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(D) **present satisfactory sworn evidence of same; and** [hold active/current license to practice vocational/practical nursing in another state; and]

(E) **temporary permits will expire in 90 days or on receipt of a license, whichever comes first.** [present satisfactory sworn evidence of same.]

(2) **Temporary permits may be issued to individuals who do not meet licensure requirements in order to meet additional board staff specified training, education, or examination requirements. Temporary permits issued for the purpose of meeting board staff requirements expire on the date indicated on the temporary permits.** [Temporary permits will expire in 90 days or on receipt of a license, whichever comes first.]

(d) (No change.)

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

Issued in Austin, Texas, on April 15, 1996.

TRD-9605225 Marjorie A. Bronk, R.N.
Executive Director
Board of Vocational Nurse Examiners

Earliest possible date of adoption: May 27, 1996

For further information, please call: (512) 305-8100

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TITLE 30. ENVIRONMENTAL QUALITY

**Part I. Texas Natural Resource
Conservation Commission**

**Chapter 115. Control of Air Pollution from
Volatile Organic Compounds**

**Subchapter C. Volatile Organic Compound
Transfer Operations**

**Loading and Unloading of Volatile Organic
Compounds**

• **30 TAC §115.214, §115.216**

The commission proposes amendments to §115.214 and §115.216, concerning Loading and Unloading of Volatile Organic Compounds (VOC). The proposed revision to §115.214, concerning Inspection Requirements, would remove the requirement to comply with the fugitive emissions monitoring requirements of §§115.352-115.357 and 115.359, and substitute a requirement for an audio-visual-olfactory (AVO) walkthrough monitoring program for control of equipment leaks at gasoline terminals. The proposed revision to §115.216, concerning Monitoring and Recordkeeping Requirements, would replace the reporting and recordkeeping requirements applicable to §§115.352-115.357 and 115.359 with reporting and recordkeeping requirements for an AVO program. The proposal is in response to a petition for rulemaking, received by the agency on February 15, 1996.

The Federal Clean Air Act (CAA) requires states to adopt a Rate-of-Progress (ROP) State Implementation Plan (SIP) which achieves by November 15, 1996, in each moderate and above ozone nonattainment area, a 15% net-of-growth reduction in the VOC emissions level. The requirement for gasoline terminals to meet the fugitive emissions monitoring requirements of §§115.352-115.357 and 115.359, part of the 15% ROP SIP for the Houston/Galveston, Dallas/Fort Worth, and El Paso ozone nonattainment areas, was adopted by the commission in May, 1994. The commission originally added the instrument inspection requirement because, at the time, gasoline terminals were characterized by the same equipment leak emission factors as refineries. It was believed that an extension of the fugitive monitoring rule (which applies to refineries) to gasoline terminals would produce meaningful

additional emission reductions that could be credited towards the 15% ROP requirements.

During the development of the federal Maximum Achievable Control Technology (MACT) standards for gasoline terminals (promulgated December 14, 1994; 59 FR 64303), the United States Environmental Protection Agency (EPA) revised the requirement for control of equipment leak fugitives from a quarterly instrument monitoring program to a monthly AVO program. The EPA relaxed the requirement in response to data submitted by the American Petroleum Institute which showed that: 1) emission factors for gasoline terminals using an AVO monitoring program are over 99% lower than the 1980 AP-42 refinery equipment emission factors that the EPA had used for the development of the proposed MACT standard, and 2) gasoline terminals that implemented an AVO program achieved essentially equivalent emission reductions as those terminals that used an instrument monitoring program.

The proposed revision of §115.214(a)(5) would remove the requirement for an instrument leak detection and repair program for the control of equipment leaks at gasoline terminals and would replace it with a requirement for an AVO inspection program. The proposed revision will allow up to 15 days for repair of a leaking component. In addition, a proposed minor revision to §115.214(a)(4)(E) would correct a rule reference. The proposed revision of §115.216(a)(7) would replace the reporting and recordkeeping requirements applicable to §§115.352-115.357 and 115.359 with reporting and recordkeeping requirements for an AVO program.

The proposed revision of §115.214(a)(5) and §115.216(a)(7) would make the Chapter 115 fugitive component monitoring requirements for gasoline terminals consistent with the recently adopted federal MACT standards for gasoline terminals, the New Source Performance Standards for gasoline terminals, and allow for cost-effective implementation of this rule.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state and local governments as a result of enforcing or administering the proposed amendments.

Mr. Minick also has determined that for each year of the first five years the proposed sections are in effect, the public benefit anticipated as a result of implementing the sections will be satisfaction of CAA Amendments and EPA requirements, and more cost-effective control of VOC emissions from gasoline terminals. Cost savings to owners or operators of gasoline terminals would result from this rule amendment. There is no anticipated cost to small businesses, persons, or businesses who are required to comply with the rules as proposed.

The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of the rule amendment is to make the Chapter 115 fugitive component monitoring requirements for gasoline terminals consistent with the recently adopted MACT standards, the New Source Performance Standards for gasoline terminals, and allow for cost-effective implementation of the rule. Promulgation and enforcement of this rule amendment will not affect private real property which is the subject of the rule because the change is a relaxation of existing requirements.

A public hearing on this proposal will be held in Austin on May 28, 1996 at 10:00 a.m. in Building F, Room 2210 at the Texas Natural Resource Conservation Commission complex located at 12100 North IH-35, Park 35 Technology Center, Austin. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments may be mailed to Heather Evans, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96120-115-AI. Comments must be received by 5:00 p.m. June 7, 1996. For further information, please contact Ann Hammer, Air Policy and Regulations Division, (512) 239-6255.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

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

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

§115.214. Inspection Requirements.

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

(1)-(3) (No change.)

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

(A)-(D) (No change.)

(E) All shore-based equipment is subject to the fugitive emissions monitoring requirements of §§115.352-115.357 and 115.359 [§§115.352-115.359] of this title (relating to Fugitive Emission Control in Petroleum Refining and Petrochemical Processes). For the purposes of this paragraph, shore-based equipment includes, but is not limited to, all equipment such as loading arms, pumps, meters, shutoff valves, relief valves, and other piping and valves between the marine loading facility and the vapor recovery system and between the marine loading facility and the associated land-based storage tanks, excluding working emissions from the storage tanks.

(5) After November 15, 1996, each gasoline terminal, as defined in §115.10 of this title, in the Dallas/Fort Worth, El Paso, and Houston/Galveston areas **shall perform a monthly leak inspection of all equipment in gasoline service. Each monthly leak inspection shall be conducted during the loading of gasoline tank trucks. For this inspection, detection methods incorporating sight, sound, or smell are acceptable. Alternatively, gasoline terminals may use a hydrocarbon gas analyzer for the detection of leaks, by meeting the requirements of §§115.352-115.357 and 115.359. Each leak shall be repaired within 15 days after it is detected.** [is subject to the fugitive emissions monitoring requirements of §§115.352-115.359 of this title.]

(b) (No change.)

§115.216. Monitoring and Recordkeeping Requirements.

(a) For volatile organic compound (VOC) loading or unloading operations in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas affected by §115.211(a) and §115.212(a) of this title (relating to Emission Specifications; and Control Requirements), the owner or operator shall maintain the following information at the plant as defined by its Texas Natural Resource Conservation Commission air quality account number for at least two years and shall make such information available upon request to representatives of the TNRCC, United States Environmental Protection Agency (EPA), or any local air pollution control agency having jurisdiction in the area:

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

(7) For gasoline terminals in the Dallas/Fort Worth, El Paso, and Houston/Galveston areas, records of the results of the required fugitive monitoring and maintenance program, **as specified in §115.214(a)(5) of this title, shall be maintained at the plant site for two years, and shall include the following:**

(A) a description of the types, identification numbers, and locations of all equipment in gasoline service;

(B) the date of each monthly inspection;

(C) the results of each inspection;

(D) the location, nature, severity, and method of detection for each leak;

(E) the date each leak is repaired and explanation if repair is delayed beyond 15 days;

(F) the inspector's name and signature. [shall include appropriate dates, test methods, instrument readings, repair results, and corrective action taken. Records of flange inspections are not required unless a leak is detected.]

(8) (No change.)

(b) (No change.)

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

Issued in Austin, Texas, on April 17, 1996.

TRD-9605297

Kevin McCalla
Director, Legal Services Division
Texas Natural Resource Conservation Commission

Proposed date of adoption: July 31, 1996

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

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TITLE 34. PUBLIC FINANCE
Part II. Texas State Treasury Department
Chapter 15. Electronic Transfer of Certain
Payments to State Agencies

• 34 TAC §§15.1-15.17

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

The Texas State Treasury proposes the repeal of 34 TAC §§15.1-15.17 concerning the Electronic Transfer of Certain Payments to State Agencies. The Treasury is proposing new sections 34 TAC §§15.1-15.18 concurrently with the repeal of the these sections. The new rules are consistent with changes to Texas Government Code §404.095 and are needed to clarify requirements for the electronic transfer of payments to state agencies.

John Bell, Assistant Deputy Treasurer, has determined that there will not be fiscal implications as a result of repealing the old rules and enforcing or administering the new rules. Texas Government Code §404.095 provides that a state agency may assess a penalty in an amount equal to five percent of the payment amount for a person's failure to comply with the rules. The rules do not provide for any additional penalties beyond that allowed by the statute.

Mr. Bell also has determined that for each year of the first five years the repeals as proposed are in effect the public benefits anticipated as a result of enforcing the new rules as proposed will be increased efficiency through the more timely receipt of payments by electronic funds transfer and reduced paperwork. The repeal of the old rules and compliance with the new rules should reduce the economic cost to persons who are required to comply with the new rules as proposed through a reduction in paperwork and the automation of payments.

Comments on the repeal of the rules may be submitted to: Ellen Rathgeber, Staff Attorney, Texas State Treasury, P.O. Box 12608, Austin, Texas 78711-2608.