating operations shall continue to comply with the emission limits (pounds of VOC per gallon of solids) in §115.421 of this title (as in effect June 16, 1995) until these coating operations are in compliance with the emission limits (pounds of VOC per gallon of coating, minus water and exempt solvent) under §115.421 of this title.

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 February 15, 1996.

TRD-9602213
Kevin McCalla
Director, Legal Services Division
Texas Natural Resource Conservation Commission
Effective date: March 7, 1996
Proposal publication date: September 5, 1995
For further information, please call: (512) 239-1970

♦ ♦ ♦

Graphic Arts (Printing) by Rotogravure and Flexographic Processes

30 TAC §§115.433, 115.435-115.437, 115.439

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.

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 February 15, 1996.

TRD-9602214
Kevin McCalla
Director, Legal Services Division
Texas Natural Resource Conservation Commission
Effective date: March 7, 1996
Proposal publication date: September 5, 1995
For further information, please call: (512) 239-1970

Offset Lithographic Printing

30 TAC §§115.442, 115.443, 115.445, 115.446

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.

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 February 15, 1996.

TRD-9602215
Kevin McCalla
Director, Legal Services Division
Texas Natural Resource Conservation Commission
Effective date: March 7, 1996
Proposal publication date: September 5, 1995
For further information, please call: (512) 239-1970

Subchapter F. Miscellaneous Industrial Sources

Cutback Asphalt

30 TAC §§115.512, 115.513, 115.517

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.

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 February 15, 1996.

TRD-9602216
Kevin McCalla
Director, Legal Services Division
Texas Natural Resource Conservation Commission
Effective date: March 7, 1996
Proposal publication date: September 5, 1995
For further information, please call: (512) 239-1970

Degassing or Cleaning of Stationary, Marine, and Transport Vessels

30 TAC §§115.541-115.543, 115.546, 115.547, 115.549

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.

§115.541. Emission Specifications.

(a) For all persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas as defined in §115.10 of this title (relating to Definitions), the following emission specifications shall apply to degassing during or in preparation of cleaning.

(1) (No change.)

(2) For all transport vessels, as defined in §115.10 of this title, with a nominal storage capacity of 8,000 gallons or more:

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

(C) When conducting degassing or cleaning operations, no avoidable liquid or gaseous leaks, as detected by sight or sound, shall originate from the degassing or cleaning operations;

(D) (No change.)

(E) All transport vessels, as defined in §115.10 of this title, shall be kept vapor-tight at all times until the VOC vapors remaining in the vessel are discharged to a vapor control system.

(b) For all persons in the Beaumont/Port Arthur and Houston/Galveston areas, the following emission specifications shall apply to degassing during or in preparation of cleaning for all marine vessels, as defined in §115.10 of this title, which have a nominal storage capacity of 10,000 barrels (420,000 gallons) or more and contain VOCs.

(1)-(4) (No change.)

(5) All marine vessels, as defined in §115.10 of this title, containing VOCs shall have all cargo tank closures properly secured, or maintain a negative pressure within the tank when a closure is opened, and shall have all pressure/vacuum relief valves operating within certified limits as specified by classification society or flag state until the vapors are discharged to a vapor control system if the vessel is degassed or cleaned.

§115.542. 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 to stationary storage tanks and transport vessels.

(1) No person shall permit the degassing or cleaning of volatile organic compounds (VOC) from a stationary storage tank or transport vessel unless the vapors are processed by a vapor control system.

(2) When degassing or cleaning is effected through the hatches of a transport vessel with a loading arm equipped with a vapor collection adapter, then pneumatic, hydraulic, or other mechanical means shall be provided to force a vapor-tight seal between the adapter and the hatch. A means shall be provided to minimize liquid drainage from the degassing or cleaning device when it is removed from the hatch of any transport vessel or to accomplish drainage before such removal.

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

(5) Vapors shall be routed to the control device until a turnover of at least four vapor space volumes has occurred, or four turnovers of the vapor space under a floating roof, or the partial vapor pressure is less than 0.5 psia (19,000 ppmw, or 34,000 ppmv expressed as methane). After one of these conditions has been satisfied, the storage vessel may be vented to the atmosphere for the remainder of the degassing or cleaning process.

(b) For all persons in the Beaumont/Port Arthur and Houston/Galveston areas, the following control requirements shall apply to marine vessels:

(1) No person shall permit the degassing or cleaning of a marine vessel containing VOCs unless the vapors are processed by a vapor control system.

(2) When degassing or cleaning is effected through the hatches of a marine vessel containing VOCs with a loading arm equipped with a vapor collection adapter, then pneumatic, hydraulic, or other mechanical means shall be provided to force a vapor-tight seal between the adapter and the hatch, or a negative pressure inside the cargo tank shall be maintained. A means shall be provided to minimize liquid drainage from the degassing or cleaning device and line when they are removed from the hatch of any marine vessel containing VOCs or to accomplish drainage before such removal.

(3) (No change.)

(4) Vapors shall be routed to the control device until the marine vessel is stripped VOC liquid-free and a turnover of at least four vapor space volumes has occurred, the partial vapor pressure is less than 0.5 psia (19,000 ppmw, or 34,000 ppmv expressed as methane), or the concentration of VOC is less than 20% of lower explosion limit. After one of these conditions has been satisfied, the marine vessel may be vented to the atmosphere for the remainder of the degassing or cleaning process. §115.543. Alternate Control Requirements. 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 undesignated head 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.

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 February 15, 1996.

TRD-9602217
Kevin McCalla
Director, Legal Services Division
Texas Natural Resource Conservation Commission
Effective date: March 7, 1996
Proposal publication date: September 5, 1995
For further information, please call: (512) 239-1970

Subchapter G. Consumer-Related Sources

Consumer Products

30 TAC §§115.600, 115.614, 115.617

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.

§115.614. Innovative Products.

(a) A consumer product shall be exempt from the requirements of §115.612(a) of this title (relating to Control Requirements) if a manufacturer demonstrates to the satisfaction of the Executive Director that, due to some characteristic of the product formulation, design, delivery systems, or other factors, the use of the product will result in equal or less volatile organic compounds (VOC) emissions as compared to:

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

(b) (No change.)

(c) A manufacturer shall comply with one of the following paragraphs for any exemption claimed under this section.

(1) A manufacturer may apply in writing to the Executive Director for a pre-market approval of an exemption as follows:

(A) The application shall include the supporting documentation that demonstrates the emissions from the innovative product, including the actual physical test methods used to generate the data and, if necessary, the consumer testing undertaken to document product usage. In addition, the applicant must provide any information necessary to enable the Executive Director to establish enforceable conditions for granting the exception including the VOC content for the innovative product, and test methods for determining the VOC content. Information submitted to the Texas Natural Resource Conservation Commission (TNRCC or Commission) by an exemption applicant may be claimed as confidential, and if so claimed, shall be protected from public disclosure to the extent allowed under the Texas Open Records Act.

(B) Within 30 days of receipt of the exemption application the Executive Director shall determine whether an application is complete.

(C) Within 90 days after an application has been deemed complete, the Executive Director shall determine whether, under what conditions, and to what extent, an exemption from the requirements of §115.612(a) of this title will be permitted. The applicant and the Executive Director may mutually agree to a longer time period for reaching a decision, and additional supporting documentation may be submitted by the applicant before a decision has been reached. The Executive Director shall notify the applicant of the decision in writing and specify such terms and conditions that are necessary to ensure that emissions from the product will meet the emissions reductions specified in subsection (a) of this section, and that such emissions reductions can be enforced.

(D) If an applicant has been granted an exemption for an innovative product by another state or federal agency whose criteria for exemption meet or exceed those provided for in subsection (a) of this section, the applicant may submit such an exemption as part of the application under this section. In such a case, the Executive Director shall make its determination under subsection (e) of this section within 45 days after the application has been deemed complete.

(E) In granting an exemption for a product, the Executive Director shall establish conditions that are enforceable. These conditions may include the VOC content of the innovative product, dispensing rates, application rates, and any other parameters determined by the Executive Director to be necessary. The Executive Director shall also specify the test methods for determining conformance to the conditions established. The test methods shall include criteria for reproducibility, accuracy, sampling, and laboratory procedures.

(F) All exemptions previously granted by the Executive Director in accordance with this section, as adopted effective May 27, 1994, are deemed to be approved under this paragraph.

(2) In lieu of applying for pre-market approval under paragraph (1) of this subsection, a manufacturer may register a claim for an exemption. A consumer product shall be exempt from the requirements of §115.612(a) of this title if:

(A) The product meets the requirements of subsections (a) and (b) of this section, and the manufacturer files a registration document in writing with the Executive Director, certifying that the emissions meet these requirements, and provides the information required in subparagraph (B) of this paragraph. Retail sales in Texas of the innovative product may commence five (5) working days after receipt of the registration document by the Executive Director. Affirmative approval of the registration by the TNRCC is not required.

(B) An innovative product registration must briefly set forth any claims which form the basis for the innovative nature of the product, such as product formulation, design, delivery system, usage directions, or other factors. Additional claims not set forth in the registration may not be used to establish the innovative nature of the product, however, a manufacturer may subsequently provide additional elaboration as to the details of registered claims as necessary to satisfy an evaluation. Prior to registration, a manufacturer must have sufficiently tested the product to clearly establish the product's VOC emissions and innovative nature.

(C) If noncompliance of a registered innovative product is reported to or otherwise suspected by the TNRCC, then the TNRCC may institute an evaluation of the manufacturer's registration claims to determine if the report of noncompliance has any merit. Under this evaluation, the manufacturer shall be required to provide basic information supporting or not supporting a product's innovative claims to the Executive Director. The Executive Director may also require additional review of supporting documentation, until the Executive Director is satisfied with the legitimacy of the innovative claims. Information submitted to the Executive Director pursuant to an evaluation may be claimed as confidential, and if so claimed, shall be protected from public disclosure to the extent allowed under the Texas Open Records Act. Additional testing, completed after the submittal of an innovative product registration, may not be used to further substantiate the manufacturer's claims.

(D) If, through an evaluation, the Executive Director determines that a registered innovative product is non-compliant with the innovative product provisions under subsection (a) of this section, then the manufacturer shall be required to purchase or provide VOC emission reduction credits in each nonattainment area equivalent to twice the excess emissions determined to have occurred in the respective nonattainment area due to sale of the non-compliant product. The manufacturer shall also be required to reformulate or withdraw the non-compliant product from the market in Texas. Civil penalties may also be assessed.

(E) Neither pre-market review nor subsequent evaluation shall create an enforcement waiver and the TNRCC may revisit

innovative claims at any time the Executive Director has reason to believe that substantive circumstances have changed.

(F) The Executive Director will not consider, and the applicant may not rely upon, innovative product claims or other information submitted as confidential on a registration document.

(d) For any product for which an exemption has been granted or registration filed pursuant to this section, the manufacturer shall notify the Executive Director in writing no less than 30 days prior to any change in the product formulation, recommended product usage directions, or any information which would alter the emissions estimates submitted to the Executive Director in support of the exemption application or registration.

(e) If VOC standards are lowered for a product category through any subsequent rulemaking, all innovative product exemptions granted or registrations filed for products in the product category, except as provided in this subsection, shall have no force and effect as of the effective date of the modified VOC standard. This subsection shall not apply to innovative products which have VOC emissions less than representative products using the new VOC standard, for which a written notification of the product's emissions status versus the lowered VOC standard has been submitted to the Executive Director before the effective date of such standard, or to products manufactured prior to the effective date of the modified standard under a valid innovative product exemption or registration.

(f) If the Executive Director believes that a consumer product for which an exemption has been granted no longer meets the criteria for an innovative product specified in subsection (a) of this section, the Executive Director may modify or revoke the exemption as necessary to assure that the product will meet these criteria.

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 February 15, 1996.

TRD-9602218
Kevin McCalla
Director, Legal Services Division
Texas Natural Resource Conservation Commission
Effective date: March 7, 1996
Proposal publication date: September 8, 1995
For further information, please call: (512) 239-1970

♦ ♦ ♦

Chapter 116. Control of Air Pollution by Permits for New Construction or Modification

The Texas Natural Resource Conservation Commission (TNRCC) adopts amendments to §116.10, concerning General Definitions, and §116.116, concerning Changes to Facilities; the repeal of §116.117, concerning Distance Limitations; and new §116.112, concerning Distance Limitations, §116.117, concerning Documentation and Notification of Changes to Qualified Facilities, and §116.118, concerning Pre-change Qualification. Sections 116.10, 116.116, 116.117, and 116.118 are adopted with changes to the proposed text as published in the October 10, 1995, issue of the *Texas Register* (20 TexReg 8306). The repeal and §116.112 are adopted without changes and will not be republished. Section 116.119 is withdrawn by the TNRCC.

The TNRCC permit amendment and alteration criteria and procedures are being modified pursuant to Senate Bill 1126 (74th Legislature, 1995). The modified language will implement Senate Bill 1126 (SB 1126) to allow certain facilities the ability to make changes without requiring prior authorization.

Revisions to §116.10, concerning General Definitions, amend the current definition of new source (now new facility) and add the proposed new definitions for actual emissions, allowable emissions, Best Available Control Technology (BACT), facility, grandfathered facility, maximum allowable emission rate table, modification of existing facility, qualified facility, and source. The proposed definition for non-qualified facility was deleted as unnecessary from the adopted rule. The proposed definitions for relatively equivalent compound and net increase in allowable emissions were also deleted, however the concepts have been incorporated into the adopted §116.116(e). Definitions for grandfathered facility, facility, and source were added to the rule to clarify the meanings of these terms.

Revisions to §116.116, concerning Changes to Facilities, establish the criteria by which changes at qualified facilities may be made without triggering the requirements for obtaining a permit amendment or permit alteration. To make the requirements easier to understand, new §116.116(e) consolidates in one location the principal provisions which cover changes made to qualified facilities. These provisions include the criteria for facility qualification and the methods for determining the net effect of emission increases and decreases, compound interchanges, and intraplant trading of emissions. This section explicitly prohibits the construction of new facilities or the lessening of controls since neither was intended to be included within the flexibility intended under SB 1126. It also requires facilities to install current BACT if the purpose of the installation is to become a qualified facility.

Revisions to §116.117, concerning Documentation and Notification of Changes to Qualified Facilities, establish the requirement for record keeping of all changes made under the adopted §116.116(e) at the facility and the types of notification associated with specific scenarios. Section 116.117(a) requires that the records be maintained on-site and that they are presented to the TNRCC upon request in order to make proper inspection of the changes made at the facility. Section 116.117(a) also identifies the type of information to be included in these records. There are three types of notification required under §116.117(b) for changes to facilities: an annual report, which covers the previous year's changes not notified by the other two means; post-change notification, which covers changes for which there was an intraplant trade of emissions below the reportable limit; and pre-change notification, which covers intraplant trades above the reportable limit. The reportable limit has been established as a screening approach to allow the commission an opportunity to review certain intraplant trades. Section 116.117(d) was established to provide another method, in addition to permit alteration procedures, for those permitted facilities making changes pursuant §116.116(e) that would result in a violation of a permit special condition. This subsection requires a permit holder to identify the permit special conditions that are made invalid by a change made pursuant §116.116(e) and de-