

the HMO or indemnity carrier has filed the applicable forms providing the coverage as required by Insurance Code Articles 3.42 and 3.96-8 or 28 TAC §11.301 of this title (relating to filing requirements for HMOs);

(4) a statement that the coverage provided by the alternative delivery system is either identical, greater or comparable to the coverage provided other dependent children under the policy under which coverage is required by a medical support order; and

(5) if the coverage is not identical, the certification shall also be signed by a qualified actuary who attests that the coverage provided is at least actuarially equivalent to or greater than the coverage provided to other dependent children under the policy under which coverage is required by a medical support order. In determining the actuarial equivalence of the coverages, the qualified actuary shall take into account plan design (e.g., copayments, coinsurance, deductibles, etc.) and scope of benefits. The certification shall identify any other variables considered in the analysis relating to the actuarial equivalence of the coverages.

{(d)} [An insurer whose policy contains preferred provider provisions for the purposes of offering a network of preferred providers as defined in §3.3702 of this title (relating to Definitions) shall provide reimbursement for services for a child who is the subject of a medical support order and lives outside the insurer's service area at the preferred provider level of benefits.]

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State, on October 22, 1998.

TRD-9816548

Lynda H. Nesenholtz

General Counsel and Chief Clerk

Texas Department of Insurance

Earliest possible date of adoption: December 6, 1998

For further information, please call: (512) 463-6327



TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 115. Control of Air Pollution From Volatile Organic Compounds

The commission proposes amendments to §§115.122, 115.123, and 115.126, concerning Vent Gas Control; and new §115.440 and amendments to §§115.443, 115.446, and 115.449, concerning Offset Lithographic Printing. The commission proposes these revisions to Chapter 115 and to the State Implementation Plan in order to ensure the implementation of reasonably available control technology (RACT) at major volatile organic compound (VOC) sources in ozone nonattainment areas.

The proposed rules would revise the vent gas rule by lowering the applicability threshold from 100 tons per year (TPY) to 50 TPY for bakeries in the Dallas/Fort Worth (DFW) ozone nonattainment area; prohibiting the banking of emission reductions in the 30%-90% range for major source bakeries in the Houston/Galveston (HGA), DFW, and El Paso areas; and revise the off-

set lithographic printing rule by implementing the rule requirements for sources with emissions at or above 50 TPY in the DFW ozone nonattainment area. The proposed rules would also revise the vent gas rule by requiring that owners or operators of control equipment maintain information on how the design standard and operation of equipment meets the emission specifications and control requirements. Finally, the proposed rules would revise terminology in response to revised *Texas Register* rules and for consistency with the commission's style guidelines.

EXPLANATION OF PROPOSED RULES Effective March 20, 1998, DFW was reclassified from a moderate to a serious ozone nonattainment area. As a result, the major source definition for the area must be revised downward from 100 TPY to VOC sources 50 TPY and larger. Section 182(b)(2) of the Federal Clean Air Act (FCAA) requires that RACT be applied to major sources.

RACT is applicable to existing major stationary VOC sources in ozone nonattainment areas which have been designated "moderate" nonattainment and above. The EPA has published guidance documents for many industrial source categories, which are intended to provide state and local air pollution control agencies with an information base for their own determination of RACT. The EPA recommendations are based on the technical capability and cost of various control techniques to reduce emissions. State and local air pollution control agencies may choose to develop their own RACT requirements on a case-by-case basis, considering the economic and technical circumstances of the individual source category within an area.

The EPA published a guidance document detailing appropriate RACT for bakeries. Based on this document, as well as on input from the bakery industry, the commission developed the applicable portion of the vent gas rule pertaining to bakeries. The EPA also published a guidance document detailing appropriate RACT for offset lithographic printers. The commission relied on this guidance, as well as input from the from the printing industry to develop the offset lithographic printing rule.

The proposed changes to §115.122, concerning Control Requirements, and to §115.126, concerning Monitoring and Recordkeeping Requirements, will lower the applicability threshold of the vent gas rule from 100 TPY to 50 TPY for bakeries in the DFW area, thereby ensuring that RACT is in place for all DFW area major source bakeries.

In addition, the United States Environmental Protection Agency (EPA) has specified that RACT for bakery ovens is 90% control efficiency. The rule as negotiated in 1994 only requires a 30% reduction. All bakeries subject to the rule have installed catalytic incinerators which achieve at least 90% destruction efficiency. There is nothing in the rule, however, to prevent facilities from banking the difference between the rule required 30% and the 90% control efficiency that EPA has specified as RACT. The proposed revisions to §115.122, concerning Control Requirements will prohibit the banking of those emission reductions in the 30%-90% range to ensure that RACT is satisfied.

The proposed change to §115.123, concerning Alternate Control Requirements, revises the term "undesignated head" to "division" in response to revised *Texas Register* rules (23 TexReg 1289, February 13, 1998), and revises a reference to the Code of Federal Regulations (CFR) for consistency with the commission's style guidelines.

The existing §115.126(a)(1)(D) and (b)(1)(D), which concern records associated with control device maintenance activities, are proposed for deletion because maintenance activities are already addressed in §101.7, concerning Maintenance, Start-up and Shutdown Reporting, Recordkeeping, and Operational Requirements.

The proposed changes to §115.126, concerning Monitoring and Recordkeeping Requirements, add a requirement that records must include information on how the design standard and operation of equipment meets the emission specifications and control requirements.

The proposed new §115.440, concerning Offset Printing Definitions, adds definitions of alcohol, alcohol substitutes, batch, cleaning solution, fountain solution, heatset, lithography, non-heatset, and offset lithography. These definitions are currently included in §115.10, concerning Definitions, and are being relocated to the proposed new §115.440. The proposed new §115.440 includes all definitions used exclusively within the Chapter 115 offset printing rules. In separate rulemaking, the commission expects to propose deleting the definitions of these terms from §115.10.

The proposed change to §115.443, concerning Alternate Control Requirements, revises the term "section" (which should have been "undesignated head") to "division" in response to revised *Texas Register* rules (23 TexReg 1289, February 13, 1998).

The proposed change to §115.446, concerning Monitoring and Recordkeeping Requirements, revises a reference to EPA for consistency with the commission's style guidelines. In addition, the existing §115.446(2)(D), which concerns records associated with control device maintenance activities, is proposed for deletion because maintenance activities are already addressed in §101.7, concerning Maintenance, Start-up and Shutdown Reporting, Recordkeeping, and Operational Requirements.

As noted earlier, effective March 20, 1998, DFW was reclassified from a moderate to a serious ozone nonattainment area, and the major source definition is being revised downward from 100 TPY to VOC sources 50 TPY and higher. Because §182(b)(2) of the FCAA requires that RACT be applied to major sources, the proposed change to §115.449, concerning Counties and Compliance Schedules, implements the offset lithographic printing rule in DFW for sources with VOC emissions equal to or greater than 50 TPY and establishes a compliance date of December 31, 2000. The offset lithographic printing rule is currently a contingency rule for DFW; after the proposed change, the rule will be a contingency rule for offset lithographic printers with VOC emissions below 50 TPY. The proposed changes to §115.449 also delete the wording "affected persons" due to previous confusion concerning this term.

FISCAL NOTE Jeff Grymkoski, Director, Strategic Planning and Appropriations Division, has determined that for the first five-year period the rules as proposed are in effect, there will be no significant fiscal implications for state and local governments as a result of administration or enforcement of the sections. Enforcement of these rules will result in a minor increase in workload for commission staff, pertaining to the compliance inspection of affected facilities. These increases are not anticipated to significantly increase the number of facilities currently inspected and are anticipated to be managed within existing budgeted resources and appropriated levels of funds from the state Clean Air Fund.

Staff conducted an analysis of the Emissions Inventory and identified two bakeries in DFW with VOC emissions between 50 and 100 TPY that will become subject to the vent gas rule's control requirements. The bakeries may have to install catalytic incinerators. All major source bakeries in the DFW, HGA, and El Paso areas will be prohibited from banking emission reductions in the 30%-90% range. Staff could not identify any bakeries that were currently banking or had plans to bank these emission reductions. Staff also identified a single offset printer in DFW with VOC emissions at or above 50 TPY. Discussions with the offset printer company representative indicated that the facility is already in compliance with the offset lithographic printing rule.

PUBLIC BENEFIT Mr. Grymkoski has also determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated from enforcement of and compliance with these rules will be satisfaction of requirements of the FCAA, and reductions of ground-level ozone in ozone nonattainment areas. There will be additional anticipated economic costs to the bakeries required to comply with the sections as proposed.

A vendor that specializes in the installation of controls for bakeries, estimated the installed cost for a catalytic incinerator would range from \$150,000 to \$350,000. The vendor estimated that operational costs would range from \$15,000 to \$35,000 per year. One industry representative has indicated the costs may be significantly higher. There should not be any fiscal impact to the affected offset printer, as this facility reports they are already in compliance with the rule.

SMALL BUSINESS ANALYSIS The proposed revisions are not expected to apply to small businesses. Staff identified two bakeries and a single offset lithographic printer that will be affected by these amendments. Based on information provided by these affected facilities, they do not meet the definition of "small business" as defined in §2006.001 of the Texas Government Code. Furthermore, this rule revision is not expected to affect any bakery or offset lithographic printer not yet constructed, since such a facility would be subject to New Source Review permitting. This permit review would require that a facility implement Best Available Control Technology, which is at least as stringent as RACT.

DRAFT REGULATORY IMPACT ANALYSIS The commission has reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and has determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in the Code. Staff conducted an analysis of the Emissions Inventory and identified two bakeries in the DFW area with VOC emissions between 50 and 100 TPY that will become subject to the vent gas rule's control requirements. The bakeries may have to install catalytic incinerators. All major source bakeries in the DFW, HGA, and El Paso areas will be prohibited from banking emission reductions in the 30%-90% range. Staff could not identify any bakeries that were currently banking or had plans to bank these emission reductions. Staff also identified a single offset printer in DFW with VOC emissions above 50 TPY. Discussions with the offset printer company representative indicated that the facility is already in compliance with the offset lithographic printing rule. The requirement that owners or operators shall maintain information on how the design and operation of equipment meets the emission specifications and control requirements is a minor revision. Owners or operators should already have this

information, as provided by the equipment vendor or developed in the design of the process.

Even though this proposal may require two DFW bakeries to install controls, it will not have a significant, material, adverse effect on the economy, a sector of the economy, productivity, competition, or jobs. Furthermore, this proposal will not adversely affect in a material way, the environment, or the public health and safety of the state or a sector of the state. These proposed revisions will result in VOC emission reductions in ozone nonattainment areas which are necessary for the timely attainment of the ozone standard and reduced public exposure to VOCs.

TAKINGS IMPACT ASSESSMENT The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated, §2007.043. The following is a summary of that assessment. Promulgation and enforcement of the rule amendments will affect private real property which is the subject of the rules. Staff conducted an analysis of the Emissions Inventory and identified two bakeries in DFW with VOC emissions between 50 and 100 TPY that will become subject to the vent gas rule's control requirements. The bakeries may have to install catalytic incinerators. A vendor that specializes in the installation of controls for bakeries, estimated the installed cost for a catalytic incinerator would range from \$150,000 to \$350,000. The vendor estimated that operational costs would range from \$15,000 to \$35,000 per year. One industry representative has indicated the costs may be significantly higher. While these costs may constitute a takings, depending on the value of the affected private real property, under §2007.003(b)(4) and (b)(13) of the Texas Government Code, Chapter 2007 does not apply to this action. Under §2007.003(b)(4), Chapter 2007 does not apply to an governmental action that is reasonably taken to fulfill an obligation mandated by federal law. Section 2007.003(b)(13) states that Chapter 2007 does not apply to an action that : (1) is taken in response to a real and substantial threat to public health and safety; (2) is designed to significantly advance the health and safety purpose ; and (3) does not impose a greater burden than is necessary to achieve the health and safety purpose. The revisions to the vent gas rule pertaining to bakeries and the revision pertaining to the implementation of the offset lithographic printing rule will implement an FCAA requirement for RACT at major sources. These revisions will result in VOC emission reductions in ozone nonattainment areas which are necessary for the timely attainment of the ozone standard and reduced public exposure to VOCs.

All major source bakeries in the DFW, HGA, and El Paso areas will be prohibited from banking emission reductions in the 30 to 90 percent range. Staff could not identify any bakeries that were currently banking or had plans to bank these emission reductions. The proposal pertaining to banking, therefore, is not expected to result in a cost to bakeries.

Staff also identified a single offset printer in DFW with VOC emissions at or above 50 TPY. This facility reports they are already in compliance with the rule. Consequently, there should not be any fiscal impact to this facility as a result of this proposal.

The requirement that owners or operators shall maintain information on how the design and operation of equipment meets the emission specifications and control requirements will not burden private real property. Owners or operators should already have

this information, as provided by the equipment vendor or developed in the design of the process.

COASTAL MANAGEMENT PLAN The commission has determined that the proposed rulemaking relates to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resource Code, §§33.201 et. seq.), 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, commission rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission has reviewed this proposed action for consistency with the CMP goals and policies in accordance with the rules of the Coastal Coordination Council, and has determined that the proposed action is consistent with the applicable CMP goals and policies. The CMP policy applicable to this rulemaking action is the policy that commission rules comply with regulations at 40 CFR, to protect and enhance air quality in the coastal area (31 TAC §501.14(q)). Adoption of these proposed amendments will result in reductions of ambient VOC and ozone concentrations, and therefore will protect and enhance air quality in the coastal area. Interested persons may submit comments on the consistency of the proposed rules with the CMP during the public comment period.

PUBLIC HEARING A public hearing on this proposal will be held in Irving on December 1, 1998 at 7:00 p.m. at the City of Irving Central Library Auditorium, 801 West Irving Boulevard. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

SUBMITTAL OF COMMENTS Written comments may be mailed to Heather Evans, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 98045-115-AI. Comments must be received by 5:00 p.m., December 7, 1998. For further information or questions concerning this proposal, contact Ann Hammer, Office of Policy and Regulatory Development, (512) 239-6255.

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

Subchapter B. General Volatile Organic Compound Sources

Division 2. Vent Gas Control

30 TAC §§115.122, 115.123, 115.126

STATUTORY AUTHORITY The amendments are proposed under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; and §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA, and

§382.051(d), which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits under this Chapter 382.

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

§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)-(2) (No change.)

(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) (No change.)

(B) Each bakery in the Dallas/Fort Worth area with a total weight of VOC emitted from all bakery ovens on the property, when uncontrolled, equal to or greater than 100 tons per calendar year shall reduce total VOC emissions by at least 30% from the bakery's 1990 baseline emissions inventory by May 31, 1996. Each bakery in the Dallas/Fort Worth area with a total weight of VOC emitted from all bakery ovens on the property, when uncontrolled, equal to or greater than 50 tons per calendar year, but less than 100 tons per calendar year, shall reduce total VOC emissions by at least 30% from the bakery's 1990 baseline emissions inventory by December 31, 2000.

(C) Each bakery in the Dallas/Fort Worth area with a total weight of VOC emitted from all bakery ovens on the property, when uncontrolled, equal to or greater than 25 tons per calendar year, but less than 50 [400] tons per calendar year, shall reduce total VOC emissions by at least 30% from the bakery's 1990 baseline emissions inventory in accordance with the schedule specified in §115.129(a)(4) of this title (relating to Counties and Compliance Schedules).

(D) (No change.)

(E) For bakeries specified in this paragraph, emission reductions in the 30% to 90% range are not creditable under §101.29 of this title (relating to Emissions Banking and Trading.)

(4) (No change.)

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

§115.123. *Alternate Control Requirements.*

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

(1) Alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this division [undesignated head] (relating to Vent Gas Control) 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 owner or operator of a vent gas stream control device with a control efficiency of at least 90% which was installed prior to the effective date of the applicable paragraphs of this division [undesignated head] (relating to Vent Gas Control) may request an alternate reasonably available control technology (ARACT) determination. The executive director shall approve the ARACT if it is determined to be economically unreasonable to replace the control device with a new control device meeting the requirements of the

applicable rule(s). Each ARACT approved by the executive director shall include a requirement that the control device be operated at its maximum efficiency. Each ARACT shall only be valid until the control device undergoes a replacement, a modification as defined in 40 Code of Federal Regulations (CFR)60.14, or a reconstruction as defined in 40 CFR [Code of Federal Regulations] 60.15, at which time the replacement, modified, or reconstructed control device shall meet the requirements of the applicable rule(s). Any request for an ARACT determination shall be submitted to the executive director no later than May 31, 1994. The executive director may direct the holder of an ARACT to reapply for their ARACT if it is more than 10 years since the date of installation of the control device and there is good cause to believe that it is now economically reasonable to meet the requirements of the applicable rule(s). Within three months of an executive director request, the holder of an ARACT shall reapply for their ARACT. If the reapplication for an ARACT is denied, the holder of the ARACT shall meet the requirements of the applicable rule(s) as soon as practicable, but no later than two years from the date of denial.

(b) For all persons in Nueces and Victoria Counties, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this division [undesignated head] (relating to Vent Gas Control) may be approved by the executive director in accordance with §115.910 of this title if emission reductions are demonstrated to be substantially equivalent.

(c) For all persons in Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis Counties, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this division [undesignated head] (relating to Vent Gas Control) may be approved by the executive director in accordance with §115.910 of this title if emission reductions are demonstrated to be substantially equivalent.

§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 information on how the design standard and operation of equipment meets the emission specifications and control requirements. The owner or operator shall maintain records at the facility for at least two years and shall make such records available to representatives of the executive director, EPA [United States Environmental Protection Agency (EPA)], or any local air pollution control agency having jurisdiction in the area upon request. These records shall include, but not be limited to, the following.

(1) Records for each vent required to satisfy the provisions of §115.121(a)(1)-(3) of this title (relating to Emission Specifications) shall be sufficient to demonstrate the proper functioning of applicable control equipment to design specifications, including:

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

(C) continuous monitoring of the exhaust gas VOC concentration of any carbon adsorption system, as defined in §101.1 [§115.10] of this title (relating to Definitions);

~~[(D)] the date and reason for any maintenance and repair of the required control devices and the estimated quantity and duration of VOC emissions during such activities; and~~

~~[(E)] the results of any testing of any vent conducted at an affected facility in accordance with the provisions specified in §115.125(a) of this title (relating to Testing Requirements).~~

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

(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 in the Dallas/Fort Worth area with a total weight of VOC emitted from all bakery ovens on the property, when uncontrolled, equal to or greater than 50 tons per calendar year, but less than 100 tons per calendar year shall submit an initial control plan no later than March 31, 2000 [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 December 31, 2000 [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 2000 [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 (or December 31, 2000 for bakeries in the Dallas/Fort Worth area with uncontrolled VOC emissions between 50 and 100 tons per calendar year). 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) (No change.)

(5)-(6) (No change.)

(b) For Victoria County, the owner or operator of any facility which emits VOC through a stationary vent shall maintain information on how the design standard and operation of equipment meets the emission specifications and control requirements. The owner or operator 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) Records for each vent required to satisfy the provisions of §115.121(b) of this title shall be sufficient to demonstrate the proper functioning of applicable control equipment to design specifications, including:

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

(C) continuous monitoring of the exhaust gas VOC concentration of any carbon adsorption system, as defined in §101.1 [§115.10] of this title;

~~{(D) the date and reason for any maintenance and repair of the required control devices and the estimated quantity and duration of VOC emissions during such activities; and}~~

~~(E)~~ (D) the results of any testing of any vent conducted at an affected facility in accordance with the provisions specified in §115.125(b) of this title.

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

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 26, 1998.

TRD-9816653

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: February 24, 1999

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



Subchapter E. Solvent-Using Processes

Division 4. Offset Lithographic Printing

30 TAC §§115.440, 115.443, 115.446, 115.449

STATUTORY AUTHORITY The new section and amendments are proposed under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.012, which provides for the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air; §382.016, concerning monitoring requirements and examination of records; and §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA, and §382.051(d), which provides for the commission to adopt rules as necessary to comply with changes in federal law or regulations applicable to permits under this Chapter 382.

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

§115.440. Offset Printing Definitions.

The following terms, when used in this division (relating to Offset Lithographic Printing), shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions for terms used in this division are found in §115.10 of this title (relating to Definitions), §101.1 of this title (relating to Definitions), and §3.2 of this title (relating to Definitions).

(1) Alcohol - An alcohol is any of the hydroxyl-containing organic compounds with a molecular weight equal to or less than 74.12, (which includes methanol, ethanol, propanol, and butanol).

(2) Alcohol substitutes - Nonalcohol additives that contain volatile organic compounds (VOC) and are used in the fountain solution. Some additives are used to reduce the surface tension of water; others (especially in the newspaper industry) are added to prevent piling (ink build-up).

(3) Batch - A supply of fountain solution that is prepared and used without alteration until completely used or removed from the printing process.

(4) Cleaning solution - Liquids used to remove ink and debris from the operating surfaces of the printing press and its parts.

(5) Fountain solution - A mixture of water, nonvolatile printing chemicals, and an additive (liquid) that reduces the surface tension of the water so that it spreads easily across the printing plate

surface. The fountain solution wets the nonimage areas so that the ink is maintained within the image areas. Isopropyl alcohol, a VOC, is the most common additive used to reduce the surface tension of the fountain solution.

(6) Heatset - Any operation where heat is required to evaporate ink oil from the printing ink. Hot air dryers are used to deliver the heat.

(7) Lithography - A printing process where the image and nonimage areas are chemically differentiated; the image area is oil receptive, and the nonimage area is water receptive. This method differs from other printing methods, where the image is a raised or recessed surface.

(8) Non-heatset - Any operation where the printing inks are set without the use of heat. For the purposes of this division, ultraviolet-cured and electron beam-cured inks are considered non-heatset.

(9) Offset lithography - A printing process that transfers the ink film from the lithographic plate to an intermediary surface (blanket) which, in turn, transfers the ink film to the substrate.

§115.443. *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 division [section] 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.

§115.446. *Monitoring and Recordkeeping 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 monitoring and recordkeeping requirements shall apply.

(1) (No change.)

(2) The owner or operator of any offset lithographic printing press shall install and maintain monitors to continuously measure and record operational parameters of any emission control device installed to meet applicable control requirements on a regular basis. Such records must be sufficient to demonstrate proper functioning of those devices to design specifications, including:

(A) (No change.)

(B) the total amount of volatile organic compound (VOC) recovered by a carbon adsorption or other solvent recovery system during a calendar month; and

(C) the exhaust gas VOC concentration of any carbon adsorption system, as defined in §115.10 of this title (relating to Definitions), to determine if breakthrough has occurred. [~~and~~]

~~[(D) the dates and reasons for any maintenance and repair of the required control devices and the estimated quantity and duration of VOC emissions during such activities.]~~

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

(8) The owner or operator of any offset lithographic printing press shall maintain all records at the affected facility for at least two years and make such records available upon request to representatives of the executive director, the EPA [United States Environmental Protection Agency], or the local air pollution agency having jurisdiction in the area.

§115.449. *Counties and Compliance Schedules.*

(a) In [All affected persons in] El Paso County all offset lithographic printing presses shall be in compliance with §§115.442, 115.443, 115.445, and 115.446 of this title (relating to Control Requirements; Alternate Control Requirements; Testing Requirements; and Monitoring and Recordkeeping Requirements) as soon as practicable, but no later than November 15, 1996.

(b) In Collin, Dallas, Denton, and Tarrant Counties, all offset lithographic printing presses on a property which, when uncontrolled, emit a combined weight of volatile organic compound (VOC) equal to or greater than 50 tons per calendar year, shall be in compliance with §§115.442, 115.443, 115.445, and 115.446 of this title as soon as practicable, but no later than December 31, 2000.

(c) ~~[(b)]~~ In [All affected persons in] Collin, Dallas, Denton, and Tarrant Counties, all offset lithographic printing presses on a property which, when uncontrolled, emit a combined weight of VOC less than 50 tons per calendar year, shall be in compliance with §§115.442, 115.443, 115.445, and 115.446 of this title as soon as practicable, but no later than one year, after the commission publishes notification in the *Texas Register* of its determination that this contingency rule is necessary as a result of failure to attain the national ambient air quality standard (NAAQS) for ozone by the attainment deadline or failure to demonstrate reasonable further progress as set forth in the 1990 Amendments to the Federal Clean Air Act (FCAA), §172(c)(9).

(d) ~~[(e)]~~ In [All affected persons in] Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties, all offset lithographic printing presses shall be in compliance with §§115.442, 115.443, 115.445, and 115.446 of this title as soon as practicable, but no later than one year, after the commission publishes notification in the *Texas Register* of its determination that this contingency rule is necessary as a result of failure to attain the NAAQS for ozone by the attainment deadline or failure to demonstrate reasonable further progress as set forth in the 1990 Amendments to the FCAA, §172(c)(9).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 26, 1998.

TRD-9816654

Margaret Hoffman

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: February 24, 1999

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



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

The Texas Natural Resource Conservation Commission (commission) proposes amendments to §116.12, concerning Nonattainment Review Definitions, and §116.150, concerning New Major Source or Major Modification in Ozone Nonattainment Areas.

EXPLANATION OF THE PROPOSED RULES

The purpose of the proposed amendments to Chapter 116 and to the State Implementation Plan (SIP) is to reinstate nonat-