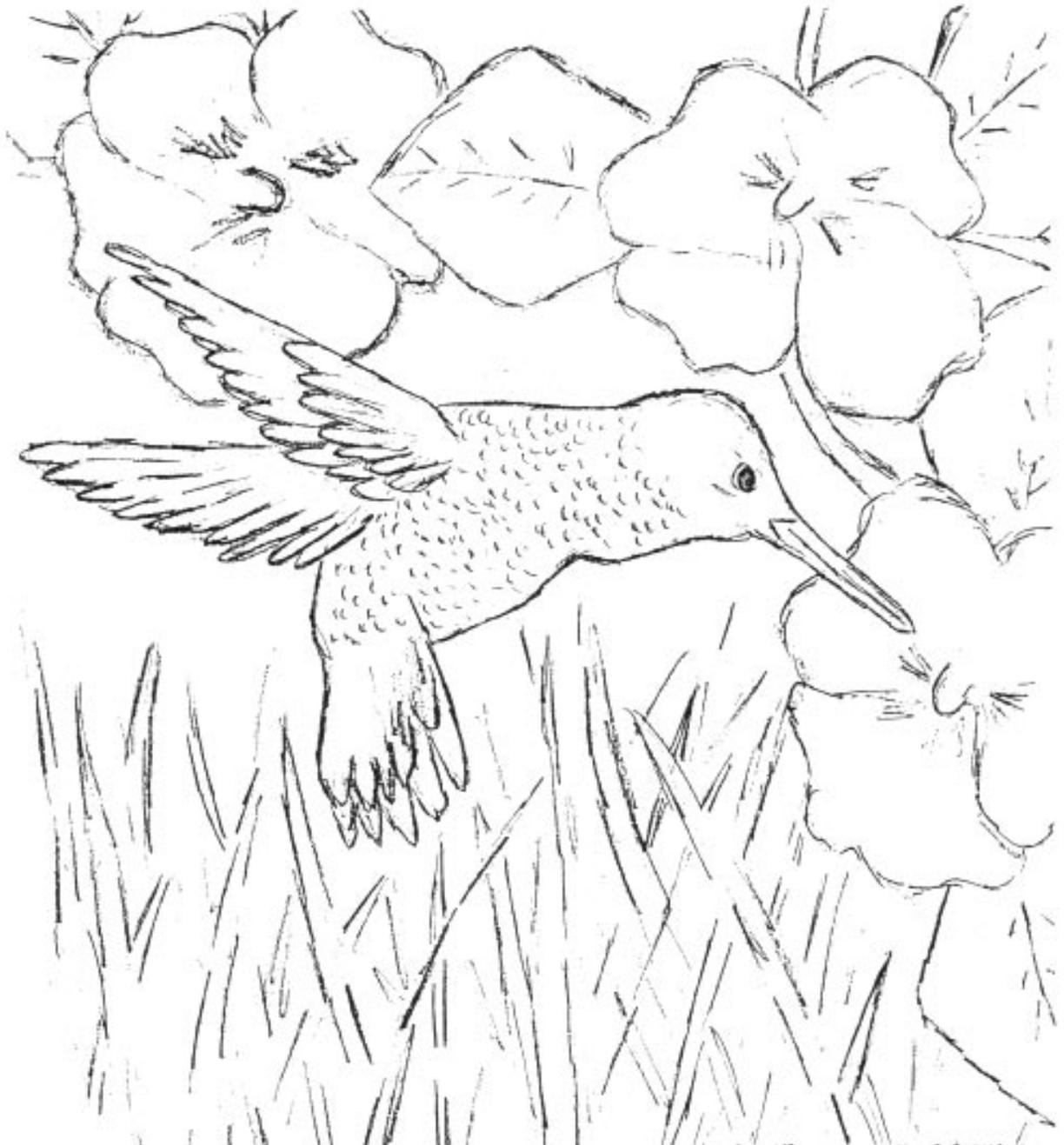


# TEXAS REGISTER

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22 TAC §781.216.....	7382	<b>Texas Board of Pardons and Paroles</b>	
22 TAC §§781.302, 781.303, 781.309, 781.311.....	7383	General Provisions	
22 TAC §781.401, §781.402.....	7383	37 TAC §141.111.....	7413
22 TAC §781.505, §781.511.....	7383	Parole	
<b>Texas Department of Mental Health and Mental Retardation</b>		37 TAC §145.3.....	7414
Other Agencies and the Public		37 TAC §145.12.....	7414
25 TAC §403.46, §403.48.....	7384	<b>Commission on Jail Standards</b>	
Internal Facilities Management		Construction Approval Rules	
25 TAC §407.200.....	7384	37 TAC §257.9.....	7415
<b>Texas Natural Resource Conservation Commission</b>		New Construction Rules	
General Rules		37 TAC §259.138.....	7415
30 TAC §101.24, §101.27.....	7385	Existing Construction Rules	
Control of Air Pollution From Motor Vehicles		37 TAC §261.138.....	7415
30 TAC §114.11.....	7400	Admission	
30 TAC §§114.30-114.40.....	7400	37 TAC §265.13.....	7416
30 TAC §114.21.....	7406	Records and Procedures	
Control of Air Pollution from Volatile Organic Compounds		37 TAC §269.4.....	7416
30 TAB §115.214, §115.216.....	7407	<b>Texas Department of Human Services</b>	
30 TAC §115.616.....	7409	Income Assistance Services	
Control of Air Pollution From Nitrogen Compounds		40 TAC §3.301.....	7420
30 TAC §117.540.....	7410	40 TAC 3.7001–3.7004.....	7420
<b>Texas Department of Public Safety</b>		Primary Home Care	
Traffic Law Enforcement		40 TAC §47.2913.....	7421
37 TAC §3.63.....	7413		

the emission reductions from an instrument program are equivalent to, not in excess of, those resulting from an AVO program.

The amendments are adopted 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.

*§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 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 piece of equipment shall be inspected during the loading of gasoline tank trucks. For this inspection, detection methods incorporating sight, sound, and 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 of this title. Every reasonable effort shall be made to repair or replace a leaking component within 15 days after a leak is found. If the repair or replacement of a leaking component would require a unit shutdown, the repair may be delayed until the next scheduled shutdown.

(b) (No change.)

*§115.216. Monitoring and Recordkeeping Requirements.*

(a) For volatile organic compound (VOC) loading or unloading operations in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas affected by §115.211(a) or §115.212(a) of this title (relating to Emission Specifications; and Control Requirements), the owner or operator shall maintain the following information at the plant as defined by its Texas Natural Resource Conservation Commission air quality account number for at least two years and shall make such information available upon request to representatives of the commission, 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) a list identifying those leaking components which cannot be repaired or replaced until a scheduled unit shutdown; and

(G) the inspector's name and signature.

(8) (No change.)

(b) (No change.)

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

Issued in Austin, Texas, on July 26, 1996.

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Director, Legal Division

Texas Natural Resource Conservation Commission

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

## Subchapter G. Consumer-Related Sources

### Consumer Products

#### 30 TAC §115.616

The Texas Natural Resource Conservation Commission (commission) adopts an amendment to Subchapter G (Consumer-Related Sources; Consumer Products), §115.616, concerning Recordkeeping and Reporting Requirements. The amendment is adopted with changes to the proposed text as published in the May 7, 1996, *Texas Register* (21 TexReg 3908).

Chapter 115, Subchapter G ("consumer products rule") establishes volatile organic compound (VOC) limitations, applicable statewide, for 24 categories of consumer products such as household cleaners, hairsprays, deodorants, and windshield washer fluid. Prior to this adoption, §115.616(a) of the consumer products rule required that each consumer product container or package display the day, month, and year of manufacture, or a code indicating that date, if it is manufactured after January 1, 1995. As an alternative to the product dating requirement, the current adoption allows manufacturers of regulated consumer products to display information on the product container or package, stating that the product was manufactured after the rule's applicable compliance date. The amendment offer additional flexibility and cost savings to regulated industries, particularly small businesses which might not otherwise

provide date stamping, without affecting the agency's ability to effectively enforce the rule.

The commission 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 provide an alternative method of complying with the rule's date stamping requirement. The rule amendment will substantially advance this specific purpose by allowing certain identifying information to be displayed on the package container or label. Promulgation and enforcement of the rule amendment will not affect private real property which is the subject of the rule because the change is only to provide an alternative method of rule compliance.

A public hearing on this proposal was held May 28, 1996, at the commission's Austin offices. Written comments were received from the Chemical Specialties Manufacturers Association (CSMA), the International Sanitary Supply Association (ISSA), and an individual in support of the proposed amendment; and from the United States Environmental Protection Agency (EPA) Region 6 Dallas office in general support of the amendment. An individual expressed support for the rule amendment, since they would make enforcement easier. The CSMA supported the rule amendment, stating that they balanced regulatory and industry needs while maintaining flexibility. The ISSA also supported the amendment, citing cost savings to small businesses, facilitation of interstate marketing of consumer products, and no hindrance to state enforcement capabilities.

The commission acknowledges support for the amendment.

The EPA suggested revising the rule to simply allow a statement on the product package or label identifying the product's allowable VOC limitation. The EPA stated that modifying the rule in this manner would eliminate the need for case-by-case executive director approval, simplify application and enforcement of the rule, and provide useful information to the consumer.

The staff supports the EPA's intent to further streamline the rule, thus retaining flexibility while eliminating the need for executive director approval. In the interests of simplifying rule application, slightly different rule language has been added to allow, as an alternative to date stamping or coding, a statement that the product was manufactured after the applicable compliance date. This approach still provides the agency with necessary information for enforcement purposes, with the added advantage that it parallels the former requirement to display the date of manufacture or a code indicating that date.

The amendment is adopted 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.

*§115.616. Recordkeeping and Reporting Requirements.*

(a) Each manufacturer of a consumer product subject to §115.612 of this title (relating to Control Requirements) shall clearly display on each container or package for any consumer product

regulated under this subchapter, and manufactured after January 1, 1995, one of the following:

- (1) the day, month, and year on which the product was manufactured;
  - (2) a code indicating such date; or
  - (3) a statement that the product was manufactured after a certain day, month, and year which is later than January 1, 1996.
- (b)-(d) (No change.)

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

Issued in Austin, Texas, on July 26, 1996.

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

## Chapter 117. Control of Air Pollution From Nitrogen Compounds

### Subchapter D. Administrative Provisions

#### 30 TAC §117.540

The commission adopts amendments to §117.540, concerning Phased Reasonably Available Control Technology. The amendments are adopted with changes to the proposed text as published in the May 14, 1996 *Texas Register* (21 TexReg 4213). Chapter 117 was originally adopted in May, 1993 in response to a requirement by the United States Environmental Protection Agency (EPA) and the 1990 Federal Clean Air Act (FCAA) Amendments for states to apply reasonably available control technology (RACT) requirements to major sources of nitrogen oxides (NO<sub>x</sub>). Section 117.540 provides a mechanism for affected companies to petition the agency for additional time to comply with Chapter 117 requirements. Chapter 117 applies in the following counties designated nonattainment for ozone: Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller (Houston/Galveston (HGA) ozone nonattainment area) and Hardin, Jefferson, and Orange (Beaumont/Port Arthur (BPA) ozone nonattainment area).

In addition, the 1990 FCAA amendments require states to either adopt the Federal Clean Fuel Fleet program, or implement a program which demonstrates equivalent emission reductions to the federal program. In 1995 the 74th Texas Legislature, through the passage of Senate Bill (SB) 200, amended the requirements of the Texas Clean Air Act (TCAA), Chapter 382, Subchapter F, Health and Safety Code, affecting the state's alternative fuels program. This legislation directs the commission to adopt rules to implement the requirements of the statute. The current amendments are adopted, as required by SB 200, to implement an economic incentive program to help reduce vehicle emissions and provide flexibility for fleet operators.