

# TEXAS REGISTER

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The commission appreciates the support.

#### STATUTORY AUTHORITY

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.

#### §101.1. 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.

Component-A piece of equipment, including, but not limited to, pumps, valves, compressors, and pressure relief valves, which has the potential to leak volatile organic compounds.

Leak-A volatile organic compound concentration greater than 10,000 parts per million by volume (ppmv) or the amount specified by applicable rule, whichever is lower; or the dripping or exuding of process fluid based on sight, smell, or sound.

Synthetic Organic Chemical Manufacturing Industry (SOCMI) batch distillation operation-A SOCMI noncontinuous distillation operation in which a discrete quantity or batch of liquid feed is charged into a distillation unit and distilled at one time. After the initial charging of the liquid feed, no additional liquid is added during the distillation operation.

Synthetic Organic Chemical Manufacturing Industry (SOCMI) batch process -Any SOCMI noncontinuous reactor process which is not characterized by steady-state conditions, and in which reactants are not added and products are not removed simultaneously.

Synthetic Organic Chemical Manufacturing Industry (SOCMI) distillation operation-A SOCMI operation separating one or more feed stream(s) into two or more exit streams, each exit stream having component concentrations different from those in the feed stream(s). The separation is achieved by the redistribution of the components between the liquid and vapor-phase as they approach equilibrium within the distillation unit.

Synthetic Organic Chemical Manufacturing Industry (SOCMI) distillation unit-A SOCMI device or vessel in which distillation operations occur, including all associated internals (including, but not limited to, trays and packing), accessories (including, but not limited to, reboilers, condensers, vacuum pumps, and steam jets), and recovery devices (such as absorbers, carbon adsorbers, and condensers) which are capable of, and used for, recovering chemicals for use, reuse, or sale.

Synthetic Organic Chemical Manufacturing Industry (SOCMI) reactor process -A SOCMI unit operation in which one or more chemicals, or reactants other than air, are combined or decomposed in such a way, that their molecular structures are altered and one or more new organic compounds are formed.

Tank-truck tank-Any storage tank having a capacity greater than 1,000 gallons, mounted on a tank-truck or trailer. Vacuum trucks used

exclusively for maintenance and spill response are not considered to be tank-truck tanks.

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 and construction equipment 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, 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca), 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb), 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee), carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, and perfluorocarbon compounds which fall into these classes:

(A)-(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 May 2, 1997.

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Texas Natural Resource Conservation Commission

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## Chapter 115. Control of Air Pollution From Volatile Organic Compounds

The commission adopts amendments to §115.10, concerning Definitions; §§115.112, 115.114-115.116, and 115.119, concerning Storage of Volatile Organic Compounds (VOC); §§115.121-115.123, 115.126, 115.127 and 115.129, concerning Vent Gas Control; §§115.132, 115.136, and 115.137, concerning Water Separation; §§115.146, 115.147, and 115.149, concerning Industrial Wastewater; §§115.153, 115.156, and 115.159, concerning Municipal Solid Waste Landfills; §§115.211, 115.212, 115.214-115.217, and 115.219, concerning Loading and Unloading of VOC; §§115.221-115.223, and 115.226, concerning Filling of Gasoline Storage

Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities; §115.253 and §115.256, concerning Control of Reid Vapor Pressure of Gasoline; §§115.311-115.313, and 115.319, concerning Process Unit Turn-around and Vacuum-Producing Systems in Petroleum Refineries; §§115.322-115.327 and 115.329, concerning Fugitive Emission Control in Petroleum Refineries in Gregg, Nueces, and Victoria Counties; §§115.352-115.354, 115.356, and 115.357, concerning Fugitive Emission Control in Petroleum Refining and Petrochemical Processes in Ozone Nonattainment Areas; §§115.421, 115.422, 115.424, 115.426, and 115.427, concerning Surface Coating Processes; §§115.442, 115.446, and 115.449, concerning Offset Lithographic Printing; §§115.532, 115.533, 115.536, 115.537, and 115.539, concerning Pharmaceutical Manufacturing Facilities; and §§115.552, 115.553 and 115.559, concerning Petroleum Dry Cleaning Systems. The commission also adopts the repeal of §§115.332-115.337 and 115.339, concerning Fugitive Emission Control in Synthetic Organic Chemical, Polymer, Resin, and Methyl Tert-Butyl Ether Manufacturing Processes; and §§115.342-115.347 and 115.349, concerning Fugitive Emission Control in Natural Gas/Gasoline Processing Operations.

Adopted with changes to the proposed text as published in the November 19, 1996, issue of the *Texas Register* (21 TexReg 11231) are §§115.10, 115.122, 115.126, 115.132, 115.137, 115.147, 115.153, 115.211, 115.212, 115.214, 115.217, 115.219, 115.222, 115.223, 115.253, 115.312, 115.313, 115.323, 115.353, 115.357, 115.422, 115.427, 115.442, 115.532, 115.533, 115.552, and 115.553. Sections 115.112, 115.114-115.116, 115.119, 115.121, 115.123, 115.127, 115.129, 115.136, 115.146, 115.149, 115.156, 115.159, 115.215, 115.216, 115.221, 115.226, 115.256, 115.311, 115.319, 115.322, 115.324-115.327, 115.329, 115.352, 115.354, 115.356, 115.421, 115.424, 115.426, 115.446, 115.449, 115.536, 115.537, 115.539, and 115.559 are adopted without changes and will not be republished. The repeals of §§115.332-115.337 and 115.339; and §§115.342-115.347 and 115.349 are adopted without changes and will not be republished.

#### EXPLANATION OF ADOPTED RULES

The commission adopts these revisions to Chapter 115 and to the State Implementation Plan (SIP) in order to make a variety of changes which correct and update rule references, correct references to federal test methods, clarify and add flexibility to control requirements, correct errors, extend an existing exemption for pulp and paper vent gas streams, update terminology for consistency throughout Chapter 115, add exemptions to the VOC water separation rules to complete previous rulemaking, delete two fugitive monitoring work practice requirements (directed maintenance and instrument monitoring of leaks detected by sight/sound/smell), delete definitions which are no longer needed, delete the attainment date from the contingency rules to provide future flexibility, and delete language and rules made obsolete by the passing of compliance dates. The commission also changed the title of Subchapter D to Petroleum Refining, Natural Gas Processing, and Petrochemical Operations to more accurately reflect the content of this subchapter. In addition, the commission changed the titles of two fugitive monitoring undesignated heads to Fugitive Emission Control in Petroleum Refineries in Gregg, Nueces, and Victoria Coun-

ties; and Fugitive Emission Control in Petroleum Refining, Natural Gas/Gasoline Processing, and Petrochemical Processes in Ozone Nonattainment Areas to more accurately reflect the rule content. A second phase of rulemaking is expected later in 1997 to address additional issues regarding the Chapter 115 fugitive monitoring rules.

The changes to §115.10, concerning Definitions, replace the definition of delivery vessel/tank-truck tank with a definition of tank-truck tank to ensure the use of consistent terminology in various rules; revise the definition of fugitive emission for consistency with the corresponding definition in §101.1, concerning Definitions; update the definition of leak to be consistent with the requirements of §115.352, regarding Control Requirements; revise the definition of Synthetic Organic Chemical Manufacturing Industry (SOCMI) batch distillation operation, SOCMI batch process, SOCMI distillation operation, SOCMI distillation unit, and SOCMI reactor process to clarify the applicability of these definitions; delete the definitions of polyester resin materials, polyester resin operation, and utility engines because these terms are no longer used within Chapter 115; revise the definition of VOC for consistency with the recently revised federal definition; and revise the definition of vehicle refinishing (body shops) by deleting the repair and recoating of vehicles at in-house (fleet) vehicle refinishing operations and vehicles by private individuals from the list of operations which are excluded from this definition. In concurrent action, the commission added an exemption to §115.427, concerning Exemptions, which excludes the repair and recoating of vehicles at in-house (fleet) vehicle refinishing operations and vehicles by private individuals from the Chapter 115 vehicle refinishing (body shops) emission specifications and control requirements. The changes to the definition of VOC add 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca), 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb), and 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee) to the list of compounds which are not classified as VOCs. 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 61 *Federal Register* (FR) 52847).

The changes to §115.112, concerning Control Requirements, clarify that the requirement for rim-mounted secondary seals is applicable to external floating roof storage tanks but not internal floating roof storage tanks. The changes to §115.114, concerning Inspection Requirements, correct a rule reference and revise references to TNRCC and the executive director for consistency with the commission's style guidelines. The changes to §115.115, concerning Approved Test Methods, correct a reference to a federal test method and add the effective dates of referenced federal rules for consistency with the commission's style guidelines. The change to §115.116, concerning Monitoring and Recordkeeping Requirements, revises references to TNRCC and the executive director for consistency with the commission's style guidelines. The revision to §115.119, concerning Counties and Compliance Schedules, more clearly specifies the compliance schedule for a previously adopted requirement to conduct annual visual inspections of internal floating roof storage tanks in ozone nonattainment counties.

The changes to §115.121, concerning Emission Specifications, and §115.122, concerning Control Requirements, substitute the term "control" for "burn" and modify the existing requirement in §115.122 to burn vent gas streams in a flare or direct-flame incinerator by adding an option to control the emissions with a vapor recovery system meeting a specified control efficiency. This option was previously located in §115.123, concerning Alternate Control Requirements. These changes, which consolidate control options and requirements into one section, make the rule more logical and eliminate confusing wording. The changes to §115.121(a) also consolidate previous paragraphs (2) and (3) for improved readability. In addition, the changes to §115.122 update rule references and revise references to TNRCC and the executive director for consistency with the commission's style guidelines. The changes to §115.123, concerning Alternate Control Requirements, correct a rule reference and eliminate language which is no longer necessary due to the revisions to §115.121 and §115.122.

The revisions to §115.126, concerning Monitoring and Recordkeeping Requirements, clarify that §115.126(a)(3) and §115.126(b)(3) are alternatives to the requirements of §115.126(a)(2) and §115.126(b)(2), respectively. The revisions to §115.126 also clarify that §115.126(a)(3) and §115.126(b)(3) may be used if the vent gas stream qualifies for either the VOC emission rate exemption or the VOC concentration exemption, rather than having to meet both criteria, for consistency with §115.127, concerning Exemptions. The revisions to §115.126(a)(3) and §115.126(b)(3) also simplify the recordkeeping requirements for exempt process vents which remain below 50% of an applicable exemption. In addition, the changes to §115.126 revise references to TNRCC and the executive director for consistency with the commission's style guidelines. Finally, a new §115.126(a)(6) has been added to relocate a flare pilot light monitoring requirement from §115.122(2).

The revisions to §115.127, concerning Exemptions, update rule references and extend an existing exemption for pulp and paper vent gas streams from November 15, 1998, until November 15, 1999, due to EPA's delay in promulgating the pulp and paper industry Maximum Achievable Control Technology rules. The delay will not result in loss of SIP emission reduction credits because the reductions will still be achieved by the November 15, 1999, SIP deadline. In addition, the revisions to §115.127 clarify that while SOCM I batch processes are exempt from the SOCM I reactor/distillation vent gas stream control requirements, these SOCM I batch process vent gas streams continue to be subject to the general vent gas stream control requirements. This corrects an error in the rule cross-references of §115.127(a)(2)(E) that inadvertently occurred in the February 14, 1996, adoption of revisions to the vent gas rules. For improved readability, the revisions to §115.127(c) also consolidate paragraphs (1) and (2)(A)-(B), and revise the wording of the exemption in paragraph (2)(C) and relocate it to §115.127(c)(2). In addition, the changes to §115.127 add the effective dates of referenced federal rules for consistency with the commission's style guidelines. The revisions to §115.129, concerning Counties and Compliance Schedules, update rule references and revise references to TNRCC and the executive director for consistency with the commission's style guidelines.

The changes to §115.132, concerning Control Requirements, and §115.137, concerning Exemptions, complete a previous rulemaking action which was adopted by the commission on October 25, 1995. The revisions now being adopted could not be adopted at that time because revisions had not been proposed in the initial rulemaking proposal, as required by the *Texas Register*. The changes to §115.132 specify the conditions under which VOC water separators may vent to the atmosphere without vapor recovery, and update a rule reference. In addition, the changes to §115.132 and §115.136, concerning Monitoring and Recordkeeping Requirements, revise references to TNRCC and the executive director for consistency with the commission's style guidelines. The changes to §115.137 add an exemption for VOC water separators in Gregg, Nueces, and Victoria Counties which are designed solely to capture stormwater, spills, or exterior surface cleanup waters.

The changes to §115.146, concerning Monitoring and Recordkeeping Requirements, and §115.147, concerning Exemptions, revise references to TNRCC and the executive director for consistency with the commission's style guidelines. The revisions to §115.147 also delete the 80% overall control option, and revise the 90% overall control option to allow companies which missed the initial control plan submittal deadlines to use this option. The revision to §115.149, concerning Counties and Compliance Schedules, deletes the attainment date for Beaumont/Port Arthur from the contingency rule. Elimination of the specific date will not affect the validity of this contingency rule but will provide flexibility in the event that the attainment date is changed again in the future and will eliminate the need for a future rule change in that event.

The changes to §115.153, concerning Alternate Control Requirements, correct a rule reference and update a reference to §115.910 to reflect a title change. The change to §115.156, concerning Monitoring and Recordkeeping Requirements, and §115.159, concerning Counties and Compliance Schedules, revises references to TNRCC and the executive director for consistency with the commission's style guidelines. The revision to §115.159 also deletes an inaccurate attainment date for Houston/Galveston from the contingency rule. Elimination of the specific date will not affect the validity of this contingency rule but will provide flexibility in the event that the attainment date is changed in the future and will eliminate the need for a future rule change in that event.

The changes to §§115.211, 115.212, 115.214, 115.216, 115.217, and 115.219, concerning Emission Specifications; Control Requirements; Inspection Requirements; Monitoring and Recordkeeping Requirements; Exemptions; and Counties and Compliance Schedules, delete language which no longer applies after a November 15, 1996, compliance date passed; renumber other paragraphs within these sections as appropriate; and update rule references which need to be changed due to this renumbering. In addition, the changes to §115.211 clarify existing requirements. The changes to §115.212 also update a rule reference, clarify existing requirements, specify alternatives if no documentation of a marine vessel's annual vapor tightness test is available, and specify that the requirement to discharge the vapors remaining in a transport vessel after unloading to a vapor recovery system do not apply if the transport vessel is refilled, degassed, and/

or cleaned at an operation for which control of the vapors is not required. In addition, the changes to §§115.212, 115.216, and 115.217 revise references to TNRCC and the executive director for consistency with the commission's style guidelines. The changes to §115.214 also update a rule reference due to a title change. The changes to §115.216 also add the effective dates of referenced federal rules for consistency with the commission's style guidelines.

The changes to §115.215, concerning Approved Test Methods, add a second test method for determining marine vessel vapor tightness in order to provide additional flexibility. The changes to §115.217 also clarify the applicability of an existing exemption to marine loading operations and clarify that marine terminals with less than 100 tons per year (TPY) of VOC emissions only include marine loading emissions in the 100 TPY calculation. In addition, the changes to §115.217 add an exemption for motor vehicle fuel dispensing facilities, and make more general the location to which control plans are directed by replacing references to the Office of Air Quality with a reference to the executive director. Finally, the changes to §115.217 delete the 80% overall control option, and revise the 90% overall control option to allow companies which missed the initial control plan submittal deadlines to use this option.

The changes to §§115.221, 115.222, and 115.226, concerning Emission Specifications; Control Requirements; and Record-keeping Requirements, replace the term delivery vessel with tank-truck tank for consistency with the terminology elsewhere in Chapter 115. The changes to §115.222 also specify that the requirement to discharge the vapors remaining in a tank-truck tank after unloading to a vapor recovery system do not apply if the tank-truck tank is refilled, degassed, and/or cleaned at an operation for which control of the vapors is not required. The changes to §115.223, concerning Alternate Control Requirements, correct a rule reference and update a reference to §115.910 to reflect a title change. In addition, the changes to §115.226 replace certification number with the identification number and the date of the last leak testing for consistency with the requirements and terminology elsewhere in Chapter 115.

The changes to §115.253, concerning Alternate Control Requirements, correct a rule reference and update a reference to §115.910 to reflect a title change. The change to §115.256, concerning Monitoring and Recordkeeping Requirements, revises references to TNRCC and the executive director for consistency with the commission's style guidelines.

The changes to §115.311, concerning Emission Specifications, and §115.312, concerning Control Requirements, substitute the term "control" for "burn" and modify the existing requirement in §115.312 to burn vent gas streams in a flare or direct-flame incinerator by adding an option to control the emissions with a vapor recovery system meeting a specified control efficiency. This change eliminates confusing wording while providing companies more flexibility in choosing the most cost-effective type of control. The changes to §115.313, concerning Alternate Control Requirements, correct a rule reference and update a reference to §115.910 to reflect a title change. The change to §115.319, concerning Counties and Compliance Schedules, deletes language made obsolete by the passing of compliance dates.

The repeal of §§115.332-115.337 and 115.339; §§115.342-115.347 and 115.349; and the amendments to §§115.322-115.327 and 115.329, delete requirements which apply in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston ozone nonattainment areas that have been superseded by the requirements of §§115.352-115.357, concerning Fugitive Emission Control in Petroleum Refining, Natural Gas Processing, and Petrochemical Processes, effective November 15, 1996. The new requirements provide emission reductions required by the Federal Clean Air Act in order to reduce urban ozone pollution. Repeal of the old requirements will prevent duplicative requirements. The requirements of §§115.322-115.327 and 115.329 which apply in Gregg, Nueces, and Victoria Counties will continue to be in effect.

The changes to §115.322, concerning Control Requirements, modify the absolute prohibition of a component leak in paragraphs (1)-(2) by revising the leak prohibition of paragraph (1) to specify that component leaks shall not continue for more than 15 days after a leak is found. The changes to §115.322 also replace the requirement (previously found in §115.324(b)(6), concerning Inspection Requirements) that leaking components be monitored with a hydrocarbon gas analyzer immediately after repair with a requirement to make a first attempt at repair within five calendar days of leak detection, with the component considered repaired when it is monitored after repairs and shown to no longer have a leak. Federal rules and guidance have been unclear as to whether follow-up monitoring is required within the fifteen-day period to confirm that a repair has occurred. The revision reduces the potential for inadvertent noncompliance, and is consistent with the proposed federal rulemaking clarification of August 26, 1996. In addition, the changes to §115.323, concerning Alternate Control Requirements, §115.324, concerning Inspection Requirements, §115.326, concerning Recordkeeping Requirements, and §115.327, concerning Exemptions, update rule references that needed revision due to the deletion of the requirements of §§115.322-115.327 which previously applied in the ozone nonattainment areas. The changes to §115.323 correct a rule reference and update a reference to §115.910 to reflect a title change. The changes to §115.324 also clarify that alternate monitoring schedules apply to valve monitoring. In addition, the proposed change to §115.325 adds the effective date of a referenced federal test method for consistency with the commission's style guidelines. The changes to §115.329, concerning Counties and Compliance Schedules, delete language made obsolete by the passing of a July 31, 1993, compliance date. Finally, the changes to §§115.323, 115.324, 115.326, and 115.327 revise references to TNRCC and the executive director for consistency with the commission's style guidelines.

The change to §115.352(1), concerning Control Requirements, clarifies that paragraph (2) contains an exception to the requirement to repair all component leaks within 15 days after the leak is found. The changes to §115.352 and §115.354, concerning Inspection Requirements, also delete the requirement that the repair of valves be accompanied by the simultaneous use of an organic vapor analyzer (OVA). This type of repair is commonly known as "directed maintenance" and was deleted due to a variety of difficulties reported concerning implementation of directed maintenance. The VOC emission reduction credit for the SIP will not change because the emission reductions were based

upon the more stringent leak definition (500 parts per million by volume (ppmv), except for pump seals and compressor seals), and not upon the directed maintenance requirement. Directed maintenance was replaced with a requirement to make a first attempt at repair within five calendar days of leak detection, with the component considered repaired when it is monitored after repairs and shown to no longer have a leak. Federal rules and guidance have been unclear as to whether follow-up monitoring is required within the 15-day period to confirm that a repair has occurred. The revision reduces the potential for inadvertent noncompliance, and is consistent with the proposed federal rulemaking clarification of August 26, 1996.

The changes to §115.353, concerning Alternate Control Requirements, correct a rule reference and update a reference to §115.910 to reflect a title change. The changes to §115.354 delete the requirement for monitoring (with an OVA) all components found to be leaking via sight/sound/smell, because these components must be repaired or placed on the shut-down list regardless of the concentration. Also, the changes to the leak skip provisions of §115.354(7) clarify that valves in ethylene, propane, or propylene service which have been classified under §115.357(8), concerning Exemptions, as non-repairable beyond the second attempt to repair at 500 ppmv will continue to count against the 2.0% leaking valves limit. In addition, the changes to §115.354 clarify that alternate monitoring schedules apply to valve monitoring, and allow alternate monitoring schedules previously approved under rules now being deleted (§§115.324(a)(8)(A), 115.334(3)(A), and 115.344(3)(A), concerning Inspection Requirements) to continue to be approved monitoring schedules under §115.354.

The changes to §115.356, concerning Recordkeeping Requirements, clarify that "the test method used" refers to the test method used to determine a component leak: either EPA Test Method 21, or sight/sound/smell. The changes to §115.357 correct a typographical error, clarify that pressure relief valves equipped with a rupture disk are exempt under §115.357(2) provided they meet the requirements of §115.352(9), and clarify the repair schedule for valves in ethylene, propane, or propylene service. In addition, the changes to §115.354 and §115.356 revise references to TNRCC and the executive director for consistency with the commission's style guidelines.

The change to §115.421, concerning Emission Specifications, removes a date which is unnecessary because it is already given in §115.429. The changes to §115.422, concerning Control Requirements, §115.424, concerning Inspection Requirements, §115.426, concerning Monitoring and Recordkeeping Requirements, and §115.427, concerning Exemptions, revise references to TNRCC and the executive director for consistency with the commission's style guidelines. The revisions to §115.422 also update a rule reference and make stylistic changes for consistency with the commission's style guidelines. In addition, the revisions to §115.427 change "automobile refinishing" to "vehicle refinishing (body shops)" for consistency with other references to these types of operations, and add an exemption to exclude the repair and recoating of vehicles at in-house (fleet) vehicle refinishing operations and vehicles by private individuals from the Chapter 115 vehicle refinishing (body shops) emission specifications and control requirements. In concurrent action, the commission revised the definition of

vehicle refinishing (body shops) by deleting the repair and recoating of vehicles at in-house (fleet) vehicle refinishing operations and vehicles by private individuals from the list of operations which are excluded from this definition.

The change to §115.442, concerning Control Requirements, replaces "printing facility" with "printing press" to ensure the use of consistent terminology throughout the offset printing rules. The changes to §115.446, concerning Monitoring and Recordkeeping Requirements, and §115.449, concerning Counties and Compliance Schedules, revise references to TNRCC and the executive director for consistency with the commission's style guidelines. The changes to §115.449 also delete the attainment dates for Dallas/Fort Worth and Houston/Galveston from the contingency rule. Elimination of the specific dates will not affect the validity of this contingency rule but will provide flexibility in the event that the attainment dates are changed in the future and will eliminate the need for a future rule change in that event.

The changes to §115.532, concerning Control Requirements, and §115.536, concerning Monitoring and Recordkeeping Requirements, make stylistic changes and revise references to TNRCC and the executive director for consistency with the commission's style guidelines. The changes to §115.532 also update a rule reference. The changes to §115.533, concerning Alternate Control Requirements, correct a rule reference and update a reference to §115.910 to reflect a title change. The changes to §115.537, concerning Exemptions, and §115.539, concerning Counties and Compliance Schedules, delete language which no longer applies because the compliance date has passed.

The changes to §115.552, concerning Control Requirements, make stylistic changes and revise references to TNRCC and the executive director for consistency with the commission's style guidelines. The changes to §115.553, concerning Alternate Control Requirements, correct a rule reference and update a reference to §115.910 to reflect a title change. The changes to §115.559, concerning Counties and Compliance Schedules, delete an inaccurate attainment date for El Paso and Houston/Galveston from the contingency rule. Elimination of the specific date will not affect the validity of this contingency rule in El Paso and Houston/Galveston but will provide flexibility in the event that the attainment date is changed in the future and will eliminate the need for a future rule change in that event. The changes to §115.559 also add a separate paragraph for each nonattainment area which identifies more clearly the specific affected ozone nonattainment counties and the specific petroleum dry cleaning rules.

#### TAKINGS IMPACT ASSESSMENT

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 amendments and repeals is to make a variety of changes which correct and update rule references, correct references to federal test methods, clarify and simplify control requirements, update terminology for consistency throughout Chapter 115, add exemptions to the VOC water separation rules to complete previous rulemaking, delete ineffective requirements, delete definitions which are no longer

needed, delete the attainment date from the contingency rules to provide future flexibility, and delete language made obsolete by the passing of compliance dates. Promulgation and enforcement of these rule amendments and repeals will not affect private real property which is the subject of the rules because the rule changes do not impose new requirements.

#### COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The commission has determined that this rulemaking action is subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code, §§33.201 et seq), the rules of the Coastal Coordination Council (31 TAC Chapters 501-506), and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with the Texas Coastal Management Program. As required by 31 TAC §505.11(b)(2) and 30 TAC §281.45(a)(3) relating to actions and rules subject to the CMP, agency rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission has reviewed this action for consistency, and has determined that this rulemaking is consistent with the applicable CMP goals and policies. The primary CMP policy applicable to this rulemaking action is the policy that commission rules comply with regulations at Code of Federal Regulations, Title 40, to protect and enhance air quality in the coastal area. No new sources of air contaminants will be authorized by the rule revisions. Therefore, in compliance with 31 TAC §505.22(e), the commission affirms that this rule is consistent with CMP goals and policies.

#### HEARING AND COMMENTERS

A public hearing on this proposal was held in Austin on December 13, 1996. The comment period closed December 19, 1996. No commenters submitted oral testimony. Eleven commenters submitted written comments on the proposal. Exxon Company, U.S.A.-Baytown (Exxon Baytown) generally supported the comments submitted by Mobil Oil Corporation (Mobil) and the Texas Chemical Council (TCC).

Six commenters submitted testimony on §§115.10, concerning Definitions. ARCO Chemical Company (ARCO), City of Dallas (Dallas), Exxon Company, U.S.A.-Houston (Exxon Houston), Exxon Baytown, Mobil, and TCC generally supported the proposed revisions but suggested changes or clarifications.

One commenter submitted testimony on §§115.112, 115.114-115.116, and 115.119, concerning Storage of VOC. TCC generally supported the proposed revisions but suggested changes or clarifications.

Four commenters submitted testimony on §§115.121-115.123, 115.126, 115.127 and 115.129, concerning Vent Gas Control. Basis Petroleum, Inc. (Basis), Dallas, EPA, and TCC generally supported the proposed revisions but suggested changes or clarifications.

Three commenters submitted testimony on §§115.132, 115.136, and 115.137, concerning Water Separation. Exxon Houston, Lockheed Martin Tactical Aircraft Systems (Lockheed), and TCC generally supported the proposed revisions but suggested changes or clarifications.

One commenter submitted testimony on §§115.146, 115.147, and 115.149, concerning Industrial Wastewater. TCC generally supported the proposed revisions but suggested changes or clarifications.

Three commenters submitted testimony on §§115.211, 115.212, 115.214-115.217, and 115.219, concerning Loading and Unloading of VOC. Dallas, Houston Lighting and Power (HL&P), and TCC generally supported the proposed revisions but suggested changes or clarifications.

One commenter submitted testimony on §§115.311-115.313, and 115.319, concerning Process Unit Turn-around and Vacuum-Producing Systems in Petroleum Refineries. Dallas generally supported the proposed revisions but suggested changes or clarifications.

Two commenters submitted testimony on §§115.322-115.327 and 115.329, concerning Fugitive Emission Control in Petroleum Refineries in Gregg, Nueces, and Victoria Counties. Mobil and TCC generally supported the proposed revisions but suggested changes or clarifications.

Three commenters submitted testimony on §§115.352, 115.353, 115.354, 115.356, and 115.357, concerning Fugitive Emission Control in Petroleum Refining and Petrochemical Processes in Ozone Nonattainment Areas. Exxon Baytown, Mobil, and TCC generally supported the proposed revisions but suggested changes or clarifications.

Three commenters submitted testimony on §§115.421, 115.422, 115.424, 115.426, and 115.427, concerning Surface Coating Processes. Dallas and TCC generally supported the proposed revisions but suggested changes or clarifications. An individual opposed the proposed revisions.

One commenter submitted testimony on §§115.442, 115.446, and 115.449, concerning Offset Lithographic Printing. TCC generally supported the proposed revisions but suggested changes or clarifications.

One commenter submitted testimony on §§115.532, 115.533, 115.536, 115.537, and 115.539, concerning Pharmaceutical Manufacturing Facilities. TCC generally supported the proposed revisions but suggested changes or clarifications.

Two commenters submitted testimony on §§115.552, 115.553, and 115.559, concerning Petroleum Dry Cleaning Systems. Dallas and TCC generally supported the proposed revisions but suggested changes or clarifications.

None of the commenters submitted testimony on the proposed revisions to §§115.153, 115.156, and 115.159, concerning Municipal Solid Waste Landfills; §§115.221-115.223, and 115.226, concerning Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities; and §115.253 and §115.256, concerning Control of Reid Vapor Pressure of Gasoline. None of the commenters submitted testimony on the repeal of §§115.332-115.337 and 115.339, concerning Fugitive Emission Control in Synthetic Organic Chemical, Polymer, Resin, and Methyl Tert-Butyl Ether Manufacturing Processes; and §§115.342-115.347 and 115.349, concerning Fugitive Emission Control in Natural Gas/Gasoline Processing Operations.

#### GENERAL COMMENTS

TCC commented that the "once-in, always-in (OIAI)" rules (§§115.122(a)(4)(A), 115.132(a)(4)(A), 115.212(a)(10)(A), 115.422(3)(A), 115.532(a)(5)(A), and 115.552(b)(1)) should include reference to Chapter 106 as well as Chapter 116 because standard exemptions are being relocated to Chapter 106.

The commission agrees with TCC. The suggested updating of this reference will provide continued flexibility to the regulated community. Conversely, failure to make the suggested change would increase the stringency of the OIAI rules due to the relocation of standard exemptions from Chapter 116 to Chapter 106 that became effective on March 14, 1997. Although the OIAI rules were proposed for unrelated changes, the specific subparagraphs in which the references to Chapter 116 occur were not proposed for change. On January 2, 1997, the *Texas Register* agreed that the commission could make the suggested changes for the reasons described above. For consistency, the commission also revised §§115.122(a)(4)(B), 115.132(a)(4)(B), 115.212(a)(10)(B), 115.422(3)(B), 115.532(a)(5)(B), and 115.552(b)(2) to include references to permit amendments and standard permits. It should be noted that the Chapter 115 rules concerning industrial wastewater and rotogravure/flexographic printing also include OIAI rules, but these sections were not proposed for change and therefore cannot be updated at this time. These rules (§115.142(3) and §115.432(a)(2)) will be proposed for revision in future rulemaking.

TCC commented that the wording of recordkeeping requirements is not consistent in various sections within Chapter 115. TCC stated that the preferred wording is "... shall maintain records at the facility for at least two years and make such records available to representatives... having jurisdiction in the area upon request."

Although consistency is generally desirable, the recordkeeping requirements cannot be identical across all Chapter 115 rules due to differences in rule structure which are necessary to accommodate specific requirements in some rules. Also, some differences in the recordkeeping requirements are necessary to address specific issues in certain industries. For example, the Stage II recordkeeping requirements include an allowance for gasoline stations which are ordinarily unmanned during business hours. In addition, many of the Chapter 115 recordkeeping rules were not proposed for revision at this time. The commission has made no changes in response to the comment but will continue to strive for consistency in the recordkeeping requirements where possible.

TCC stated that all Chapter 115 control requirement sections should include an equivalent to 90% control efficiency and that 90% control efficiency cannot always be demonstrated. TCC cited as an example the loading of a low vapor pressure material (just over the exemption level) on a cold day. TCC noted that certain vent gas rules require 98% control efficiency or control to 20 ppmv. TCC suggested that control to a specified concentration be considered an equivalent control requirement to 90% control efficiency.

While the suggestion has merit, very few of the Chapter 115 rules which require control to a specified efficiency have been proposed for revision at this time. Also, a detailed analysis

of the Chapter 115 rules which specify a percent control efficiency is necessary before considering incorporation of the suggested concept. However, the commission has incorporated the suggestion into the vent gas rules. (For details, see TCC's comments on §115.122(a)(2) in the section on vent gas control). Finally, it should be noted that the Alternate Control Requirement sections are available for situations in which companies find a more economical or technically feasible method for achieving emission reductions than the specified control requirements.

TCC stated that there should be more consistency in handling paragraphs which refer to compliance dates that have passed. TCC referred to the Chapter 115 vent gas rules, VOC loading rules, and wastewater rules and noted that some compliance dates which have passed are being deleted, while some are retained in the rules.

In general, references to compliance dates which have passed are proposed for deletion. The exception is that compliance dates in the Counties and Compliance Schedules sections are retained for at least one year after the compliance date. This is a courtesy to the reader since it ensures that the reader does not have to locate and review an older version of Chapter 115 to identify the compliance date for relatively new requirements. It also heightens the regulated community's awareness of these requirements which in turn will improve the compliance rate. The commission has made no changes in response to the comment.

It has come to the commission's attention that many of the alternate control requirements sections refer incorrectly to the control requirements of "this section," rather than "this undesignated head." The commission has changed "section" to "undesignated head" in §§115.153, 115.223, 115.253, 115.313, 115.323, 115.353, 115.533, and 115.553 to reflect the correct terminology.

80% AND 90% OVERALL CONTROL OPTIONS TCC noted that the 80% and 90% overall control initial plans for industrial wastewater, land-based VOC loading, and marine vessel VOC loading specified in §§115.147(5)(A), 115.217(a)(6), 115.217(a)(7), 115.217(a)(9), 115.217(b)(4), 115.217(b)(5) were due in 1994 and 1995. TCC suggested revisions to account for the past dates and that the phrase "in order to maintain exemption status under this paragraph" be deleted from §115.217(a)(6)(B). TCC also suggested that any overall control option which no one used should be deleted.

No one used any of the 80% overall control options, and there does not appear to be any need to retain these options. Therefore, the commission has deleted the 80% overall control options. The commission has revised the 90% overall control options to allow companies which missed the initial control plan submittal deadlines to use these options. This provides flexibility which is presently unavailable to these companies. Any newly-submitted plan must undergo review by the Engineering Services Section and must be approved before the company may use the 90% option for compliance.

#### DEFINITIONS

Comments concerning definitions used in the fugitive monitoring rules are discussed in the section titled Fugitive Monitoring and Associated Definitions.

Exxon Baytown and TCC commented that the definition of tank-truck tank in §115.10 is inconsistent with the corresponding definition in §101.1.

The commission has corrected the definition of tank-truck tank in §115.10. In response to a comment on the definition of tank-truck tank in §101.1, the commission excluded vacuum trucks from this definition. So that both definitions remain consistent, the commission has likewise revised the definition of tank-truck tank in §115.10 to exclude vacuum trucks.

Exxon Houston commented on the definition of VOC water separator as it relates to three-phase separators and heater treaters used in oil and gas production and questioned whether this equipment is subject to the water separator rules.

The definition of VOC water separator was not proposed for revision, and therefore comments on this definition are outside the scope of this rulemaking. However, Exxon Houston's comments on the applicability of the water separator rules to three-phase separators and heater treaters are addressed in the discussion on water separation.

#### STORAGE OF VOC

TCC commented on §115.114(b)(1)-(2) and (4), and §115.114(c)(1)-(2). TCC noted that these paragraphs require floating roof storage tanks to be emptied and degassed if seals cannot be repaired, but unlike §115.114(a) do not include a reference to §§115.541-115.547. TCC suggested that the degassing requirements should only apply to tanks required to be degassed by §§115.541-115.547.

Sections 115.541-115.547 do not require that storage tanks be degassed. These rules do, however, establish requirements which must be met when large (1,000,000 gallons capacity or greater) storage tanks are degassed in sixteen ozone nonattainment counties. The reference to §§115.541-115.547 is contained in §115.114(a) but not in §115.114(b)-(c) because the requirements of §§115.541-115.547 do not apply in the counties affected by §115.114(b)-(c). The commission has made no changes in response to the comment.

#### VENT GAS CONTROL AND PROCESS UNIT TURN-AROUND

Dallas and EPA commented on §§115.122(a)(1), 115.122(b), and 115.122(c)(1) and stated that these general vent gas rules should continue to require 90% control efficiency for all control devices to ensure proper removal of pollutants. Dallas also made the same comment regarding §115.312(a)(2) and §115.312(b)(2).

The commission has made the suggested revisions to §§115.122(a)(1), 115.122(b), 115.312(a)(2), and 115.312(b)(2). For consistency, the commission also has made a similar change to §115.122(a)(2) and §115.122(c)(2). Because §115.122(c)(1) did not previously include a 90% control efficiency requirement, however, the commission did not revise this rule to include this suggested requirement in order to avoid increasing the stringency of the requirements for existing sources.

TCC commented on §115.122(a)(2) and suggested that the flare monitoring requirement be relocated to a new paragraph in §115.126(a), concerning Monitoring and Recordkeeping Requirements.

The commission agrees that this monitoring requirement would be more appropriately located in §115.126(a) and has relocated this requirement to a new paragraph (6) as suggested.

TCC suggested the addition of language similar to that of §115.122(a)(2) which provides the option of controlling emissions to 20 ppmv. TCC stated that this would provide additional flexibility for dilute streams.

The suggested option will add flexibility without resulting in increased emissions. Therefore, the commission has added the suggested control option to §§115.122(a)(1), 115.122(b), 115.122(c)(1)(C), 115.122(c)(2)(B), 115.122(c)(3)(B), 115.122(c)(4)(B), 115.312(a)(2), and 115.312(b)(2).

TCC commented that the order of §115.122(a)(2)(A) and (B) should be switched to be consistent with the layout of §115.122(a)(1). Basis suggested that burning vent gases in process heaters be allowed. TCC expressed the understanding that the term "vapor recovery system" includes direct-flame incineration and commented that §115.122(a)(2)(B) should be deleted because §115.122(a)(2)(C) already includes direct-flame incinerators.

Vapor recovery system is defined as "any control system which utilizes vapor collection equipment to route VOC to a control device that reduces VOC emissions." Consequently, vapor recovery system includes both combustion devices (such as flares, incinerators) and non-combustion devices (such as carbon adsorption systems). A process heater can also be used as a control device under the definition of vapor recovery system, provided that it meets the applicable vent gas rule emission specifications, control requirements, etc. The commission has deleted §115.122(a)(2)(B) as suggested. Consequently, the suggested reversal of the order of §115.122(a)(2)(A) and (B) is unnecessary.

TCC commented on the "once-in, always-in (OIAI)" requirements of §115.122(a)(4) and suggested substituting "to" for "and" in the phrase "...by which throughput or emission rate was reduced and less than the applicable exemption limits..."

There are two independent conditions which must be satisfied to qualify for exclusion from the OIAI requirements: 1) emissions must be reduced to no more than the controlled emissions level existing before implementation of the project that reduced throughput or emissions; and 2) emissions must also be reduced to below the applicable exemption limit in §115.127(a). The suggested revision would retain this meaning, while improving the readability of the rule. Therefore, the commission has made the suggested change. The commission has also made the same revision to similar rules (§§115.132(a)(4), 115.212(a)(10), 115.422(a)(3), and 115.532(a)(5)). In addition, the commission has replaced the phrase "at or below" with "no more than" for improved readability. It should be noted that the Chapter 115 rules concerning industrial wastewater and rotogravure/flexographic printing also include OIAI rules, but these sections were not proposed for change and therefore cannot be updated at this time. These rules (§115.142(3)(A)

and §115.432(a)(2)(A)) will be proposed for revision in future rulemaking.

TCC commented on §115.123(a)(2) and suggested deletion or revision of this paragraph because the May 31, 1994, alternate reasonable available control technology application date has passed.

This rule was not proposed for revision, and therefore the comment is outside the scope of this rulemaking. The commission has made no changes in response to the comment.

TCC noted that §115.123(b) and (c) are essentially identical to §115.123(a)(1), and suggested deletion of §115.123(b) and (c).

In general in Chapter 115, the current ozone nonattainment counties are included in the "(a)" subsections, Gregg, Nueces, and Victoria Counties are included in the "(b)" subsections, and Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis Counties are included in the "(c)" subsections. This numbering convention was established to allow an easier determination of the applicable requirements for each of the three groups of counties. This also allows future revisions to the requirements for the ozone nonattainment counties without the possibility of inadvertently altering the requirements for the other counties. The commission has made no changes in response to the comment.

Dallas commented on the term "substantially equivalent" in §115.123 and §115.313 and asked "equivalent to what?"

These rules allow the use of an alternate means of control (AMOC), provided that the emission reductions resulting from the alternate methods will be substantially equivalent to the emission reductions which would occur if the facility complied directly with the control requirements or exemption criteria. The criteria used to evaluate an AMOC are described in detail in §§115.910-115.916, concerning Availability of AMOC.

Dallas commented on the proposed deletion of §115.126(a)(3)(B) and §115.126(b)(3)(B) and recommended that these requirements for daily operating parameter records be retained. Dallas stated that this information is necessary to adequately demonstrate a vent's exemption status.

The commission believes that calculations and test results are adequate records under §115.126(a)(3) and §115.126(b)(3) to document a vent's exemption status, provided that the documentation includes the operating parameters that occurred during any testing, and the maximum levels feasible for the process. The commission has revised §115.126(a)(3) and §115.126(b)(3) accordingly.

TCC commented on §115.126(a)(3) and suggested that the phrase "demonstrate continuous compliance" be changed to "demonstrate continuing compliance." TCC noted that it is clear that continuous monitoring of exempted vent gas streams is not required, but stated that the phrase "continuous compliance" strikes a red flag.

Continuous monitoring is not mandatory unless a rule specifically requires it. The phrase "continuous compliance" is used throughout Chapter 115 in the sections on alternate control requirements and monitoring and recordkeeping requirements. Introduction of a similar phrase such as "continuing compliance"

could result in confusion. The commission has made no change in response to the comment.

TCC commented on the exemptions for SOCM I reactor processes and distillation operations in §115.127(a)(4)(A)-(C). TCC suggested that these exemptions for batch mode, low flow rate, low concentration, and process units having a total design capacity less than 1,100 TPY for all chemicals produced within that unit be relocated to §115.127(a)(2) and reworded to also apply to air oxidation SOCM I processes, liquid phase polypropylene manufacturing processes, liquid phase slurry high-density polyethylene processes, and continuous polystyrene manufacturing processes.

The exemptions from emission specifications for air oxidation SOCM I processes, liquid phase polypropylene manufacturing processes, liquid phase slurry high-density polyethylene processes, and continuous polystyrene manufacturing processes are contained in §115.127(a)(3), not §115.127(a)(2), and are based upon Control Techniques Guidelines (CTGs) which EPA issued for these specific processes. Likewise, the exemptions in §115.127(a)(4)(A)-(C) were specifically developed for SOCM I reactor processes and distillation operations in EPA's SOCM I reactor/distillation CTG. The suggested revisions would result in a relaxation of existing requirements which have been in place for years, and are not consistent with EPA requirements. The commission has made no changes in response to the comment.

#### WATER SEPARATION

Exxon Houston questioned whether three-phase separators used in oil and gas production are subject to the water separator rules. Exxon Houston stated that the primary purpose of a three-phase separator is to separate gas from liquids, with separation of VOCs from water being an ancillary result, and that VOC emissions from these pressurized vessels will occur only from a pressure relief valve during emergency conditions. Exxon Houston also questioned whether heater treaters used in oil and gas production are subject to the water separator rules and whether these units, when equipped with a vent, are subject to the vent gas rules. Exxon Houston stated that heater treaters are pressurized vessels which use heat, and sometimes chemicals, to aid in the separation of the small amount of water that remains in the crude oil or condensate stream after initial separation. Exxon Houston commented that separation of the water from the crude oil or condensate may occur in the heater treater or downstream of the heater treater and suggested that heater treaters not be considered VOC water separators when the separation of water from VOCs occurs downstream of the heater treater.

Three-phase separators and heater treaters used in oil and gas production meet the definition of VOC water separator since a physical separation and removal of VOCs from water occurs. Because the Chapter 115 water separation rules apply, the general vent gas rules do not apply, as specified in §115.127(a)(6), (b)(3), and (c)(3). However, exemptions are available from the VOC water separator control requirements for three-phase separators and heater treaters used in oil and gas production. For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston ozone nonattainment areas, §115.137(a)(1) provides an exemption for any VOC water separator used exclusively in conjunction with crude oil

or condensate production, provided that VOC emissions do not exceed 100 pounds per continuous 24-hour period. For Gregg, Nueces, Victoria, Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis Counties, §115.137(b)(1) and (c)(1) exempt VOC water separators used exclusively in conjunction with crude oil or condensate production, independent of the emission rate.

TCC commented on §115.132(a)(1), (b)(1), and (c)(1) and stated that the last sentence of these paragraphs is either redundant with the first sentence or imposes an additional requirement of demonstrating, through testing, that a pressure or vacuum must be maintained. TCC also commented that the last sentence uses the term "well-sealed" rather than the term "sealed and totally enclosed" from the first sentence. TCC further suggested that the last sentence be deleted.

The purpose of the proposed last sentence in §115.132(a)(1), (b)(1), and (c)(1) was to clarify the intent of the first sentence in these paragraphs. The commission has combined the first and last sentences of these paragraphs to make this intent more explicit. In addition, the commission deleted the specific pressure/vacuum vent settings because the proper settings depend on the size of the separator.

Lockheed commented on §115.137(a)(2), which exempts VOC water separators which separate materials having a VOC true vapor pressure less than 0.5 pounds per square inch absolute (psia). Lockheed noted that §115.131(a) requires vapor recovery systems to reduce emissions to a level not to exceed a VOC true partial pressure of 0.5 psia in the vent gases to the atmosphere. Lockheed suggested that §115.137(a)(2) be revised to include VOC water separators which separate materials having a VOC true vapor pressure equal to 0.5 psia for consistency with §115.131(a).

Rule 115.137(a)(2) was not proposed for revision, and therefore the comments are outside the scope of this rulemaking. However, it should be noted that §115.137(a)(2) is based upon the VOC true vapor pressure (the aggregate pressure of VOC vapors in equilibrium with their liquid form), while §115.131(a) is based upon VOC true partial pressure (the aggregate pressure due to the VOC components of a gaseous or vapor mixture, which equates to a concentration). Because §115.137(a)(2) and §115.131(a) are based upon different types of measurement, there is no inconsistency between these rules.

Lockheed commented on §115.137(a)(3), (b)(5), and (c)(4), which exempt VOC water separators designed solely to capture stormwater, spills, or exterior surface cleanup waters from the control requirements. Lockheed commented that records would still be required for these separators, although the records would not be needed to establish that the units qualified for exemption under §115.137(a)(3), (b)(5), and (c)(4). Lockheed suggested that these VOC water separators be exempt from the entire undesignated head (concerning Water Separation) rather than just from the control requirements.

The commission agrees and has made the suggested revisions.

#### INDUSTRIAL WASTEWATER

Comments concerning §115.147(5) are discussed in the section titled 80% and 90% overall control options.

#### LOADING AND UNLOADING OF VOC

TCC commented on proposed §115.211(a)(1) and stated that the term "transferred" is ambiguous and needs clarification.

The term "transferred" is intended to mean "loaded into transport vessels," and as a practical matter, most if not all gasoline transfers at a gasoline terminal are from storage tanks into transport vessels. The commission has revised §115.211(a)(1) to clarify this intent. A similar change needs to be made in §115.211(b), but this rule was not proposed for change and will be addressed in future rulemaking.

TCC commented on proposed §115.211(a)(3) and stated that "overall process control efficiency" for marine terminals is ambiguous and needs clarification.

This rule is intended to establish the minimum acceptable efficiency of the marine terminal's control device in reducing VOCs entering the control device. For marine vessel loading operations, determining the capture efficiency of VOCs collected and delivered to the control device is problematic. Therefore, the marine vessel loading rules address capture efficiency through requirements designed to minimize leaks. Since §115.211(a)(3) is not intended to include capture efficiency, the commission has revised this rule to clarify that the control efficiency refers to the efficiency of the control device itself.

TCC commented on proposed §115.212(a)(2) and noted that vapors remaining in the transport vessel after unloading must be routed to a vapor recovery system when the transport vessel is refilled, although the VOC loading rules allow some loading of transport vessels without vapor recovery (for example, under §115.217(a)(6), which allows a 90% overall control of VOC loading emissions).

The commission agrees that the requirement to discharge the vapors remaining in the transport vessel after unloading to a vapor recovery system should not apply if the transport vessel is refilled, degassed, and/or cleaned at an operation for which control of the vapors is not required, and has revised §§115.212(a)(2), 115.212(a)(6)(C), and 115.222(7) accordingly. Similar language is needed for §115.212(b)(2) and §115.212(c)(2), but those rules cannot be clarified at this time because they were not proposed for revision. Changes to these two rules will be addressed in future rulemaking.

No comments were received on §115.215(a)(8), which references the federal test methods in 40 CFR 63.565(c) and 40 CFR 61.304(f) for determining the vapor tightness of marine vessels. However, it has come to the commission's attention that some marine vessels, particularly those operating under a foreign flag, have been arriving at marine terminals in the Houston/Galveston ozone nonattainment area without documentation of the required annual vapor tightness test. The marine terminal operators have asked if relief from the annual vapor tightness test is available in this situation.

As noted in the discussion of a comment on §115.211(a)(3), the marine vessel loading rules include measures designed to minimize leaks as a means of ensuring good capture efficiency from marine vessel loading operations. Specifically, these measures include §115.212(a)(8)(B), which requires that only certified leak-free marine vessels be used for loading operations; the definition of leak-free marine vessel, which

includes requirements for cargo tank closures and pressure/vacuum valves; §115.214(a)(4), which requires inspections for liquid and vapor leaks; and §115.216(a)(6)(B), which requires certification that the marine vessel has passed the annual vapor tightness test using the test methods in §115.215(a)(8). In situations where no documentation of the required annual vapor tightness test is available, 40 CFR 63.565(c)(2) allows the use of Test Method 21 performed during loading to substitute for the annual vapor tightness test, provided that Test Method 21 is conducted during the final 20% of loading of each product tank of the marine vessel and is applied to any potential sources of vapor leaks on the vessel. Also, the definition of leak-free marine vessel assumes that a marine vessel which is operated at negative pressure will be leak-free because any vapor leaks will tend to leak into the system, rather than leaking out to the atmosphere as would otherwise be the case. To address the concerns of the marine terminal operators, the commission has revised §115.212(a)(8)(B) to clarify the alternatives available in the event that no documentation of a marine vessel's annual vapor tightness test is available. Recordkeeping requirements to document compliance with these alternatives will be added in future rulemaking because §115.216(a)(6)(B) was not proposed for revision at this time.

TCC commented on proposed §115.217(a)(5) for gasoline bulk plants and stated that the term "throughput" is ambiguous and needs clarification.

The term "throughput" in §115.217(a)(5) is intended to refer to the loading of gasoline into transport vessels. This is supported by EPA's CTG document for gasoline bulk plants, which on page 6-1 defines a bulk plant as "any facility loading gasoline into account trucks at 76,000 liters or less per day" (i.e., 20,000 gallons per day). The commission has revised §115.217(a)(5) to clarify this intent. A similar change needs to be made to the definitions of gasoline bulk plant and gasoline terminal, but these definitions were not proposed for change and will be addressed in future rulemaking.

TCC commented on §115.217(a)(8)(C) and stated that the wording concerning vapor balance systems which requires that the vapors be processed by a vapor processing unit is inconsistent with the definition of vapor balance system.

The commission has made the suggested change.

HL&P commented that there is no language in §§115.211-115.219 which excludes motor vehicle fuel dispensing stations from these rules, even though these facilities are subject to the more specific rules for Stage I, Stage II, and Control of Leaks from Transport Vessels. HL&P stated that it was their understanding that motor vehicle fuel dispensing stations are intended to comply with the rules for Stage I, Stage II, and Control of Leaks from Transport Vessels, and not with the more general loading/unloading rules. HL&P suggested the addition of a new paragraph, §115.217(a)(10), to clarify this intent.

The commission agrees and has added the suggested exemption as §115.217(a)(9), (b)(5), and (c)(5).

Dallas commented that §115.219(4) incorrectly refers to §115.212(a)(9) rather than §115.212(a)(11).

The commission has corrected this rule reference.

## STAGE I VAPOR RECOVERY

No comments were received on §§115.221-115.223, and 115.226, concerning Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities. However, in response to TCC's comments on proposed §115.212(a)(2), the commission has revised §115.222(7) to specify that the requirement to discharge the vapors remaining in a tank-truck tank after unloading to a vapor recovery system does not apply if the tank-truck tank is refilled, degassed, and/or cleaned at an operation for which control of the vapors is not required.

## FUGITIVE EMISSIONS AND ASSOCIATED DEFINITIONS

Mobil and TCC suggested that the definition of component be revised to delete the phrase "but not limited to" and should instead list the specific types of components included. TCC also suggested that flanges and other piping connectors be added to the list of components.

The commission believes that any such changes should not be made at this time, but rather should be considered for possible inclusion in future rulemaking in order to allow all affected parties, including EPA, the opportunity to comment on the proposed changes. In addition, the definition of component was not proposed for revision; consequently, comments on this definition are beyond the scope of this rulemaking. Therefore, the commission has made no changes in response to the comments.

Mobil suggested the addition of a new definition of ERV, but did not include suggested language for this term.

Since this term is not used in the rules, a definition is unnecessary. The commission has made no changes in response to the comment.

Dallas noted that the existing definition of fugitive emission includes any gaseous or particulate contaminant, while the proposed definition includes only VOCs. Dallas questioned if this means that by definition there are no fugitive emissions, other than VOC, in Texas.

Chapter 115 only applies to VOC emissions. Therefore, the proposed definition of fugitive emission in §115.10 is specific to VOCs because this definition applies only to Chapter 115. The definition of fugitive emission in §101.1, which applies more broadly than the definition in §115.10, continues to include any gaseous or particulate contaminant.

Exxon Baytown, Mobil, and TCC suggested that the definition of leak be revised to delete the phrase "or the dripping or exuding of process fluid based on sight, sound, or smell." Exxon Baytown and Mobil stated that the current leak definition is more stringent than federal requirements. Exxon Baytown, Mobil, and TCC stated that the suggested change would allow incorporating the option of leak verification by instrument monitoring of components which are found by sight/sound/smell to be dripping or exuding process fluid. The commenters suggested, in conjunction with their suggested revision to the definition of leak, that §§115.324(4), 115.352(1)(A)-(B), 115.352(2), and 115.354(4) be revised to incorporate the option of leak verification by instrument monitoring of components

which are found by sight/sound/smell to be dripping or exuding process fluid.

The current definition of leak was adopted on May 10, 1991, in response to EPA requirements, and therefore is consistent with federal requirements. Because the suggested changes would represent a relaxation of existing requirements, the commission believes that any such changes should not be made at this time, but rather should be considered for possible inclusion in future rulemaking in order to allow all affected parties, including EPA, the opportunity to comment on the proposed changes. In addition, §115.352(1)(A)-(B) was not proposed for revision; consequently, comments on these subparagraphs are beyond the scope of this rulemaking. For these reasons, the commission has made no changes in response to the comments. However, because the term "leak" is used in a variety of rules in addition to the fugitive monitoring rules, the commission has retained the 10,000 ppmv level which was proposed for deletion and has also retained the proposed reference to the concentration level specified by the applicable rule to address situations in which the rules specify a leak threshold lower than 10,000 ppmv.

Mobil and TCC commented that since the 10,000 ppmv concentration is proposed for removal from the definition of leak, §115.322(1) should be revised to include the 10,000 ppmv concentration.

Because the commission has retained the 10,000 ppmv concentration in the definition of leak, the suggested change is unnecessary.

Exxon Baytown, Mobil, and TCC suggested the addition of a new definition of shutdown as developed by the consolidated fugitive emissions workgroup. In conjunction with their suggested addition of a new definition of shutdown, Mobil and TCC suggested revisions to §115.322(2). Mobil also suggested that "next scheduled shutdown" be changed to "next shutdown" in §115.322(2). In addition, Exxon Baytown, Mobil, and TCC suggested revisions to §115.352(2) in conjunction with their suggested new definition of shutdown. Finally, TCC recommended clarifying §115.356(1)(G)(iv) by revising "those leaks that cannot be repaired until a unit shutdown" to "the identification of those components that cannot be repaired until the next unit shutdown."

The commission believes that any such changes should not be made at this time, but rather should be considered for possible inclusion in future rulemaking in order to allow all affected parties, including EPA, the opportunity to comment on the proposed changes. In addition, §115.356(1)(G)(iv) was not proposed for revision; consequently, comments on this rule are beyond the scope of this rulemaking. Therefore, the commission has made no changes in response to the comments.

Mobil and TCC commented on §115.324(7)(A) and suggested that the current requirement for executive director approval of alternate valve monitoring schedules be replaced with a notification requirement without executive director approval. Mobil made an identical comment on §115.354(7)(A).

The commission believes that any such changes should not be made at this time, but rather should be considered for

possible inclusion in future rulemaking in order to allow all affected parties, including EPA, the opportunity to comment on the proposed changes. Therefore, the commission has made no changes in response to the comments.

Mobil and TCC suggested the addition of a new §115.327(7) and a new §115.357(10) which would exempt open-ended lines and valves in emergency shutdown systems.

The commission believes that any such changes should not be made at this time, but rather should be considered for possible inclusion in future rulemaking in order to allow all affected parties, including EPA, the opportunity to comment on the proposed changes. Therefore, the commission has made no changes in response to the comments.

TCC recommended the addition of a new definition of process drain or, alternatively, revision to §115.354(1)(A) to clarify the meaning of this term. TCC did not include suggested language.

This issue is one which was already scheduled to be addressed in future rulemaking (Fugitive Emissions-Phase Two). In addition, §115.354(1)(A) was not proposed for revision. In order to allow interested persons the opportunity to comment on the proposed rule language, the commission is deferring this issue to future rulemaking.

TCC commented that §115.354(7) should be revised to reflect the new Chapter Designation.

Neither the chapter title or the undesignated head title are referenced in this paragraph. Therefore, the commission has made no change in response to the comment.

TCC noted that §115.354(7) requires that each request for an alternate valve monitoring schedule include "all" data that have been developed to justify the alternate schedule. TCC commented that "all" data could be interpreted to include records for thousands of valves in each of the time periods. TCC stated that the data required should be limited to the percentage of leaking valves for each period and the calculations.

The data necessary to justify an alternate valve monitoring schedule will include the percentage of leaking valves and valves for which repair has been delayed for each period and the associated calculations. Questions concerning the level of detail needed to properly document requests for alternate monitoring schedules should be discussed with the Engineering Services Section on a case-by-case basis. The commission has made no changes in response to the comment.

TCC suggested that §115.354(7)(A)-(B) be revised to allow semi-annual monitoring or annual monitoring, rather than allowing companies to skip one or three of the quarterly monitoring periods.

Because the suggested change would represent a relaxation of existing requirements, the commission believes that any such changes should not be made at this time, but rather should be considered for possible inclusion in future rulemaking in order to allow all affected parties, including EPA, the opportunity to comment on the proposed changes. Therefore, the commission has made no changes in response to the comment.

Exxon Baytown, Mobil, and TCC supported the proposed deletion of directed maintenance from §115.352(2).

The commission appreciates the support.

ARCO, Mobil, and TCC recommended the addition of a new definition of storage tank valve. Mobil recommended the addition of a new definition of pressure/vacuum relief valve (PVRV), while TCC suggested that PVRV or conservation vent be used rather than the term storage tank valve. TCC also suggested that the exemption from monitoring specified in §115.357(2) be revised to specifically include PVRVs or conservation vents.

This issue is one which was already scheduled to be addressed in future rulemaking (Fugitive Emissions-Phase Two). In order to allow interested persons the opportunity to comment on the proposed rule language, the commission is deferring this issue to future rulemaking.

TCC commented on §115.357(8) and suggested a revision to clarify that non-repairable components must be repaired within 15 days after the concentration of VOC detected via Test Method 21 exceeds 10,000 ppmv.

The commission has made the suggested change and has also clarified that the 15-day leak repair period is 15 calendar days.

#### SURFACE COATING PROCESSES

TCC stated that §115.421 should only apply to manufacturing sources that have Standard Industrial Classification (SIC) codes 38 through 39 (i.e., those facilities that have a coating line as part of the manufacturing process), and that the painting of metal parts for maintenance purposes in the field or in a shop are not included.

The SIC codes specified for miscellaneous metal parts and products coating in the definition of surface coating processes include, but are not limited to, major group 33 (primary metal industries), major group 34 (fabricated metal products), major group 35 (nonelectrical machinery), major group 36 (electrical machinery), major group 37 (transportation equipment), major group 38 (miscellaneous instruments), and major group 39 (miscellaneous manufacturing industries). The industrial categories and SIC codes listed do not represent an all-inclusive list of operations that include the surface coating of miscellaneous metal parts or products because it is impractical to include the entire miscellaneous metal parts and products universe in a single list. This definition is consistent with EPA's reasonably available control technology (RACT) guidance. The EPA has also interpreted that the miscellaneous metal parts and products coating RACT requirement applies generally to repetitive recoating of metal parts occurring at a central location, including newspaper racks, locomotives, railcars, and transformers.

Architectural coatings are defined in §115.10 as "any protective or decorative coating applied to the interior or exterior of a building or structure, including latex paint, alkyd paints, stains, lacquers, varnishes, and urethanes." Consequently, coatings used in the field to coat or recoat an existing structure are classified as architectural coatings. Industrial maintenance coatings are a specialized type of architectural coatings. It should also be noted that the definition of surface coating processes was not proposed for revision. The commission has made no changes in response to the comment.

An individual commented on §115.427(a)(6), which exempts the repair and recoating of vehicles at in-house (fleet) vehicle refinishing operations and the repair and recoating of vehicles by private individuals. The individual objected to weakening of existing rules.

The proposed exemption does not weaken existing rules, but simply relocates an exemption from the definition of vehicle refinishing (body shops) to a more appropriate location within the exemption section. The commission has made no changes in response to the comment.

Dallas commented on §115.427(a)(6) and stated that the recoating of vehicles for commercial purposes should not be considered as "private individuals."

The intent of §115.427(a)(6) is to allow a hobbyist to repair and repaint a vehicle himself without being subject to the requirements of §115.421(a)(8)(B) and §115.422(1)-(2). The commission expects that this repair and repainting will generally be done at the private individual's residence. If the recoating of a private individual's vehicle occurs at a commercial operation, then the exemption of §115.427(a)(6) is not applicable. The commission has revised §115.427(a)(6) to clarify this intent.

#### OFFSET LITHOGRAPHIC PRINTING TCC

Commented on §115.442(1)(B) and suggested that the last sentence, concerning non-alcohol additives and alcohol substitutes, is redundant and should be deleted.

The commission has deleted the word "alternatively" from this sentence to make it clear that non-alcohol additives and alcohol substitutes (both of which are likely to contain VOCs) are acceptable.

TCC suggested that §115.449(b) and (c) be combined into a single paragraph.

Section 115.449 contains a separate paragraph for each affected ozone nonattainment area to allow for implementation of the offset printing rules on different schedules in the various areas. The commission has made no changes in response to the comment.

#### PHARMACEUTICAL MANUFACTURING FACILITIES

TCC's comments on §115.532(a)(5) were addressed under the General Comments.

#### PETROLEUM DRY CLEANING SYSTEMS

TCC suggested that §115.559(a)-(c) be combined into a single paragraph.

Section 115.559 contains a separate paragraph for each affected ozone nonattainment area to allow for implementation of the petroleum dry cleaning rules on different schedules in the various areas. The commission has made no changes in response to the comment.

Dallas commented that the titles of §§115.552, 115.553, and 115.555-115.557 are included in §115.559(a) but not in §115.559(b) and (c).

The section titles are not repeated in §115.559(b) and (c) because the *Texas Register* only requires that the titles be given

once in a section. The commission has made no changes in response to the comment.

## Subchapter A. Definitions

### 30 TAC §115.10

#### STATUTORY AUTHORITY

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.

#### §115.10. 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.

**Fugitive emission**-Any volatile organic compound entering the atmosphere which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening designed to direct or control its flow.

**Leak**-A volatile organic compound concentration greater than 10,000 parts per million by volume (ppmv) or the amount specified by applicable rule, whichever is lower; or the dripping or exuding of process fluid based on sight, smell, or sound.

**Synthetic Organic Chemical Manufacturing Industry (SOCMI) batch distillation operation**-A SOCMI noncontinuous distillation operation in which a discrete quantity or batch of liquid feed is charged into a distillation unit and distilled at one time. After the initial charging of the liquid feed, no additional liquid is added during the distillation operation.

**Synthetic Organic Chemical Manufacturing Industry (SOCMI) batch process** -Any SOCMI noncontinuous reactor process which is not characterized by steady-state conditions, and in which reactants are not added and products are not removed simultaneously.

**Synthetic Organic Chemical Manufacturing Industry (SOCMI) distillation operation**-A SOCMI operation separating one or more feed stream(s) into two or more exit streams, each exit stream having component concentrations different from those in the feed stream(s). The separation is achieved by the redistribution of the components between the liquid and vapor-phase as they approach equilibrium within the distillation unit.

**Synthetic Organic Chemical Manufacturing Industry (SOCMI) distillation unit**-A SOCMI device or vessel in which distillation operations occur, including all associated internals (including, but not limited to, trays and packing), accessories (including, but not limited to, reboilers, condensers, vacuum pumps, and steam jets), and recovery devices (such as absorbers, carbon adsorbers, and condensers) which are capable of, and used for, recovering chemicals for use, reuse, or sale.

**Synthetic Organic Chemical Manufacturing Industry (SOCMI) reactor process** -A SOCMI unit operation in which one or more chemicals, or reactants other than air, are combined or decomposed in such a

way, that their molecular structures are altered and one or more new organic compounds are formed.

**Tank-truck tank**-Any storage tank having a capacity greater than 1,000 gallons, mounted on a tank-truck or trailer. Vacuum trucks used exclusively for maintenance and spill response are not considered to be tank-truck tanks.

**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 and construction equipment 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), perchlorobenzotrifluoride (PCBTF), cyclic, branched, or linear completely methylated siloxanes, acetone, 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca), 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb), 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee), carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, and perfluorocarbon compounds which fall into these classes:

(A)-(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.

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Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

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## Subchapter B. General Volatile Organic Compound Sources

### Storage of Volatile Organic Compounds

#### 30 TAC §§115.112, 115.114-115.116, 115.119

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.

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.

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## Vent Gas Control

### 30 TAC §§115.121-115.123, 115.126, 115.127, 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 commission with the authority to adopt rules consistent with the policy and purposes of the TCAA.

#### §115.122. Control Requirements.

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

(1) Any vent gas streams affected by §115.121(a)(1) of this title (relating to Emission Specifications) must be controlled properly with a control efficiency of at least 90% or to a volatile organic compound (VOC) concentration of no more than 20 parts per million by volume (ppmv) (on a dry basis corrected to 3.0% oxygen for combustion devices):

(A) in a direct-flame incinerator at a temperature equal to or greater than 1300 degrees Fahrenheit (704 degrees Centigrade);

(B) in a smokeless flare; or

(C) by any other vapor recovery system, as defined in §115.10 of this title (relating to Definitions).

(2) Any vent gas streams affected by §115.121(a)(2) of this title must be controlled properly with a control efficiency of at least 98% or to a VOC concentration of no more than 20 ppmv (on a dry basis corrected to 3.0% oxygen for combustion devices):

(A) in a smokeless flare; or

(B) by any other vapor recovery system, as defined in §115.10 of this title.

(3) For the Dallas/Fort Worth, El Paso, and Houston/Galveston areas, VOC emissions from each bakery with a bakery oven vent gas stream(s) affected by §115.121(a)(3) of this title shall be reduced as follows.

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

(4) Any vent gas stream that becomes subject to the provisions of paragraphs (1), (2), or (3) of this subsection by exceeding provisions of §115.127(a) of this title (relating to Exemptions) shall

remain subject to the provisions of this subsection, even if throughput or emissions later fall below the exemption limits unless and until emissions are reduced to no more than the controlled emissions level existing before implementation of the project by which throughput or emission rate was reduced to less than the applicable exemption limits in §115.127(a) of this title; and:

(A) the project by which throughput or emission rate was reduced is authorized by any permit or permit amendment or standard permit or standard exemption required by Chapter 116 or Chapter 106 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification; and Exemptions from Permitting). If a standard exemption is available for the project, compliance with this subsection must be maintained for 30 days after the filing of documentation of compliance with that standard exemption; or

(B) if authorization by permit, permit amendment, standard permit, or standard exemption is not required for the project, the owner/operator has given the executive director 30 days' notice of the project in writing.

(b) For all persons in Nueces and Victoria Counties, any vent gas streams affected by §115.121(b) of this title must be controlled properly with a control efficiency of at least 90% or to a VOC concentration of no more than 20 ppmv (on a dry basis corrected to 3.0% oxygen for combustion devices):

(1) in a direct-flame incinerator at a temperature equal to or greater than 1300 degrees Fahrenheit (704 degrees Centigrade);

(2) in a smokeless flare; or

(3) by any other vapor recovery system, as defined in §115.10 of this title.

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

(1) Any vent gas streams affected by §115.121(c)(1) of this title must be controlled properly:

(A) in a direct-flame incinerator at a temperature equal to or greater than 1300 degrees Fahrenheit (704 degrees Centigrade);

(B) in a smokeless flare; or

(C) by any other vapor recovery system, as defined in §115.10 of this title, with a control efficiency of at least 90% or to a VOC concentration of no more than 20 ppmv (on a dry basis corrected to 3.0% oxygen for combustion devices).

(2) Any vent gas streams affected by §115.121(c)(2) of this title must be controlled properly:

(A) in a direct-flame incinerator or boiler at a temperature equal to or greater than 1300 degrees Fahrenheit (704 degrees Centigrade); or

(B) by any other vapor recovery system, as defined in §115.10 of this title, with a control efficiency of at least 90% or to a VOC concentration of no more than 20 ppmv (on a dry basis corrected to 3.0% oxygen for combustion devices).

(3) Any vent gas streams affected by §115.121(c)(3) of this title must be controlled properly:

(A) at a temperature equal to or greater than 1300 degrees Fahrenheit (704 degrees Centigrade) in an afterburner having a retention time of at least one-fourth of a second, and having a steady flame that is not affected by the cupola charge and relights automatically if extinguished; or

(B) by any other vapor recovery system, as defined in §115.10 of this title, with a control efficiency of at least 90% or to a VOC concentration of no more than 20 ppmv (on a dry basis corrected to 3.0% oxygen for combustion devices).

(4) Any vent gas streams affected by §115.121(c)(4) of this title must be controlled properly:

(A) in a smokeless flare or in a combustion device used in a heating process associated with the operation of a blast furnace ; or

(B) by any other vapor recovery system, as defined in §115.10 of this title, with a control efficiency of at least 90% or to a VOC concentration of no more than 20 ppmv (on a dry basis corrected to 3.0% oxygen for combustion devices).

*§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 executive director, 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)-(2) (No change.)

(3) As an alternative to the requirements of paragraph (2) of this subsection, records for each vent exempted from control requirements in accordance with §115.127(a) of this title (relating to Exemptions) and having a VOC emission rate or concentration less than 50% of the applicable exemption limits at maximum actual operating conditions shall be sufficient to demonstrate continuous compliance with the applicable exemption limit. These records shall include complete information from either test results or appropriate calculations which clearly documents that the emission characteristics at maximum actual operating conditions are less than 50% of the applicable exemption limits. This documentation shall include the operating parameter levels that occurred during any testing, and the maximum levels feasible for the process.

(4) For bakeries affected by §115.122(a)(3)(A)-(B) of this title (relating to Control Requirements), the following additional requirements apply.

(A) The owner or operator of each bakery shall submit an initial control plan no later than May 31, 1995, to the executive director, the appropriate 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% by May 31, 1996. At a minimum, the control plan shall include the emission point number (EPN) and the facility identification number (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 1996 VOC emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

(B) In order to document continued compliance with §115.122(a)(3) of this title, the owner or operator of each bakery shall submit an annual report no later than March 31 of each year to the executive director, the appropriate 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 during the preceding calendar year is at least 30% after May 31, 1996. At a minimum, the report shall include the EPN and 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 VOC emission rates. The emission rates for the preceding calendar year shall be calculated in a manner consistent with the 1990 emissions inventory.

(C) All representations in initial control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions unless the owner or operator of the bakery submits a revised control plan to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction within 30 days of the change. All control plans and reports shall include documentation that the overall reduction of VOC emissions from the bakery's 1990 baseline emissions inventory continues to be at least 30%. The emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

(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 commission 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 executive director, the appropriate 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) In order to document continued compliance with §115.122(a)(3) of this title, the owner or operator of each bakery shall submit an annual report no later than March 31 of each year to the executive director, the appropriate 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 during the preceding calendar year is at least 30%. At a minimum, the report shall include the EPN and 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 VOC emission rates. The emission

rates for the proceeding calendar year shall be calculated in a manner consistent with the 1990 emissions inventory.

(C) All representations in initial control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions unless the owner or operator of the bakery submits a revised control plan to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction within 30 days of the change. All control plans and reports shall include documentation that the overall reduction of VOC emissions from the bakery's 1990 baseline emissions inventory continues to be at least 30%. The emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

(6) The owner or operator of a facility that uses a flare to meet the requirements of §115.122(a)(2) shall install, calibrate, maintain, and operate according to the manufacturer's specifications, a heat-sensing device, such as an ultraviolet beam sensor or thermocouple, at the pilot light to indicate continuous presence of a flame.

(b) For Victoria County, the owner or operator of any facility which emits 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 executive director, 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)-(2) (No change.)

(3) As an alternative to the requirements of paragraph (2) of this subsection, records for each vent exempted from control requirements in accordance with §115.127(b) of this title and having a VOC emission rate or concentration less than 50% of the applicable exemption limits at maximum actual operating conditions shall be sufficient to demonstrate continuous compliance with the applicable exemption limit. These records shall include complete information from either test results or appropriate calculations which clearly documents that the emission characteristics at maximum actual operating conditions are less than 50% of the applicable exemption limits. This documentation shall include the operating parameter levels that occurred during any testing, and the maximum levels feasible for the process.

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.

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## Water Separation

30 TAC §§115.132, 115.136, 115.137

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.

### §115.132. Control Requirements.

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, no person shall use any single or multiple compartment volatile organic compound (VOC) water separator which separates materials containing VOC obtained from any equipment which is processing, refining, treating, storing, or handling VOC, unless each compartment is controlled in one of the following ways:

(1) the compartment totally encloses the liquid contents and has all openings (such as roof seals and access doors) sealed such that the separator can hold a vacuum or pressure without emissions to the atmosphere, except through a pressure relief valve. All gauging and sampling devices shall be vapor-tight except during gauging or sampling. The pressure relief valve must be designed to open only as necessary to allow proper operation, and must be set at the maximum possible pressure necessary for proper operation, but such that the valve will not vent continuously;

(2)-(3) (No change.)

(4) any water separator that becomes subject to the provisions of paragraphs (1), (2), or (3) of this subsection by exceeding provisions of §115.137(a) of this title (relating to Exemptions) will remain subject to the provisions of this subsection, even if throughput or emissions later fall below the exemption limits unless and until emissions are reduced to no more than the controlled emissions level existing before implementation of the project by which throughput or emission rate was reduced to less than the applicable exemption limits in §115.137(a) of this title; and

(A) the project by which throughput or emission rate was reduced is authorized by any permit or permit amendment or standard permit or standard exemption required by Chapter 116 or Chapter 106 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification; and Exemptions from Permitting). If a standard exemption is available for the project, compliance with this subsection must be maintained for 30 days after the filing of documentation of compliance with that standard exemption; or

(B) if authorization by permit, permit amendment, standard permit, or standard exemption is not required for the project, the owner/operator has given the executive director 30 days' notice of the project in writing.

(b) For Gregg, Nueces, and Victoria Counties, no person shall use any single or multiple compartment VOC water separator which separates materials containing VOC obtained from any equipment which is processing, refining, treating, storing, or handling VOC, unless each compartment is controlled in one of the following ways:

(1) the compartment totally encloses the liquid contents and has all openings (such as roof seals and access doors) sealed such that the separator can hold a vacuum or pressure without emissions to the atmosphere, except through a pressure relief valve. All gauging and sampling devices shall be vapor-tight except during gauging or sampling. The pressure relief valve must be designed to open only as

necessary to allow proper operation, and must be set at the maximum possible pressure necessary for proper operation, but such that the valve will not vent continuously;

(2)-(3) (No change.)

(c) For Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis Counties, no person shall use any single or multiple compartment VOC water separator which separates materials containing VOC obtained from any equipment which is processing, refining, treating, storing, or handling VOC, unless each compartment is controlled in one of the following ways:

(1) the compartment totally encloses the liquid contents and has all openings (such as roof seals and access doors) sealed such that the separator can hold a vacuum or pressure without emissions to the atmosphere, except through a pressure relief valve. All gauging and sampling devices shall be vapor-tight except during gauging or sampling. The pressure relief valve must be designed to open only as necessary to allow proper operation, and must be set at the maximum possible pressure necessary for proper operation, but such that the valve will not vent continuously;

(2)-(3) (No change.)

*§115.137. Exemptions.*

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

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

(3) Any single or multiple compartment VOC water separator which is designed solely to capture stormwater, spills, or exterior surface cleanup waters is exempt from this undesignated head (relating to Water Separation), provided that the separator is fully covered. These separators are not required to be equipped with pressure/vacuum vents or vapor recovery systems.

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

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

(5) Any single or multiple compartment VOC water separator which is designed solely to capture stormwater, spills, or exterior surface cleanup waters is exempt from this undesignated head (relating to Water Separation), provided that the separator is fully covered. These separators are not required to be equipped with pressure/vacuum vents or vapor recovery systems.

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

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

(4) Any single or multiple compartment VOC water separator which is designed solely to capture stormwater, spills, or exterior surface cleanup waters is exempt from this undesignated head (relating to Water Separation), provided that the separator is fully covered. These separators are not required to be equipped with pressure/vacuum vents or vapor recovery systems.

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.

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Kevin McCalla

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## Industrial Wastewater

### 30 TAC §§115.146, 115.147, 115.149

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.

*§115.147. Exemptions.*

For the Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following exemptions shall apply.

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

(5) Wastewater components are exempt from the control requirements of §115.142 of this title if the overall control of VOC emissions at the account from wastewater from affected source categories is at least 90% less than the 1990 baseline emissions inventory, and the following requirements are met.

(A) To qualify for the exemption available under this paragraph after December 31, 1996, the owner or operator of a wastewater component for which a control plan was not previously submitted shall submit a control plan to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall control of VOC emissions at the account from wastewater from affected source categories will be at least 90% less than the 1990 baseline emissions inventory. Any control plan submitted after December 31, 1996, must be approved by the executive director before the owner or operator may use the exemption available under this paragraph for compliance. At a minimum, the control plan shall include the applicable emission point number (EPN); the facility identification number (FIN); the calendar year 1990 emission rates of wastewater from affected source categories (consistent with the 1990 emissions inventory); a plot plan showing the location, EPN, and FIN associated with a wastewater storage, handling, transfer, or treatment facility; the VOC emission rates for the preceding calendar year; and an explanation of the recordkeeping procedure and calculations which will be used to demonstrate compliance. The VOC emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

(B) In order to maintain exemption status under this paragraph, the owner or operator shall submit an annual report no later than March 31 of each year to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction, which demonstrates that the overall control of VOC emissions at the account from wastewater from affected source categories during the preceding calendar year is at least 90% less than the 1990 baseline emissions inventory. At a minimum, the report shall include the EPN; FIN; the throughput of wastewater from affected source categories; a plot plan showing the location, EPN,

and FIN associated with a wastewater storage, handling, transfer, or treatment facility; and the VOC emission rates for the preceding calendar year. The emission rates for the preceding calendar year shall be calculated in a manner consistent with the 1990 emissions inventory.

(C) All representations in control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions unless the owner or operator of the wastewater component submits a revised control plan to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction no later than 30 days after the change. All control plans and reports shall include documentation that the overall reduction of VOC emissions at the account from wastewater from affected source categories continues to be at least 90% less than the 1990 baseline emissions inventory. The emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

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.

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## Municipal Solid Waste Landfills

### 30 TAC §§115.153, 115.156, 115.159

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.

#### §115.153. *Alternate Control Requirements.*

For all persons in the Houston/Galveston, El Paso, and Dallas/Fort Worth ozone nonattainment areas, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this undesignated head (relating to Municipal Solid Waste Landfills) 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 adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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## Subchapter C. Volatile Organic Compound Transfer Operations

### Loading and Unloading of Volatile Organic Compounds

#### 30 TAC §§115.211, 115.212, 115.214-115.217, 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 commission with the authority to adopt rules consistent with the policy and purposes of the TCAA.

#### §115.211. *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.

(1) Volatile organic compound (VOC) emissions from gasoline terminals shall be reduced to a level not to exceed 0.09 pound of VOC from the vapor recovery system vent per 1,000 gallons (10.8 mg/liter) of gasoline loaded into transport vessels.

(2) (No change.)

(3) In the Houston/Galveston area, VOC emissions from marine terminals, as defined in §115.10 of this title, shall be reduced to a level not to exceed 0.09 pounds of VOC from the vapor recovery system vent per 1,000 gallons (10.8 mg/liter) of VOC loaded into the marine vessel, or the vapor recovery system shall maintain a control efficiency of at least 90%.

(b) (No change.)

#### §115.212. *Control Requirements.*

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

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

(2) No person shall permit the unloading of VOC with a true vapor pressure greater than or equal to 0.5 psia under actual storage conditions from any transport vessel unless the transport vessel is kept vapor-tight at all times until the vapors remaining in the transport vessel after unloading are discharged to a vapor recovery system if the transport vessel is refilled, degassed, and/or cleaned in one of the counties in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas. The requirement to discharge

the vapors remaining in the transport vessel after unloading to a vapor recovery system does not apply if the transport vessel is refilled, degassed, and/or cleaned at an operation for which control of the vapors is not required.

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

(A) All liquid and vapor lines are:

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

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

(B) There are no VOC leaks, as defined in §115.10 of this title, when measured with a hydrocarbon gas analyzer, and no liquid or vapor leaks, as detected by sight, sound, or smell, from any potential leak source in the transport vessel and transfer system (including, but not limited to, liquid lines, vapor lines, hatch covers, pumps, and valves, including pressure relief valves).

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

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

(ii) not occur while VOC is being transferred.

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

(4) When loading 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 which prevents liquid drainage from the loading device when it is removed from the hatch of any transport vessel, or which routes all VOC emissions to a vapor recovery system.

(5) No person shall permit the loading of gasoline to a transport vessel from a gasoline terminal unless the vapors are processed by a vapor recovery system as defined in §115.10 of this title. Vapor recovery systems and loading equipment at gasoline terminals shall be designed and operated such that gauge pressure does not exceed 18 inches of water (4.5 kPa) and vacuum does not exceed six inches of water (1.5 kPa) in the gasoline tank-truck.

(6) No person shall permit the transfer of gasoline from a transport vessel into a gasoline bulk plant storage tank, unless the following requirements are met:

(A) a vapor return line is installed from the storage tank to the transport vessel;

(B) the only atmospheric emission during gasoline transfer is through the storage tank's pressure-vacuum relief valve resulting from emergency situations when pressures exceed the specifications in paragraph (7)(C) of this section; and

(C) the transport vessel is kept vapor-tight at all times until the vapors remaining in the transport vessel are discharged to a vapor recovery system, if the transport vessel is refilled, degassed, and/or cleaned in one of the counties in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas. The requirement to discharge the vapors remaining in the transport vessel after unloading to a vapor recovery system does not apply if the transport vessel is refilled, degassed, and/or cleaned at an operation for which control of the vapors is not required.

(7) No person shall permit the transfer of gasoline from a gasoline bulk plant into a transport vessel, unless the following requirements are met:

(A) the transport vessel, if equipped for top loading, has a submerged fill pipe;

(B) a vapor return line is installed from the transport vessel to the storage tank;

(C) gauge pressure does not exceed 18 inches of water (4.5 kPa) and vacuum does not exceed six inches of water (1.5 kPa) in the gasoline tank-truck tank; and

(D) the only atmospheric emission during gasoline transfer is through the storage tank pressure-vacuum relief valves resulting from emergency situations when pressures exceed the specification in subparagraph (C) of this paragraph.

(8) For marine terminals in the Houston/Galveston area, the following control requirements shall apply.

(A) Control device(s) shall reduce VOC emissions by at least 90% by weight from uncontrolled conditions or to a level not to exceed 0.09 pounds of VOC from the vapor recovery system vent per 1,000 gallons (10.8 mg/liter) of VOC loaded.

(B) Only certified leak-free marine vessels, as defined in §115.10 of this title, shall be used for loading operations. If no documentation of the annual vapor tightness test is available, one of the following methods may be substituted:

(i) VOC shall be loaded into the marine vessel with the vessel product tank at negative gauge pressure;

(ii) Leak testing shall be performed during loading using Test Method 21. The testing shall be conducted during the final 20% of loading of each product tank of the marine vessel and shall be applied to any potential sources of vapor leaks on the vessel; or

(iii) Documentation of leak testing conducted during the preceding 12 months as described in clause (ii) of this subparagraph shall be provided.

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

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

(ii) not occur while VOC is being transferred.

(9) For gasoline terminals in the Dallas/Fort Worth, El Paso, and Houston/Galveston areas, each vapor recovery system shall be instrumented in such a way that the pump(s) transferring fuel to the transport vessels will not operate unless the vapor recovery system is properly connected and properly operating. No transport vessel

loading shall take place at a loading rack when the vapor recovery system serving that loading rack is out of service or is not operating in accordance with the manufacturer's parameters.

(10) Any loading or unloading operation that becomes subject to the provisions of this subsection by exceeding provisions of §115.217(a) of this title (relating to Exemptions) will remain subject to the provision of this subsection, even if throughput or emissions later fall below exemption limits unless and until emissions are reduced to no more than the controlled emissions level existing before implementation of the project by which throughput or emission rate was reduced to less than the applicable exemption limits in §115.217(a) of this title; and

(A) the project by which throughput or emission rate was reduced is authorized by any permit or permit amendment or standard permit or standard exemption required by Chapter 116 or Chapter 106 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification; and Exemptions from Permitting). If a standard exemption is available for the project, compliance with this subsection must be maintained for 30 days after the filing of documentation of compliance with that standard exemption; or

(B) if authorization by permit, permit amendment, standard permit, or standard exemption is not required for the project, the owner/operator has given the executive director 30 days' notice of the project in writing.

(b)-(c) (No change.)

#### §115.214. *Inspection Requirements.*

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

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

(4) 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, Natural Gas/Gasoline Processing, and Petrochemical Processes in Ozone Nonattainment Areas). 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) 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.)

#### §115.217. *Exemptions.*

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

(1) All loading and unloading of volatile organic compounds (VOC) with a true vapor pressure less than 0.5 psia under actual storage conditions is exempt from the requirements of §115.212(a) of this title (relating to Control Requirements).

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

(3) All loading and unloading of liquefied petroleum gas only (regulated by the Safety Rules of the Liquefied Petroleum Gas Division of the Texas Railroad Commission) is exempt from the requirements of §115.212(a) of this title.

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

(A) all unloading of marine vessels; and

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

(5) Gasoline bulk plants which load less than 4,000 gallons (15,142 liters) of gasoline into transport vessels per day averaged over any consecutive 30-day period are exempt from the provisions of §115.211(a)(2), §115.212(a)(7), and §115.216(a)(4) of this title (relating to Emission Specifications; Control Requirements; and Monitoring and Recordkeeping Requirements).

(6) VOC loading operations other than gasoline terminals, gasoline bulk plants, and marine terminals are exempt from the control requirements of §115.212(a)(1) of this title if the overall control of emissions at the account from the loading of VOC (excluding VOC loading into marine vessels and VOC loading at gasoline terminals and gasoline bulk plants) with a true vapor pressure between 0.5 and 11 psia under actual storage conditions is at least 90%, and the following requirements are met.

(A) To qualify for the exemption available under this paragraph after December 31, 1996, the owner or operator of a VOC loading operation for which a control plan was not previously submitted shall submit a control plan to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions will be at least 90%. Any control plan submitted after December 31, 1996, must be approved by the executive director before the owner or operator may use the exemption available under this paragraph for compliance. For each loading rack and any associated control device at the account, the control plan shall include the EPN, the FIN, the throughput of VOC with a true vapor pressure between 0.5 and 11

psia under actual storage conditions for the preceding calendar year, a plot plan showing the location, EPN, and FIN of each loading rack and any associated control device, the controlled and uncontrolled emission rates for the preceding calendar year, and an explanation of the recordkeeping procedure and calculations which will be used to demonstrate compliance.

(B) In order to maintain exemption status under this paragraph, the owner or operator of the VOC loading operation shall submit an annual report no later than March 31 of each year to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions during the preceding calendar year is at least 90%. For each loading rack and any associated control device at the account, the report shall include the EPN, the FIN, the throughput of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions for the preceding calendar year, a plot plan showing the location, EPN, and FIN of each loading rack and any associated control device, and the controlled and uncontrolled emission rates for the preceding calendar year.

(C) The owner or operator of the VOC loading operation shall submit an updated report no later than 30 days after the installation of an additional loading rack(s) or any change in service of a loading rack(s) from loading VOC with a true vapor pressure less than 0.5 psia to loading VOC with a true vapor pressure greater than or equal to 0.5 psia, or vice versa. The report shall be submitted to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction and shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions continues to be at least 90%.

(D) All representations in control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions unless the owner or operator of the VOC loading operation submits a revised control plan to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction no later than 30 days after the change. All control plans and reports shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions continues to be at least 90%. The emission rates shall be calculated in a manner consistent with the most recent emissions inventory.

(7) The following marine loading operations are exempt from the requirements of §115.211(a) and §115.212(a) of this title:

(A) marine terminals with uncontrolled marine loading VOC emissions less than 100 tons per year. Emissions from marine vessel loading operations which were routed to a control device that was installed as of November 15, 1993, are excluded from this calculation. Compliance with this exemption shall be demonstrated through the recordkeeping and reporting requirements of the annual emissions inventory submitted by the owner or operator of the marine terminal;

(B) all throughput of VOC with a vapor pressure less than 0.5 psia loaded into marine vessels;

(C) marine loading operations which use a vapor balance system to control emissions from the marine vessel to fixed roof storage tank(s). For the purposes of this paragraph, vapor balance system is defined as a closed system that transfers vapor displaced from the tank of a vessel receiving cargo into a tank of the vessel or facility delivering cargo via an arrangement of piping and hoses used to collect vapor emitted from a vessel's cargo tanks;

(D) non-dedicated loading lines when commodities with a true vapor pressure less than 0.5 psia are transferred, provided that after transfer of VOC with a true vapor pressure greater than or equal to 0.5 psia these non-dedicated loading lines are cleaned, purged, and the residual vapors controlled of VOC with a true vapor pressure greater than or equal to 0.5 psia; and

(E) all throughput of VOC with a flash point of 150 degrees Fahrenheit or greater loaded into marine vessels.

(8) Marine terminals are exempt from the control requirements of §115.211(a)(3) and §115.212(a)(8)(A) of this title if the overall control of emissions at the marine terminal from the loading of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions into marine vessels is at least 90%, and the following requirements are met.

(A) To qualify for the exemption available under this paragraph after December 31, 1996, the owner or operator of a marine terminal for which a control plan was not previously submitted shall submit a control plan to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall control of emissions at the marine terminal from the loading of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions into marine vessels will be at least 90%. Any control plan submitted after December 31, 1996 must be approved by the executive director before the owner or operator may use the exemption available under this paragraph for compliance. For each marine loading facility and any associated control device at the marine terminal, the control plan shall include the EPN, the FIN, the throughput of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions for the preceding calendar year, a plot plan showing the location, EPN, and FIN of each marine loading facility and any associated control device, the controlled and uncontrolled emission rates for the preceding calendar year, and an explanation of the recordkeeping procedure and calculations which will be used to demonstrate compliance.

(B) In order to maintain exemption status under this paragraph, the owner or operator of the marine terminal shall submit an annual report no later than March 31 of each year to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall control of emissions at the marine terminal from the loading of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions into marine vessels during the preceding calendar year is at least 90%. For each marine loading facility and any associated control device at the account, the report shall include the EPN, the FIN, the throughput of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions for the preceding calendar year, a plot plan showing the location, EPN, and FIN of each marine loading facility and any associated control device, and the controlled and uncontrolled emission rates for the preceding calendar year.

(C) All representations in control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions unless the owner or operator of the marine terminal submits a revised control plan to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction no later than 30 days after the change. All control plans and reports shall demonstrate that the overall control of emissions at the marine terminal from the loading into marine vessels of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions continues to be at least 90%. The emission rates shall be calculated in a manner consistent with the most recent emissions inventory.

(9) Motor vehicle fuel dispensing facilities, as defined in §115.10 of this title (relating to Definitions), are exempt from the requirements of this undesignated head (relating to Loading and Unloading of Volatile Organic Compounds).

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

(1) (No change.)

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

(3) (No change.)

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

(A) To qualify for the exemption available under this paragraph after December 31, 1996, the owner or operator of a VOC loading operation for which a control plan was not previously submitted shall submit a control plan to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions will be at least 90%. Any control plan submitted after December 31, 1996, must be approved by the executive director before the owner or operator may use the exemption available under this paragraph for compliance. For each loading rack and any associated control device at the account, the control plan shall include the EPN, the FIN, the throughput of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions for the preceding calendar year, a plot plan showing the location, EPN, and FIN of each loading rack and any associated control device, the controlled and uncontrolled emission rates for the preceding calendar year, and an explanation of the recordkeeping procedure and calculations which will be used to demonstrate compliance.

(B) In order to maintain exemption status under this paragraph, the owner or operator of the VOC loading operation shall submit an annual report no later than March 31 of each year to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions during the preceding calendar year is at least 90%. For each loading rack and any associated control device at the account, the report shall include the EPN, the FIN, the throughput of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions for the preceding calendar year, a plot plan showing the location, EPN, and FIN of each loading rack and any associated control device, and the controlled and uncontrolled emission rates for the preceding calendar year.

(C) The owner or operator of the VOC loading operation shall submit an updated report no later than 30 days after the installation of an additional loading rack(s) or any change in service of a loading rack(s) from loading VOC with a true vapor pressure less than 1.5 psia to loading VOC with a true vapor pressure greater than or equal to 1.5 psia, or vice versa. The report shall be submitted to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction and shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions continues to be at least 90%.

(D) All representations in control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions unless the owner or operator of the VOC loading operation submits a revised control plan to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction no later than 30 days after the change. All control plans and reports shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions continues to be at least 90%. The emission rates shall be calculated in a manner consistent with the most recent emissions inventory.

(5) Motor vehicle fuel dispensing facilities, as defined in §115.10 of this title (relating to Definitions), are exempt from the requirements of this undesignated head (relating to Loading and Unloading of Volatile Organic Compounds).

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

(1) (No change.)

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

(3) (No change.)

(4) VOC loading operations other than gasoline terminals, gasoline bulk plants, and marine terminals are exempt from the control requirements of §115.212(c)(1) of this title if the overall

control of emissions at the account from the loading of VOC (excluding VOC loading into marine vessels and VOC loading at gasoline terminals and gasoline bulk plants) with a true vapor pressure between 1.5 and 11 psia under actual storage conditions is at least 90%, and the following requirements are met:

(A) To qualify for the exemption available under this paragraph after December 31, 1996, the owner or operator of a VOC loading operation for which a control plan was not previously submitted shall submit a control plan to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions will be at least 90%. Any control plan submitted after December 31, 1996 must be approved by the executive director before the owner or operator may use the exemption available under this paragraph for compliance. For each loading rack and any associated control device at the account, the control plan shall include the EPN, the FIN, the throughput of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions for the preceding calendar year, a plot plan showing the location, EPN, and FIN of each loading rack and any associated control device, the controlled and uncontrolled emission rates for the preceding calendar year, and an explanation of the recordkeeping procedure and calculations which will be used to demonstrate compliance.

(B) In order to maintain exemption status under this paragraph, the owner or operator of the VOC loading operation shall submit an annual report no later than March 31 of each year to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions during the preceding calendar year is at least 90%. For each loading rack and any associated control device at the account, the report shall include the EPN, the FIN, the throughput of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions for the preceding calendar year, a plot plan showing the location, EPN, and FIN of each loading rack and any associated control device, and the controlled and uncontrolled emission rates for the preceding calendar year.

(C) The owner or operator of the VOC loading operation shall submit an updated report no later than 30 days after the installation of an additional loading rack(s) or any change in service of a loading rack(s) from loading VOC with a true vapor pressure less than 1.5 psia to loading VOC with a true vapor pressure greater than or equal to 1.5 psia, or vice versa. The report shall be submitted to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction and shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions continues to be at least 90%.

(D) All representations in control plans and annual reports become enforceable conditions. It shall be unlawful for any person to vary from such representations if the variation will cause a change in the identity of the specific emission sources being controlled or the method of control of emissions unless the owner or operator of the VOC loading operation submits a revised control plan to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction no later than 30

days after the change. All control plans and reports shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions continues to be at least 90%. The emission rates shall be calculated in a manner consistent with the most recent emissions inventory.

(5) Motor vehicle fuel dispensing facilities, as defined in §115.10 of this title (relating to Definitions), are exempt from the requirements of this undesignated head (relating to Loading and Unloading of Volatile Organic Compounds).

*§115.219. Counties and Compliance Schedules.*

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

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

(2)-(3) (No change.)

(4) All affected gasoline terminals in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Harris, Liberty, Montgomery, Tarrant, and Waller Counties shall be in compliance with §115.212(a)(9), §115.214(a)(5), and §115.216(a)(7) of this title as soon as practicable, but no later than November 15, 1996.

(5) (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.

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Kevin McCalla

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**Filing of Gasoline Storage Vessels (Stage I) for  
Motor Vehicle Fuel Dispensing Facilities**

**30 TAC §§115.221-115.223, 115.226**

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.

*§115.222. Control Requirements.*

For all affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, a vapor balance system will be assumed to comply with the specified emission limitation

of §115.221 of this title (relating to Emission Specifications) if the following conditions are met:

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

(7) the tank-truck tank is kept vapor-tight at all times until the captured vapors are discharged to a vapor recovery system, if the tank-truck tank is refilled, degassed, and/or cleaned in one of the counties in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas. The requirement to discharge the vapors remaining in the tank-truck tank after unloading to a vapor recovery system does not apply if the tank-truck tank is refilled, degassed, and/or cleaned at an operation for which control of the vapors is not required.

(8)-(11) (No change.)

*§115.223. Alternate Control Requirements.*

For all affected 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 (relating to Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities) 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 adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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### Control of Reid Vapor Pressure of Gasoline

#### 30 TAC §§115.253, §115.256

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.

*§115.253. Alternate Control Requirements.*

For all affected 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 (relating to Control Of Reid Vapor Pressure of Gasoline) 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.

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### Subchapter D. Petroleum Refining, Natural Gas Processing, and Petrochemical Processes

#### Process Unit Turnaround and Vacuum-Producing Systems in Petroleum Refineries

#### 30 TAC §§115.311-115.313, 115.319

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.

*§115.312. Control Requirements.*

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

(1) (No change.)

(2) Vent gas streams affected by §115.311(a) of this title (relating to Emission Specifications) must be controlled properly with a control efficiency of at least 90% or to a volatile organic compound (VOC) concentration of no more than 20 parts per million by volume (ppmv) (on a dry basis corrected to 3.0% oxygen for combustion devices):

(A) in a direct-flame incinerator at a temperature equal to or greater than 1300°F (704°C);

(B) in a smokeless flare; or

(C) by any other vapor recovery system, as defined in §115.10 of this title (relating to Definitions).

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

(1) (No change.)

(2) Vent gas streams affected by §115.311(b) of this title must be controlled properly with a control efficiency of at least 90% or to a VOC concentration of no more than 20 ppmv (on a dry basis corrected to 3.0% oxygen for combustion devices):

(A) in a direct-flame incinerator at a temperature equal to or greater than 1300 degrees Fahrenheit (704 degrees Centigrade);

(B) in a smokeless flare; or

(C) by any other vapor recovery system, as defined in §115.10 of this title.

*§115.313. Alternate Control Requirements.*

(a) For all affected 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 in this undesignated head (relating to Process Unit Turnaround and Vacuum-Producing Systems in Petroleum Refineries) may be approved by the executive director in accordance with §115.910 of this title (relating to Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

(b) For all affected persons in Gregg, Nueces, and Victoria Counties, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements in this undesignated head (relating to Process Unit Turnaround and Vacuum-Producing Systems in Petroleum Refineries) 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.

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## Fugitive Emission Control in Petroleum Refineries

### 30 TAC §§115.322-115.327, 115.329

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.

*§115.323. Alternate Control Requirements.*

For all affected persons in Gregg, Nueces, and Victoria Counties, the following alternate control techniques may apply:

(1) Any alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this undesignated head (relating to Fugitive Emission Control in Petroleum Refineries in Gregg, Nueces, and Victoria Counties) 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.

(2) The executive director may approve an alternate monitoring method if the refinery operator can demonstrate that the alternate monitoring method satisfies the conditions of §115.324(7) of this title (relating to Inspection Requirements). Any request for an

alternate monitoring method must be made in writing to the executive director.

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.

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## Fugitive Emission Control in Synthetic Organic Chemical, Polymer, Resin, and Methyl Tert-Butyl Ether Manufacturing Processes

### 30 TAC §§115.332-115.337, 115.339

The repeals 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.

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.

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## Fugitive Emission Control in Natural Gas/Gasoline Processing Operations

### 30 TAC §§115.342-115.347, 115.349

The repeals 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.

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**Fugitive Emission Control in Petroleum Refining,  
Natural Gas/Gasoline Processing, and Petrochemi-  
cal Processes**

**30 TAC §§115.352-115.354, 115.356, 115.357**

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.

*§115.353. Alternate Control Requirements.*

For all affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, any alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this undesignated head (relating to Fugitive Emission Control in Petroleum Refining, Natural Gas/Gasoline Processing, and Petrochemical Processes in Ozone Nonattainment Areas) may be approved by the executive director in accordance with §115.910 of this title (relating to Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

*§115.357. Exemptions.*

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

(1) (No change.)

(2) Storage tank valves, pressure relief valves equipped with a rupture disc or venting to a control device, components in continuous vacuum service, and valves that are not externally regulated (such as in-line check valves) are exempt from all the requirements of this undesignated head, except that each pressure relief valve equipped with a rupture disk shall comply with §115.352(9) of this title (relating to Control Requirements).

(3)-(7) (No change.)

(8) Components in ethylene, propane, or propylene service, not to exceed 5.0% of the total components, may be classified as non-repairable beyond the second repair attempt at 500 ppmv. These components will remain in the fugitive monitoring program and be repaired no later than 15 calendar days after the concentration of VOC detected via Test Method 21 exceeds 10,000 ppmv. For the purposes of this undesignated head, components which contact a process fluid with greater than 85% ethylene, propane, or propylene by weight are considered in ethylene, propane, or propylene service, respectively.

(9) (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.

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**Subchapter E. Solvent-Using Processes**

**Surface Coating Processes**

**30 TAC §§115.421, 115.422, 115.424, 115.426, 115.427**

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.

*§115.422. Control Requirements.*

For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following control requirements shall apply.

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

(3) Any surface coating operation that becomes subject to the provisions of §115.421(a) of this title (relating to Emission Specifications) by exceeding the provisions of §115.427(a) of this title (relating to Exemptions) shall remain subject to the provisions in §115.421(a) of this title, even if throughput or emissions later fall below exemption limits unless and until emissions are reduced to no more than the controlled emissions level existing before implementation of the project by which throughput or emission rate was reduced to less than the applicable exemption limits in §115.427(a) of this title, and:

(A) the project by which throughput or emission rate was reduced is authorized by any permit or permit amendment or standard permit or standard exemption required by Chapter 116 or Chapter 106 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification; and Exemptions from Permitting). If a standard exemption is available for the project, compliance with this subsection must be maintained for 30 days after the filing of documentation of compliance with that standard exemption; or

(B) if authorization by permit, permit amendment, standard permit, or standard exemption is not required for the project, the owner/operator has given the executive director 30 days' notice of the project in writing.

*§115.427. Exemptions.*

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

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

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

(6) The repair and recoating of vehicles at in-house (fleet) vehicle refinishing operations and the repair and recoating of vehicles by private individuals are exempt from the requirements of §115.421(a)(8)(B) and §115.422(1) and (2) of this title. This exemption is not applicable if the repair or recoating of a vehicle by a private individual occurs at a commercial operation.

(b) (No change.)

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## Offset Lithographic Printing

### 30 TAC §§115.442, 115.446, 115.449

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.

#### §115.442. *Control Requirements.*

For the Dallas/Fort Worth, El Paso, and Houston/Galveston areas as defined in §115.10 of this title (relating to Definitions), the following control requirements shall apply:

(1) No person shall operate or allow the operation of an offset lithographic printing line that uses solvent-containing ink, unless volatile organic compound (VOC) emissions are limited by the following:

(A) (No change.)

(B) Any person who owns or operates a nonheatset web offset lithographic printing press which prints newspaper and that uses alcohol in the fountain solution shall eliminate the use of alcohol in the fountain solution. Non-alcohol additives or alcohol substitutes can be used to accomplish the total elimination of alcohol use.

(C) Any person who owns or operates a nonheatset web offset lithographic printing press which does not print newspaper and that uses alcohol in the fountain solution shall maintain the use of alcohol at 5.0% or less (by volume). Alternatively, a standard of 10.0% or less (by volume) alcohol may be used if the fountain solution is refrigerated to less than 60 degrees Fahrenheit.

(D) Any person who owns or operates a sheetfed offset lithographic printing press shall maintain the use of alcohol at 10.0% or less (by volume). Alternatively, a standard of 12.0% or less (by volume) alcohol may be used if the fountain solution is refrigerated to less than 60 degrees Fahrenheit.

(E)-(F) (No change.)

(2) (No change.)

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## Subchapter F. Miscellaneous Industrial Sources

### Pharmaceutical Manufacturing Facilities

#### 30 TAC §§115.532, 115.533, 115.536, 115.537, 115.539

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.

#### §115.532. *Control Requirements.*

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the owner or operator of a synthesized pharmaceutical manufacturing facility shall provide the following specified controls.

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

(5) Pharmaceutical manufacturing facility. Any pharmaceutical manufacturing facility that becomes subject to the provisions of paragraphs (1)-(4) of this subsection by exceeding provisions of §115.537(a) of this title (relating to Exemptions) will remain subject to the provisions of this subsection, even if throughput or emissions later fall below exemption limits unless and until emissions are reduced to no more than the controlled emissions level existing before implementation of the project by which throughput or emission rate was reduced to less than the applicable exemption limits in §115.537(a) of this title and:

(A) the project by which throughput or emission rate was reduced is authorized by any permit or permit amendment or standard permit or standard exemption required by Chapter 116 or Chapter 106 of this title (relating to Control of Air Pollution by Permit for New Construction or Modification; and Exemptions from Permitting). If a standard exemption is available for the project, compliance with this subsection must be maintained for 30 days after the filing of documentation of compliance with that standard exemption; or

(B) if authorization by permit, permit amendment, standard permit, or standard exemption is not required for the project, the owner/operator has given the executive director 30 days' notice of the project in writing.

(b) (No change.)

#### §115.533. *Alternate Control Requirements.*

(a) For all affected 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 (relating to Pharmaceutical Manufacturing Facilities) may be approved by the executive director in accordance with §115.910 of this title (relating to Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

(b) For all affected persons in Gregg, Nueces, and Victoria Counties, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this undesignated head (relating to Pharmaceutical Manufacturing Facilities) 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 adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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## Petroleum Dry Cleaning Systems

### 30 TAC §§115.552, 115.553, 115.559

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.

#### §115.552. *Control Requirements.*

(a) (No change.)

(b) Any petroleum solvent dry cleaning facility that becomes or is currently subject to the control requirements of subsection (a) of this section by exceeding the exemption limit of §115.157 of this title (relating to Exemptions) shall remain subject to the provisions of this section, even if its consumption of petroleum solvent later falls below the exemption level unless and until its uncontrolled solvent consumption is reduced to no more than its solvent consumption level before lifting controls, and

(1) the project by which solvent consumption was reduced is authorized by any permit or permit amendment or standard permit or standard exemption required by Chapter 116 or Chapter 106 of this title (concerning Control of Air Pollution by Permits for New Construction or Modification; and Exemptions from Permitting). If a standard exemption is available for the project, compliance with this subsection shall be maintained for 30 days after the filing of documentation of compliance with that standard exemption; or

(2) if authorization by permit, permit amendment, standard permit, or standard exemption is not required for the project, the owner/operator has given the executive director 30 days' notice of the project in writing.

#### §115.553. *Alternate Control Requirements.*

For all affected persons in the Dallas/Fort Worth, El Paso, and Houston/Galveston areas as defined in §115.10 of this title (relating to Definitions), alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this undesignated head (relating to Petroleum Dry Cleaning Systems) 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.

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## Subchapter J. Administrative Provisions

### Standard Permits

#### 30 TAC §115.950

The commission adopts the repeal of §115.950, concerning Standard Construction Permit for Volatile Organic Compounds (VOC) Control Projects. The repeal is adopted without changes to the proposed text as published in the December 6, 1996, issue of the *Texas Register* (21 TexReg 11743) and will not be republished.

#### EXPLANATION OF REPEALED RULE

The commission adopts this revision to Chapter 115, concerning Control of Air Pollution from VOC, and to the State Implementation Plan in order to streamline rule requirements. The Chapter 115 standard permit was adopted in 1993 as a temporary measure because at the time there was no standard permit for pollution control projects in Chapter 116. The two standard permits are largely duplicative. The more logical location for a standard permit is in Chapter 116, which concerns Control of Air Pollution by Permits for New Construction or Modification. Concurrent with this repeal, the commission adopts revisions to the Chapter 116 standard permit which are designed to allow greater flexibility in making the demonstration that a project is environmentally beneficial.

#### TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for this rule pursuant to Texas Government Code, Annotated §2007.043. The following is a summary of that assessment.

The specific purpose of the rule repeal is to eliminate largely duplicative requirements in multiple chapters. Promulgation and enforcement of the repeal will not affect private real property which is the subject of the rule because the repeal makes minor changes to the requirements for obtaining a standard permit for VOC control projects.

#### COASTAL MANAGEMENT PROGRAM (CMP) CONSISTENCY REVIEW

The commission has determined that this rulemaking action is subject to the Texas CMP in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code, §§33.201 et seq), the rules of the Coastal Coordination Council (31 TAC Chapters 501-506), and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with the Texas Coastal Management Program. As required by 31 TAC §505.11(b)(2) and 30 TAC §281.45(a)(3) relating to actions and rules subject to the CMP, agency rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission has reviewed this action for consistency, and has determined that this rulemaking is consistent with the applicable CMP goals and policies. The following is a summary of that determination. The primary CMP policy applicable to the rulemaking action is the policy that commission rules comply with regulations at Title 40, Code of Federal Regulations, to protect and enhance air quality in the coastal area. The elimination of the section removes any possibility of conflict. Therefore, in compliance with 31 TAC §505.22(e), the commission affirms that this rule is consistent with CMP goals and policies.

#### HEARING AND COMMENTERS

A public hearing on this proposal was held in Austin on January 6, 1997, at the commission's Austin offices. Written comments were received from Eastman Chemical Company (Eastman), Exxon Company, U.S.A. (Exxon), and the Texas Chemical Council (TCC). Eastman, Exxon (through their support of the TCC's comments) and the TCC generally supported the amendments, as a streamlining improvement to the rules.

#### ANALYSIS OF TESTIMONY

Eastman, Exxon and the TCC supported the repeal of the standard permit in Chapter 115, only if no substantive changes which would impose additional requirements on facilities are made to the proposed Chapter 116 standard permit.

The commission appreciates the support. The adopted Chapter 116 standard permit for pollution control projects, published in this issue of the *Texas Register*, is substantially unchanged from the proposed version.

#### STATUTORY AUTHORITY

The repeal 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.

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 May 2, 1997.

TRD-9705880

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

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Proposal publication date: December 6, 1996

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



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

### Subchapter F. Standard Permits

#### 30 TAC §§116.610, 116.611, 116.615, 116.617

The commission adopts amendments to §§116.610, 116.611, 116.615; and new §116.617; the repeal of existing §116.617, concerning Standard Permits, and revisions to the State Implementation Plan (SIP) regarding these amendments, repeal, and new section. Since the changes to §116.617, concerning Standard Permit for Pollution Control Projects, were extensive, the commission determined that it was administratively more efficient to repeal §116.617 and replace it with a new §116.617. These changes are part of a consolidation of the three standard air permits for pollution control facilities, previously located in Chapters 115, 116, and 117, into a single location in Chapter 116.

Adopted with changes to the proposed text as published in the December 6, 1996, issue of the *Texas Register* (21 TexReg 11744) are §§116.610, 116.611, 116.615 and 116.617. Section 116.617 is repealed without changes and will not be republished.

#### EXPLANATION OF ADOPTED RULES

The commission defines "project" for purposes of §116.610, concerning Applicability. The definition has been added to reflect the regulatory intent of the term in this subchapter. A project may include the construction or modification of a single facility or the construction or modification of a group of facilities. Examples of projects are: the installation of a single facility such as a flare or the installation of a group of facilities such as a gas production plant. The use of this definition is intended to prevent projects from being artificially separated for the purposes of circumventing Chapter 116 permitting requirements.

Adopted revisions to §116.610(a)(1) add seven air contaminants from §106.4(a)(1), concerning Requirements for Exemption from Permitting, to the list of compounds for which no additional impacts analysis is required. Revisions to terminology are made to be consistent with commission rule drafting guidelines. Also, the revisions establish that a specific standard permit may provide for an impact analysis other than requiring the limitations of §106.261 and §106.262 be met. The commission deletes §116.610(a)(4) because the agency has the authority to add such conditions to permits without this language. Paragraph (5) is renumbered to (4) and revised to be grammatically consistent with paragraphs (1)-(3).