

(d) A participating county, its designated entity, a participating recognized emissions repair facility, and a participating vehicle retirement facility must allow the executive director to conduct audits and inspections.

(e) A person who, with intent to defraud, sells a vehicle in an accelerated vehicle retirement program under LIRAP commits an offense that is classified as a third degree felony.

§114.72. Local Advisory Panels.

(a) The commissioners court of a participating county may appoint one or more local advisory panels to provide advice on Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP) and to assist in identifying vehicles with intrinsic value that make these vehicles existing or future collectibles. A vehicle identified under this section may be sold to an individual if the vehicle is:

- (1) repaired and brought into compliance;
- (2) removed from the state;
- (3) removed from an affected county; or
- (4) stored for future restoration and cannot be registered in an affected county except under Transportation Code, §502.274 or §502.275.

(b) A commissioners court may delegate all or part of the financial and administrative matters to any of the local advisory panels that it appoints.

(c) A local advisory panel may consist of representatives from:

- (1) automobile dealerships;
- (2) automotive repair industry;
- (3) safety inspection facilities;
- (4) the general public;
- (5) antique and vintage car clubs;
- (6) local nonprofit organizations; and
- (7) locally affected governments.

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 December 20, 2001.

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Director, Environmental Law Division

Texas Natural Resource Conservation Commission

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For further information, please call: (512) 239-5017



## CHAPTER 115. CONTROL OF AIR POLLUTION FROM VOLATILE ORGANIC COMPOUNDS

The Texas Natural Resource Conservation Commission (commission) proposes amendments to Subchapter A, Definitions, §115.10; Subchapter B, General Volatile Organic Compound

Sources, §§115.113, 115.116, 115.117, 115.132, 115.133, 115.136, 115.137, 115.139, 115.140, 115.145, 115.147, 115.153, 115.159, 115.161, and 115.169; Subchapter C, Volatile Organic Compound Transfer Operations, §115.214; Subchapter D, Petroleum Refining, Natural Gas Processing, and Petrochemical Processes, §§115.311 - 115.313, 115.316, 115.319, 115.322, 115.325 - 115.327, 115.352, 115.353, 115.355 - 115.357, and 115.359; Subchapter E, Solvent-Using Process, §§115.420 - 115.422, 115.440, 115.442, 115.445, and 115.446; Subchapter F, Miscellaneous Industrial Sources, §§115.532, 115.533, 115.535, 115.539, 115.541 - 115.543, 115.545 - 115.547, 115.549, 115.552, and 115.559; and Subchapter J, Administrative Provisions, §§115.910 - 115.916, 115.920, 115.923, 115.930, 115.932, 115.934, and 115.940. These sections are proposed to be submitted to the United States Environmental Protection Agency (EPA) as revisions to the state implementation plan (SIP).

### BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

The commission proposes these amendments to Chapter 115, Control of Air Pollution from Volatile Organic Compounds (VOC), and revisions to the SIP in order to make a variety of changes which clarify and add flexibility to existing requirements, correct technical and typographical errors, update references to terms, and delete redundant language.

### SECTION BY SECTION DISCUSSION

Throughout this rulemaking the outdated term "undesignated head" is proposed to be replaced with the proper term "division" in response to revised Texas Register rules published in the February 13, 1998, issue of the *Texas Register* (23 TexReg 1289). Also throughout the rulemaking, the term "Centigrade" is proposed to be replaced with the term "Celsius" which is now the term commonly used to describe this temperature scale. In a separate rulemaking published in the July 16, 1999, issue of the *Texas Register* (24 TexReg 5490), the commission added a definition of vapor control system to §115.10 which is identical to the definition of vapor recovery system. This will facilitate a transition in the Chapter 115 rules to this term from the misleading term "vapor recovery system," which is defined to include both recovery and combustion control devices. Consequently, the proposed amendments also change references from "vapor recovery system" to "vapor control system" for clarification. Justification for these changes will not be discussed any further in this discussion other than to point out where each change has been made.

Additionally, formatting, punctuation, and other nonsubstantive corrections are made throughout the rulemaking as necessary. These corrections include the deletion of unnecessary section title references. These nonsubstantive corrections will not be discussed further.

#### *Subchapter A, Definitions*

The proposed amendment to §115.10, Definitions, revises the definition of marine terminal to clarify that both loading and unloading can occur at a marine terminal. This change is necessary for consistency with §115.214(a)(3)(B)(i) and (C), Inspection Requirements, which applies to unloading of VOC at marine terminals.

#### *Subchapter B, General Volatile Organic Compound Sources*

##### *Division 1, Storage of Volatile Organic Compounds*

The proposed amendments to §115.113, Alternate Control Requirements, incorporate Aransas, Bexar, Calhoun, Gregg, Matagorda, Nueces, San Patricio, Travis, and Victoria Counties into subsection (a), now implied, and delete all of subsections (b) and (c) which currently contain the alternate control requirements for these nine counties. The proposed amendments to §115.113 also revise the term "section" (which should have been "undesignated head") to "division." Finally, the proposed amendments to §115.113 change "executive director" to lower-case for consistency with other divisions.

The proposed amendments to §115.116, Monitoring and Recordkeeping Requirements, abbreviate "EPA" because this term is defined in 30 TAC §3.2, Definitions, and delete the existing §115.116(a)(3)(D) and (b)(3)(D), which concern records associated with control device maintenance activities, because maintenance activities are already addressed in 30 TAC §101.7, Maintenance, Start-up and Shutdown Reporting, Recordkeeping, and Operational Requirements.

The proposed amendments to §115.117, Exemptions, revise the term "undesignated head" to "division," spell out "pounds per square inch absolute" (psia), and add an exemption for storage containers which have a storage capacity of no more than 1,000 gallons for consistency with Tables I(a), I(b), and II(a) in §115.112, Control Requirements.

*Subchapter B, General Volatile Organic Compound Sources*

*Division 3, Water Separation*

The proposed amendments to §115.132, Control Requirements, update the old term "standard exemption" with the correct term "permit by rule" and correct the reference to the Chapter 106 title to "Permits by Rule."

The proposed amendments to §115.133, Alternate Control Requirements, incorporate Aransas, Bexar, Calhoun, Gregg, Matagorda, Nueces, San Patricio, Travis, and Victoria Counties into subsection (a), now implied, and delete all of subsections (b) and (c), which currently contain the alternate control requirements for these nine counties. The proposed amendments to §115.133 also revise the term "section" (which should have been "undesignated head") to "division." Finally, the proposed amendments to §115.133 change "executive director" to lower-case for consistency with other divisions.

The proposed amendments to §115.136, Monitoring and Recordkeeping Requirements, abbreviate "EPA" because this term is defined in §3.2, and delete the existing §115.136(a)(2)(D) and (b)(2)(D), which concern records associated with control device maintenance activities, because maintenance activities are already addressed in §101.7.

The proposed amendments to §115.137, Exemptions, revise the term "undesignated head" to "division," spell out "pounds per square inch absolute," and change a reference from "vapor recovery system" to "vapor control system."

The proposed amendment to §115.139, Counties and Compliance Schedule, revises the term "undesignated head" to "division."

*Subchapter B, General Volatile Organic Compound Sources*

*Division 4, Industrial Wastewater*

The proposed amendment to §115.140, Industrial Wastewater Definitions, replaces "Texas Natural Resource Conservation

Commission" with "commission" for consistency with the commission's style guidelines.

The proposed amendments to §115.145, Approved Test Methods, correct a punctuation error and delete unnecessary section title references.

The proposed amendments to §115.147, Exemptions, correct the term "portion" to "division" and correct the formatting of the numerical number "10" to the term "ten." The proposed amendments to §115.147 also clarify the applicability of the exemption available under §115.147(3) by changing the reference to "the requirements of this division" to "the control requirements of §115.142." This exemption was initially added to ensure that duplication of control requirements did not occur. However, the exemption was not added to make the rule less stringent than control requirements that were already in place (i.e., the VOC/water separator rules). The proposed amendments clarify this intent.

*Subchapter B, General Volatile Organic Compound Sources*

*Division 5, Municipal Solid Waste Landfills*

The proposed amendment to §115.153, Alternate Control Methods, revises the term "undesignated head" to "division."

The proposed amendments to §115.159, Counties and Compliance Schedule, revise the term "undesignated head" to "division" and revise the phrase "be in compliance" to "demonstrate compliance" to emphasize the testing, monitoring and recordkeeping, and determination of mass emissions and flow rates.

*Subchapter B, General Volatile Organic Compound Sources*

*Division 6, Batch Processes*

The proposed amendment to §115.161, Applicability, adds a reference to §115.167(2)(A). This revision is necessary to ensure that vent gas streams which are currently subject to the requirements of Subchapter B, General Volatile Organic Compound Sources, Division 2, Vent Gas Control, remain controlled under that division if they are not required to be controlled under §115.162, Control Requirements, because they qualify for the exemption under §115.167(2)(A).

The proposed amendment to §115.169, Counties and Compliance Schedule, revises the phrase "be in compliance" to "demonstrate compliance" to emphasize the testing, monitoring and recordkeeping, and determination of mass emissions and flow rates.

*Subchapter C, Volatile Organic Compound Transfer Operations*

*Division 1, Loading and Unloading of Volatile Organic Compounds*

The proposed amendments to §115.214, Inspection Requirements, add the phrase "to or from transport vessels" to the catchlines in subsections (a)(1) and (b)(1) to more accurately describe the requirements of these paragraphs. The proposed amendments to §115.214 also correct a typographical error in §115.214(b)(1)(D)(ii) by changing a reference from §115.213(b) to §115.213(c).

*Subchapter D, Petroleum Refining, Natural Gas Processing, and Petrochemical Processes*

*Division 1, Process Unit Turnaround and Vacuum-Producing Systems in Petroleum Refineries*

The proposed amendments to §115.311, Emission Specifications, correct a typographical error in §115.311(a)(1) and (2) by changing references from §115.312(a) to §115.312(a)(2).

The proposed amendments to §115.312, Control Requirements, change "Centigrade" to "Celsius" in §115.312(a)(2)(A) and (b)(2)(A), and change "vapor recovery system" to "vapor control system" in §115.312(a)(2)(C) and (b)(2)(C). In addition, the proposed amendments to §115.312 replace the phrase "volatile organic compound (VOC)" with the acronym "VOC" because this acronym was previously established within the section.

The proposed amendments to §115.313, Alternate Control Requirements, incorporate Gregg, Nueces, and Victoria Counties into subsection (a), now implied, and delete all of subsection (b), which currently contains the alternate control requirements for these three counties. The proposed amendments to §115.313 also revise the term "undesignated head" to "division."

The proposed amendments to §115.316, Monitoring and Recordkeeping Requirements, delete the existing §115.316(a)(1)(D) and (b)(1)(D), which concern records associated with control device maintenance activities, because maintenance activities are already addressed in §101.7. The proposed amendments to §115.316 also update references from the "Texas Air Control Board" and "TACB" (one of the commission's predecessor agencies) to "executive director" for consistency with the commission's style guidelines and abbreviate "EPA" because this term is defined in §3.2, Definitions.

The proposed amendment to §115.319, Counties and Compliance Schedules, revises the term "undesignated head" to "division."

*Subchapter D, Petroleum Refining, Natural Gas Processing, and Petrochemical Processes Division 2, Fugitive Emission Control in Petroleum Refineries in Gregg, Nueces, and Victoria Counties*

The proposed amendments to §115.322, Control Requirements, revise the phrase "safety pressure relief valves" in §115.322(4) to "pressure relief valves" for consistency with other sections in Chapter 115. The proposed amendments to §115.322 also revise §115.322(5), which requires that pipeline valves and pressure relief valves in gaseous VOC service be marked in some manner that will be readily obvious to monitoring personnel, by adding an option that the owner or operator may choose to monitor all components in liquid service on the schedule for components in gaseous service specified in §115.324(2), Inspection Requirements. This proposed option would result in more frequent monitoring of components in liquid service, but would add flexibility for owners or operators to be able to choose which option would be most efficient and effective for their refinery.

The proposed amendments to §115.325, Testing Requirements, change "Centigrade" to "Celsius" and spell out "American Petroleum Institute."

The proposed amendments to §115.326, Recordkeeping Requirements, spell out and acronym "parts per million by volume (ppmv)" and revise the recordkeeping requirements for consistency with the fugitive emissions monitoring program required by §115.324. Specifically, the amendments add requirements for keeping records of the date the component was monitored, the results of the monitoring (in ppmv), the test method used (Test Method 21, or sight/sound/smell), and the date on which a first attempt at repair was made to a leaking component.

The proposed amendments to §115.327, Exemptions, revise the term "these sections" (which should have been "this undesignated head") to "division" and spell out and acronym "pounds per square inch absolute (psia)" and "centimeters (cm)." The proposed amendments to §115.327 also correct the formatting of the numerical number "5" to the word "five."

*Subchapter D, Petroleum Refining, Natural Gas Processing, and Petrochemical Processes*

*Division 3, Fugitive Emission Control in Petroleum Refining, Natural Gas/Gasoline Processing, and Petrochemical Processes in Ozone Nonattainment Areas*

The proposed amendment to §115.352, Control Requirements, revises the phrase "safety pressure relief valves" in §115.322(4) to "pressure relief valves" for consistency with other sections in Chapter 115.

The proposed amendment to §115.353, Alternate Control Requirements, revises the term "undesignated head" to "division."

The proposed amendments to §115.355, Testing Requirements, revise the term "undesignated head" to "division," correct the title of the division, and spell out and acronym "American Petroleum Institute (API)." The proposed amendments to §115.355 also specify that the calibration for Test Method 21 is at 500 ppmv rather than at 10,000 ppmv because the leak definition in §115.352(1)(a) is a VOC concentration of 500 ppmv.

The proposed amendments to §115.356, Recordkeeping Requirements, revise the recordkeeping requirements for consistency with the fugitive emissions monitoring program required by §115.354 by adding a requirement for keeping records of the date on which a first attempt at repair was made to a leaking component. The proposed amendments to §115.356 also abbreviate "EPA" because this term is defined in §3.2.

The proposed amendments to §115.357, Exemptions, revise the term "undesignated head" to "division" in §115.357(2) and (6) - (8) and add the title of the division to §115.357(2). In addition, the proposed amendments to §115.357 spell out and acronym "volatile organic compound (VOC)" and "parts per million by volume (ppmv)" and acronym the term "pounds per square inch absolute" as "psia."

The proposed amendments to §115.359, Counties and Compliance Schedules, add a reference to the division in place of a reference to the sections in the division for brevity and clarity, and replace language which is obsolete due to the passing of a November 15, 1996 compliance date with new language stating that all affected persons in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller Counties shall continue to comply with this division (relating to Fugitive Emission Control in Petroleum Refining, Natural Gas/Gasoline Processing, and Petrochemical Processes in Ozone Nonattainment Areas) as required by §115.930 (relating to Compliance Dates).

*Subchapter E, Solvent-Using Process*

*Division 2, Surface Coating Processes*

The proposed amendments to Subchapter E include revising the subchapter title from "Solvent- Using Process" to "Solvent-Using Processes" in order to more accurately describe the contents of this subchapter.

The proposed amendments to §115.420, Surface Coating Definitions, add a definition of "hydrocarbon-based cleaning solvent" to §115.420(b)(1) which is consistent with the requirements for hydrocarbon-based cleaning solvents specified in Table 1 - Composition Requirements for Approved Cleaning Solvents of 40 Code of Federal Regulations (CFR) §63.744, Standards: Cleaning operations. The EPA's *Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations* (aerospace Control Techniques Guideline (CTG)) was the basis for the adoption of the aerospace coating requirements which were added to the Surface Coating Processes Division effective July 20, 2000, as published in the July 14, 2000 issue of the *Texas Register* (25 TexReg 6752). The July 2000 adopted rule language was based on rule language provided in the Aerospace Manufacturing and Rework Operations Model Rule, found in Appendix B of the aerospace CTG. In the aerospace CTG's model rule, however, hydrocarbon-based cleaning solvents specified in Table 1 of 40 CFR §63.744 were inadvertently not exempted from the housekeeping measures, thereby creating an inconsistency between the Chapter 115 aerospace rules and 40 CFR §63.744.

The proposed amendments to §115.420(b)(1) also renumber subsequent definitions to accommodate the new definition of "hydrocarbon-based cleaning solvent," correct the abbreviation for "basecoat/clearcoat" in §115.420(b)(12)(B)(i), and correct the variable "i" to "e" in the first summation sign in the denominator of the definition of "VOC composite vapor pressure" in the renumbered §115.420(b)(1)(EEEE).

The proposed amendments to §115.421, Emission Specifications, revise §115.421(a)(11) to clarify that the exemption for separate coating formulations in volumes less than 50 gallons per year to a maximum of 200 gallons per year for all such formulations applies to the total usage of these coatings at the account. The amendments also clarify that the term "formulations" refers to coating formulations and clarify that the term "antique aerospace" refers to antique aerospace vehicles.

The proposed amendment to §115.422, Control Requirements, adds "hydrocarbon-based cleaning solvents" to the list of cleaning solvents that are exempt from the housekeeping measures for the reasons explained in the discussion of §115.420.

#### *Subchapter E, Solvent-Using Process*

##### *Division 4, Offset Lithographic Printing*

The proposed amendment to §115.440, Offset Printing Definitions, adds a new §115.440(10) to define "VOC composite partial pressure," which is necessary due to the proposed new §115.442(1)(F)(iii).

The proposed amendments to §115.442, Control Requirements, add a new §115.442(1)(F)(iii) to give an additional option for meeting VOC reduction requirements by using cleaning solutions with a VOC composite partial vapor pressure less than or equal to ten millimeters of mercury (mm Hg) at 20 degrees Celsius (68 degrees Fahrenheit). This proposed revision is needed to provide additional flexibility in this rule to encourage the use of low vapor pressure cleaning solutions which have lower VOC emissions than conventional cleaning solutions. The proposed amendments also spell out and acronym "parts per million by volume (ppmv)" in §115.442(2).

The proposed amendments to §115.445, Approved Test Methods, abbreviate "EPA" in §115.445(5) because this term is defined in §3.2, and add a needed section symbol for a federal regulation citation along with the effective date of October 18, 1983 for the federal regulations.

The proposed amendments to §115.446, Monitoring and Recordkeeping Requirements, revise the temperature monitoring device accuracy requirement in §115.446(1) to include an option that the accuracy be  $\pm 1.0\%$  of the temperature being monitored. The proposed amendments to §115.446 also revise §115.446(5) to add an option for the monitoring and recording of temperature readings with respect to fountain solutions. These proposed revisions are needed to provide additional flexibility in the rule for consistency with the offset printing CTG and other federal guidance. In addition, the proposed amendments to §115.446 change a reference from "§115.442(1)(A) - (D)" to "§115.442(1)(A), (C), or (D)" because §115.442(1)(B) does not include fountain solution refrigeration as an option.

#### *Subchapter F, Miscellaneous Industrial Sources*

##### *Division 2, Pharmaceutical Manufacturing Facilities*

The proposed amendments to §115.532, Control Requirements, update the old term "standard exemption" with the correct term "permit by rule" and correct the reference to the title of Chapter 106 to "Permits by Rule."

The proposed amendments to §115.533, Alternate Control Requirements, incorporate Gregg, Nueces, and Victoria Counties into subsection (a), now implied, and delete all of subsection (b) which currently contains the alternate control requirements for these three counties. The proposed amendments to §115.533 also revise the term "undesignated head" to "division."

The proposed amendments to §115.535, Testing Requirements, revise the term "undesignated head" to "division."

The proposed amendment to §115.539, Counties and Compliance Schedules, revises the term "undesignated head" to "division."

#### *Subchapter F, Miscellaneous Industrial Sources*

##### *Division 3, Degassing or Cleaning of Stationary, Marine, and Transport Vessels*

The proposed amendments to §115.541, Emission Specifications, update references in §115.541(b) and (b)(5) to the definition of "marine vessel," which was previously relocated from §115.10 to §101.1.

The proposed amendment to §115.542, Control Requirements, corrects a reference in §115.542(b)(4) to reflect the common usage of the term "lower explosive limit (LEL)."

The proposed amendments to §115.543, Alternate Control Requirements, revise the term "undesignated head" to "division," and change "executive director" to lower-case for consistency with other divisions.

The proposed amendments to §115.545, Approved Test Methods, reference an additional vapor-tightness test available under 40 CFR §63.565(c). The inclusion of this second test method for determining marine vessel vapor tightness will provide additional flexibility. The proposed amendments also add effective dates for the federal regulations cited.

The proposed amendments to §115.546, Monitoring and Recordkeeping Requirements, update a reference from the

"Texas Natural Resource Conservation Commission" to "executive director" for consistency with the commission's style guidelines and abbreviate "EPA" because this term is defined in §3.2. The proposed amendments to §115.546 also delete the existing §115.546(2)(D), which concerns records associated with control device maintenance activities, because maintenance activities are already addressed in §101.7 and add an effective date for the federal regulation cited.

The proposed amendments to §115.547, Exemptions, revise the term "undesignated head" to "division" in §115.547(1), (2), and (5), add the division title to the first reference to the division, add language necessary to complete the sentence in paragraph (3), and revise paragraph (4) by correcting a reference from §115.541(3) to §115.541(b).

The proposed amendments to §115.549, Counties and Compliance Schedules, delete an incorrect reference to "El Paso" in §115.549(a), revise the term "undesignated head" to "division," and revise references to "Texas Natural Resource Conservation Commission" or "TNRCC" to "commission" for consistency with the commission's style guidelines. The proposed amendments to §115.549 also replace language in §115.549(a) which is obsolete due to the passing of a November 15, 1996 compliance date with new language stating that all affected persons in Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, and Waller Counties shall continue to comply with this division (relating to Degassing or Cleaning of Stationary, Marine, and Transport Vessels) as required by §115.930 (relating to Compliance Dates).

#### *Subchapter F, Miscellaneous Industrial Sources*

##### *Division 4, Petroleum Dry Cleaning Systems*

The proposed amendments to §115.552, Control Requirements, update the old term "standard exemption" with the correct term "permit by rule" and correct the reference to the title of Chapter 106 to "Permits by Rule." In addition, the proposed amendments to §115.552 correct the phrase "concerning" in §115.552(b)(1) to the phrase "relating to" for consistency with other divisions.

The proposed amendments to §115.559, Counties and Compliance Schedules, revise a reference from "Texas Natural Resource Conservation Commission" to "commission" for consistency with the commission's style guidelines, add a reference to the division in place of a reference to the sections in the division for brevity and clarity, and change "National Ambient Air Quality Standard" to lower-case for consistency with other divisions.

#### *Subchapter J, Administrative Provisions*

##### *Division 1, Alternate Means of Control*

The proposed amendments to §115.910, Availability of Alternate Means of Control, revise the term "undesignated head" to "division" and reference the division title, abbreviate "EPA" because this term is defined in §3.2, and correct references to titles of sections in Division 1.

The proposed amendments to §115.911, Criteria for Approval of Alternate Means of Control, delete an unnecessary reference to "Texas Natural Resource Conservation Commission" in §115.910(1), correct the formatting of section references in §115.910(6), delete unnecessary references to the title of Chapter 115 in §115.910(4) and (6), and revise references from "TNRCC" to "commission" in §115.910(10) for consistency with the commission's style guidelines.

The proposed amendments to §115.912, Calculations for Determining AMOC Reductions, revise the title of this section to "Calculations for Determining Alternate Means of Control Reductions" for consistency with the other section titles in Division 1. The proposed amendments to §115.912 also spell out and acronym "alternate means of control (AMOC)" in §115.912(a)(1), abbreviate this term in §115.912(b), and revise §115.912(c) by correcting a reference to the title of §115.911.

The proposed amendments to §115.913, Procedures for Alternate Means of Control Plan Submittal, abbreviate "EPA" because this term is defined in §3.2, and delete unnecessary references to "Texas Natural Resource Conservation Commission" or "TNRCC" in §115.913(a) and (b)(1) and (9).

The proposed amendments to §115.914, Procedures for Alternate Means of Control Plan Approval, abbreviate "EPA" because this term is defined in §3.2, revise references from "TNRCC" to "commission" in §115.914(8) for consistency with the commission's style guidelines, and delete unnecessary references to "Texas Natural Resource Conservation Commission" or "TNRCC."

The proposed amendments to §115.915, Public Notice Format, delete unnecessary references to "Texas Natural Resource Conservation Commission" or "TNRCC" in §115.915(a), (b) (7) and (11), and (c). The proposed amendments to §115.915 also abbreviate "EPA" in §115.915(b)(7) because this term is defined in §3.2, and revise references from "TNRCC" to "executive director" in §115.915(b)(1) and (c) for consistency with the commission's style guidelines.

The proposed amendments to §115.916, Review of Approved Alternate Means of Control Plans and Termination of Alternate Means of Control Plans, revise the term "undesignated head" to "division," add the division title to the first reference to the division, and revise a reference from "TNRCC" to "executive director" in §115.916(d) for consistency with the commission's style guidelines. The proposed amendments to §115.916 also add EPA and any local air pollution control agency having jurisdiction as entities to which a copy of an approved AMOC plan must be provided upon request. This is consistent with the underlying recordkeeping requirements of Chapter 115.

#### *Subchapter J, Administrative Provisions*

##### *Division 2, Early Reductions*

The proposed amendments to §115.920, Applicability, revise a reference from "Texas Natural Resource Conservation Commission (TNRCC)" to "executive director" for consistency with the commission's style guidelines, correct a referenced section title in §115.920(3), and spell out "Code of Federal Regulations."

The proposed amendments to §115.923, Documentation, revise the term "undesignated head" to "division" and reference the division title, delete an unnecessary reference to "TNRCC" in §115.923(b) for consistency with the commission's style guidelines.

#### *Subchapter J, Administrative Provisions*

##### *Division 3, Compliance and Control Plan Requirements*

The proposed amendments to §115.930, Compliance Dates, revise the term "undesignated head" to "division" for consistency with the commission's style guidelines.

The proposed amendments to §115.932, Control Plan Procedure, revise a reference from "Texas Natural Resource Conservation Commission (TNRCC)" to "executive director" for consistency with the commission's style guidelines, delete an unnecessary reference to the title of Chapter 115, and correct the term "regulation" to "chapter."

The proposed amendments to §115.934, Control Plan Deviation, update references from the "Texas Air Control Board" and "TACB" (one of the commission's predecessor agencies) to "executive director" for consistency with the commission's style guidelines, correct the term "regulation" to "chapter," and abbreviate "EPA" because this term is defined in §3.2.

The proposed amendment to §115.940, Equivalency Determination, abbreviates "EPA" because this term is defined in §3.2.

#### FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

Jeffrey Horvath, Analyst with Strategic Planning and Appropriations, determined that for each year of the first five-year period the proposed rules are in effect, there will be no fiscal implications to units of state or local government as a result of implementation of the proposed rules.

The proposed amendments to the commission's VOC rules are intended to clarify and add flexibility to existing requirements, correct technical and typographical errors, update references to terms, and delete redundant language. These proposed rules are an agency initiative to implement regulatory reform so that the rules are free of technical and typographical errors and are more clear and easy to read.

The proposed rulemaking would also revise recordkeeping requirements relating to the fugitive emissions monitoring program for petroleum refineries in Gregg, Nueces, and Victoria Counties. The proposed rules would add requirements for keeping records of the date a leaking component was monitored, the results of the monitoring, the test method used, and the date on which a first attempt at repair was made to a leaking component.

The proposed recordkeeping requirements will also require owners and operators of petroleum refineries; synthetic organic chemical, polymer, resin, or methyl tert-butyl ether manufacturing processes; and natural gas/gasoline processing operations in Brazoria, Chambers, Collin, El Paso, Dallas, Denton, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller Counties to keep records to document compliance with the fugitive emissions monitoring program. Specifically, the proposed rules add requirements for keeping records of the date on which a first attempt at repair was made to a leaking component. The new recordkeeping requirements are needed so that staff can determine compliance with existing inspection requirements.

The proposed rules also correct an inconsistency between current Chapter 115 rules for aerospace coating and federal rules, and provide flexibility in the offset printing rules by providing an additional option for the use of certain cleaning solutions.

Staff estimates that approximately 140 privately-owned and operated facilities in Brazoria, Chambers, Collin, El Paso, Dallas, Denton, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller Counties and six privately-owned and operated facilities in Gregg, Nueces, and Victoria Counties would be required to maintain compliance records due to implementation of the proposed rules. The commission estimates that there will be no fiscal implications to units of state

and local government due to implementation of the recordkeeping requirements of this proposal because none of the petroleum refineries; synthetic organic chemical, polymer, resin, or methyl tert-butyl ether manufacturing processes; and natural gas/gasoline processing operations which are required to keep records to document compliance with the Chapter 115 fugitive monitoring programs are owned or operated by units of state and local government. No fiscal implications are anticipated for the agency due to the implementation of the proposed rules as the requirements would be incorporated into existing inspection requirements. The remaining provisions are procedural in nature and are not expected to result in additional fiscal implications for units of state and local government.

#### PUBLIC BENEFITS AND COSTS

Mr. Horvath 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 the proposed rules would be increased compliance with air emission standards due to rules that are more clear and understandable and more extensive record retention requirements.

The proposed recordkeeping requirements will require owners and operators of petroleum refineries in Gregg, Nueces, and Victoria Counties to keep records to document compliance with the fugitive emissions monitoring program. Specifically, the proposed rules add requirements for keeping records of the date the component was monitored, the results of the monitoring (in ppmv), the test method used (Test Method 21, or sight/sound/smell), and the date on which a first attempt at repair was made to a leaking component.

The commission estimates that approximately six privately-owned and operated facilities would be required to maintain compliance records due to implementation of the proposed rules. Based on information from the commission's regional inspectors, most, if not all, of the affected facilities already comply with the proposed recordkeeping requirements in order to comply with similar recordkeeping requirements of a federal fugitive monitoring program under federal rules. In the event that a facility does not already comply with the proposed recordkeeping requirements, the cost for a facility to comply with the recordkeeping requirements of this proposal is estimated not to exceed \$500 a year. Included in the compliance cost is the purchase of filing space and administrative supplies, printing of records, and the initial training of persons responsible for maintaining the records.

In the event that none of the facilities already comply with the proposed recordkeeping requirements, the total costs to privately owned and operated businesses in Gregg, Nueces, and Victoria Counties to comply with this proposal are estimated not to exceed approximately \$3,000 a year.

The proposed recordkeeping requirements will also require owners and operators of petroleum refineries; synthetic organic chemical, polymer, resin, or methyl tert-butyl ether manufacturing processes; and natural gas/gasoline processing operations in Brazoria, Chambers, Collin, El Paso, Dallas, Denton, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller Counties to keep records to document compliance with the fugitive emissions monitoring program. Specifically, the amendments add requirements for keeping records of the date on which a first attempt at repair was made to a leaking component.

The commission estimates that approximately 140 privately-owned and operated facilities in Brazoria, Chambers, Collin, El Paso, Dallas, Denton, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller Counties would be required to maintain compliance records due to implementation of the proposed rules. Based on information from the commission's regional inspectors, most, if not all, of the affected facilities already comply with the proposed recordkeeping requirements in order to comply with similar recordkeeping requirements of federal fugitive monitoring programs under federal rules. In the event that a facility does not already comply with the proposed recordkeeping requirements, the cost for a facility to comply with the recordkeeping requirements of this proposal is estimated not to exceed \$500 a year. Included in the compliance cost is the purchase of filing space and administrative supplies, printing of records, and the initial training of persons responsible for maintaining the records.

In the event that none of the facilities already comply with the proposed recordkeeping requirements, the total costs to all privately owned and operated businesses in Brazoria, Chambers, Collin, El Paso, Dallas, Denton, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller Counties to comply with this proposal are estimated not to exceed approximately \$70,000 a year.

The proposed rules also clarify and add flexibility to existing requirements, correct technical and typographical errors, update references to terms, and delete redundant language. These proposed rules are an agency initiative to implement regulatory reform so that the rules are free of technical and typographical errors and are more clear and easy to read.

The proposed rules also correct an inconsistency between current Chapter 115 rules for aerospace coating and federal rules, and provide flexibility in the offset printing rules by providing an additional option for the use of certain cleaning solutions.

Any fiscal implications resulting from the implementation of the proposed recordkeeping amendments are not considered significant. The remaining provisions are procedural in nature and are not expected to result in additional fiscal implications for any individual or owners and operators of privately-owned and operated facilities.

#### SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

No adverse fiscal implications are anticipated for small or micro-businesses as a result of implementation of the proposed rules because none of the petroleum refineries; synthetic organic chemical, polymer, resin, or methyl tert-butyl ether manufacturing processes; and natural gas/gasoline processing operations which are required to keep records to document compliance with the fugitive monitoring programs are small or micro-businesses.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

The commission has reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

#### DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that this proposal is not subject to §2001.0025 because it does not meet the definition of a "major

environmental rule" as defined in that statute. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

This proposal is not a major environmental rule because its primary purpose is to clarify procedural and technical requirements for facilities subject to Chapter 115 rules. Specifically, the proposed rules clarify and add flexibility to existing requirements, correct technical and typographical errors, update references to terms, delete redundant language, and ensure adequate recordkeeping to document compliance with the Chapter 115 fugitive monitoring programs. Also, as determined in the preceding fiscal note, the fiscal impacts associated with this proposal are not anticipated to be significant.

In addition, a draft regulatory impact analysis is not required because the rules do not meet any of the four applicability criteria for requiring a regulatory analysis of a "major environmental rule" as defined in the Texas Government Code. Section 2001.0225 applies only to a major environmental rule the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This proposal does not exceed a standard set by federal law, and the proposed technical requirements are consistent with applicable federal standards. In addition, this proposal does not exceed an express requirement of state law and is not proposed solely under the general powers of the agency, but is specifically authorized by the provisions cited in the STATUTORY AUTHORITY section of this preamble. Finally, this proposal does not exceed a requirement of a delegation agreement or contract to implement a state and federal program. The commission invites public comment on the draft regulatory impact analysis determination.

#### TAKINGS IMPACT ASSESSMENT

The commission evaluated this rulemaking action and performed an analysis of whether the proposed rules are subject to Texas Government Code, Chapter 2007. The following is a summary of that analysis. The primary purpose of the rulemaking is to revise specific rules in Chapter 115 to clarify and add flexibility to existing requirements, correct errors, update references, and delete redundant and obsolete language. Promulgation and enforcement of these proposed rules would be neither a statutory nor a constitutional taking because they do not affect private real property. Specifically, the proposed rules do not affect a landowner's rights in private real property because this proposal does not burden (constitutionally), nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the rules. Therefore, these rules will not constitute a takings under the Texas Government Code, Chapter 2007.

#### CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the proposed rulemaking and found that the proposal is a rulemaking identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11, or will affect an

action/authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §505.11, and therefore will require that applicable goals and policies of the Coastal Management Program be considered during the rulemaking process.

The commission prepared a preliminary consistency determination for the proposed rules pursuant to 31 TAC §505.22 and found the proposed rulemaking is consistent with the applicable CMP goals and policies. The CMP goal applicable to this rulemaking action is the goal to protect, preserve, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (31 TAC §501.12(1)). No new sources of air contaminants will be authorized. The CMP policy applicable to this rulemaking action is the policy that commission rules comply with regulations in 40 CFR, to protect and enhance air quality in the coastal area (31 TAC §501.14(q)). This rulemaking action complies with 40 CFR. Therefore, in compliance with 31 TAC §505.22(e), this rulemaking action is consistent with CMP goals and policies. Interested persons may submit comments on the consistency of the proposed rules with the CMP during the public comment period.

#### EFFECT ON SITES SUBJECT TO THE FEDERAL OPERATING PERMIT PROGRAM

Chapter 115 is an applicable requirement under 30 TAC Chapter 122; therefore, owners or operators subject to the Federal Operating Permit Program must, consistent with the revision process in Chapter 122, revise their operating permit to include the revised Chapter 115 requirements for each emission unit affected by the revisions to Chapter 115 at their site.

#### ANNOUNCEMENT OF HEARING

A public hearing on this proposal will be held in Austin on January 23, 2002 at 2:00 p.m. at the Texas Natural Resource Conservation Commission complex in Building F, Room 3202A, located at 12100 Park 35 Circle. The hearing will be structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. There will be no open discussion 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.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the Office of Environmental Policy, Analysis, and Assessment at (512) 239-4900. Requests should be made as far in advance as possible.

#### SUBMITTAL OF COMMENTS

Comments may be submitted to Angela Slupe, MC 205, Office of Environmental Policy, Analysis, and Assessment, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. All comments should reference Rule Log Number 2002-037-115-AI. Comments must be received by 5:00 p.m., January 23, 2002. For further information, please contact Eddie Mack of the Policy and Regulations Division at (512) 239-1488.

#### SUBCHAPTER A. DEFINITIONS

##### 30 TAC §115.10

##### STATUTORY AUTHORITY

The amendment is proposed under Texas Water Code (TWC), §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under TWC; Texas Health and Safety Code, Texas Clean Air Act (TCAA), §382.017, which provides the commission authority to adopt rules consistent with the policy and purposes of TCAA; §382.002, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which authorizes the commission to control the quality of the state's air; §382.012, which authorizes the commission to develop plans to protect the state's air; and §382.016, which authorizes the commission to require that records of the air contaminant emissions from a source or activity be made and maintained.

The proposed amendment implements TCAA, §382.011, relating to General Powers and Duties; §382.012, relating to State Air Control Plan; §382.017, relating to Rules; and TWC, §5.103, relating to Rules.

##### §115.10. Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the commission [~~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. Additional definitions for terms used in this chapter are found in §101.1 [~~of this title (relating to Definitions)~~] and §3.2 of this title (relating to Definitions).

(1) - (19) (No change.)

(20) Marine terminal - Any marine facility or structure constructed to transfer [~~load~~] oil, gasoline, or other volatile organic liquid bulk cargo to or from [~~into~~] a marine vessel. A marine terminal may include [~~consists of~~] one or more marine loading facilities.

(21) - (32) (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 December 20, 2001.

TRD-200108144

Stephanie Bergeron

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Earliest possible date of adoption: February 3, 2002

For further information, please call: (512) 239-4712



#### SUBCHAPTER B. GENERAL VOLATILE ORGANIC COMPOUND SOURCES

#### DIVISION 1. STORAGE OF VOLATILE ORGANIC COMPOUNDS

##### 30 TAC §§115.113, 115.116, 115.117

##### STATUTORY AUTHORITY

The amendments are proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under TWC; Texas Health and Safety Code, TCAA, §382.017, which provides the commission authority to adopt rules consistent with the policy and purposes of TCAA; §382.002, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which authorizes the commission to control the quality of the state's air; §382.012, which authorizes the commission to develop plans to protect the state's air; and §382.016, which authorizes the commission to require that records of the air contaminant emissions from a source or activity be made and maintained.

The proposed amendments implement TCAA, §382.011, relating to General Powers and Duties; §382.012, relating to State Air Control Plan; §382.017, relating to Rules; and TWC, §5.103, relating to Rules.

*§115.113. Alternate Control Requirements.*

[(a)] Alternate [For all persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/ Galveston areas, alternate] methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this division [section] may be approved by the executive director [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 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 section may be approved by the Executive Director in accordance with §115.910 of this title if emission reductions are demonstrated to be substantially equivalent.]

[(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 section may be approved by the Executive Director in accordance with §115.910 of this title if emission reductions are demonstrated to be substantially equivalent.]

*§115.116. Monitoring and Recordkeeping Requirements.*

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

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

(3) Affected persons shall install and maintain monitors to continuously measure and record operational parameters of any of the following emission control devices installed to meet applicable control requirements. Such records must be sufficient to demonstrate proper functioning of those devices to design specifications, including:

(A) (No change.)

(B) the inlet and outlet gas temperature of a chiller or catalytic incinerator; 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 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.]

(4) (No change.)

(5) All records shall be maintained for two years and be made available for review upon request by authorized representatives of the executive director, EPA [United States Environmental Protection Agency (EPA)], or local air pollution control agencies.

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

(1) (No change.)

(2) The results of inspections required by §115.114(b) of this title [~~(relating to Inspection Requirements)~~] shall be recorded.

(3) In Victoria County, affected persons shall install and maintain monitors to continuously measure and record operational parameters of any of the following emission control devices installed to meet applicable control requirements. Such records must be sufficient to demonstrate proper functioning of those devices to design specifications, including:

(A) (No change.)

(B) the inlet and outlet gas temperature of a chiller or catalytic incinerator; 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 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.]

(4) The results of any testing conducted in accordance with the provisions specified in §115.115(b) of this title [~~(relating to Testing Requirements)~~] shall be maintained at an affected facility.

(5) (No change.)

*§115.117. Exemptions.*

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

(1) Except as provided in §115.116 of this title (relating to Monitoring and Recordkeeping Requirements), any volatile organic compound (VOC) with a true vapor pressure less than 1.5 pounds per square inch absolute (psia) [psia] (10.3 kPa) at storage conditions is exempt from the requirements of this division [~~undesignated head~~] (relating to the Storage of Volatile Organic Compounds).

(2) Crude oil and condensate stored in tanks with a nominal capacity less than 210,000 gallons (794,850 liters), prior to custody transfer, is exempt from the requirements of this division [~~undesignated head concerning storage of volatile organic compounds~~].

(3) Storage containers which have a capacity of less than 25,000 gallons (94,625 liters) located at motor vehicle fuel dispensing facilities are exempt from the requirements of this division [~~undesignated head concerning storage of volatile organic compounds~~].

(4) - (7) (No change.)

(8) Storage containers which have a capacity of no more than 1,000 gallons are exempt from the requirements of this division.

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

(1) Except as provided in §115.116 of this title, any VOC with a true vapor pressure less than 1.5 psia (10.3 kPa) at storage conditions is exempt from the requirements of this division [~~undesignated head (relating to the Storage of Volatile Organic Compounds)~~].

(2) Crude oil and condensate stored in tanks with a nominal capacity less than 210,000 gallons (794,850 liters), prior to custody transfer, is exempt from the requirements of this division [~~undesignated head~~].

(3) Storage containers which have a capacity of less than 25,000 gallons (94,625 liters) located at motor vehicle fuel dispensing facilities are exempt from the requirements of this division [~~undesignated head~~].

(4) (No change.)

(5) External floating roof tanks storing waxy, high pour point crude oils are exempt from any secondary seal requirements of §115.112(b) of this title [~~(relating to Control Requirements)~~].

(6) - (7) (No change.)

(8) Storage containers which have a capacity of no more than 1,000 gallons are exempt from the requirements of this division.

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

(1) Any VOC with a true vapor pressure less than 1.5 psia (10.3 kPa) at storage conditions is exempt from the requirements of this division [~~undesignated head (relating to the Storage of Volatile Organic Compounds)~~].

(2) Slotted sampling and gauge pipes installed in any floating roof storage tank are exempt from the provisions of §115.112(c) of this title [~~(relating to Control Requirements)~~].

(3) Storage tanks with nominal capacities between 1,000 gallons (3,785 liters) and 25,000 gallons (94,625 liters) are exempt from the requirements of §115.112(c)(1) of this title [~~(relating to Control Requirements)~~] if construction began before May 12, 1973.

(4) Storage tanks with a nominal capacity of 420,000 gallons (1,589,700 liters) or less are exempt from the requirements of §115.112(c)(3) of this title [~~(relating to Control Requirements)~~].

(5) Storage containers which have a capacity of no more than 1,000 gallons are exempt from the requirements of this division.

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 December 20, 2001.

TRD-200108145

Stephanie Bergeron

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

Earliest possible date of adoption: February 3, 2002

For further information, please call: (512) 239-4712



### DIVISION 3. WATER SEPARATION

30 TAC §§115.132, 115.133, 115.136, 115.137, 115.139

STATUTORY AUTHORITY

The amendments are proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under TWC; Texas Health and Safety Code, TCAA, §382.017, which provides the commission authority to adopt rules consistent with the policy and purposes of TCAA; §382.002, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which authorizes the commission to control the quality of the state's air; §382.012, which authorizes the commission to develop plans to protect the state's air; and §382.016, which authorizes the commission to require that records of the air contaminant emissions from a source or activity be made and maintained.

The proposed amendments implement TCAA, §382.011, relating to General Powers and Duties; §382.012, relating to State Air Control Plan; §382.017, relating to Rules; and TWC, §5.103, relating to Rules.

#### §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) - (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 permit by rule [~~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 Permits by Rule [~~Exemptions from Permitting~~]). If a permit by rule [~~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 permit by rule [~~standard exemption~~]; or

(B) if authorization by permit, permit amendment, standard permit, or permit by rule [~~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) - (2) (No change.)

(3) the compartment is equipped with a vapor recovery system which satisfies the provisions of §115.131(b) of this title [~~(relating to Emission Specifications)~~].

(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) - (2) (No change.)

(3) the compartment is equipped with a vapor recovery system which satisfies the provisions of §115.131(c) of this title [~~(relating to Emission Specifications)~~].

*§115.133. Alternate Control Requirements.*

[(a)] Alternate [For all persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, alternate] methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this division (relating to Water Separation) [~~section~~] may be approved by the executive director [Executive Director] in accordance with §115.910 of this title (relating to Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

[(b)] For all 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 section may be approved by the Executive Director in accordance with §115.910 of this title if emission reductions are demonstrated to be substantially equivalent.]

[(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 section may be approved by the Executive Director in accordance with §115.910 of this title if emission reductions are demonstrated to be substantially equivalent.]

*§115.136. Monitoring and Recordkeeping Requirements.*

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

(1) (No change.)

(2) Affected persons shall install and maintain monitors to continuously measure and record operational parameters of any emission control device installed to meet applicable control requirements. Such records must be sufficient to demonstrate proper functioning of those devices to design specifications, including:

(A) (No change.)

(B) the gas temperature immediately upstream and downstream of any catalytic incinerator or chiller; and

(C) the VOC concentration of any carbon adsorption system exhaust gas 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) (No change.)

(4) All records shall be maintained at the affected facility for at least two years and be made available upon request 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.

(b) For Gregg, Nueces, and Victoria Counties, the following recordkeeping requirements shall apply.

(1) Any person who operates a single or multiple compartment VOC water separator without the controls specified in §115.132(b) of this title [~~(relating to Control Requirements)~~] shall maintain complete and up-to-date records sufficient to demonstrate continuous compliance with the applicable exemption criteria including, but not limited to, the names and true vapor pressures of all such materials stored, processed, or handled at the affected property, and any other necessary operational information.

(2) In Victoria County, affected persons shall install and maintain monitors to continuously measure and record operational parameters of any emission control device installed to meet applicable control requirements. Such records must be sufficient to demonstrate proper functioning of those devices to design specifications, including:

(A) (No change.)

(B) the gas temperature immediately upstream and downstream of any catalytic incinerator or chiller; 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) Affected persons shall maintain the results of any testing conducted in accordance with the provisions specified in §115.135(b) of this title [~~(relating to Testing Requirements)~~].

(4) (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) (No change.)

(2) Any single or multiple compartment VOC water separator which separates materials having a true vapor pressure of VOC less than 0.5 pounds per square inch absolute (psia) [psia] (3.4 kPa) obtained from any equipment is exempt from §115.132(a) of this title.

(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 division (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 control [~~recovery~~] systems.

(b) For Gregg, Nueces, and Victoria Counties, the following exemptions shall apply. ~~;~~

(1) VOC water separators used exclusively in conjunction with the production of crude oil or condensate are exempt from §115.132(b) of this title [~~(relating to Control Requirements)~~].

(2) Any single or multiple compartment VOC water separator which separates less than 200 gallons (757 liters) a day of materials containing VOC obtained from any equipment is exempt from §115.132(b) of this title [~~(relating to Control Requirements)~~].

(3) Any single or multiple compartment VOC water separator which separates materials having a true vapor pressure of VOC less than 1.5 psia (10.3 kPa) obtained from any equipment is exempt from §115.132(b) of this title [~~(relating to Control Requirements)~~].

(4) In Gregg County, any single or multiple compartment VOC water separator which separates materials obtained from any

equipment in a facility other than a petroleum refinery is exempt from §115.132(b) of this title [~~(relating to Control Requirements)~~].

(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 division [~~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 control [~~recovery~~] systems.

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

(1) VOC water separators used exclusively in conjunction with the production of crude oil or condensate are exempt from §115.132(c) of this title [~~(relating to Control Requirements)~~].

(2) Any single or multiple compartment VOC water separator which separates less than 200 gallons (757 liters) a day of materials containing VOC obtained from any equipment is exempt from §115.132(c) of this title [~~(relating to Control Requirements)~~].

(3) Any single or multiple compartment VOC water separator which separates materials having a true vapor pressure of VOC less than 1.5 psia (10.3 kPa) obtained from any equipment is exempt from §115.132(c) of this title [~~(relating to Control Requirements)~~].

(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 division [~~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 control [~~recovery~~] systems.

#### §115.139. Counties and Compliance Schedules.

All affected persons in Aransas, Bexar, Brazoria, Calhoun, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Gregg, Hardin, Harris, Jefferson, Liberty, Matagorda, Montgomery, Nueces, Orange, San Patricio, Tarrant, Travis, Victoria, and Waller Counties shall continue to comply with this division [~~undesignated head (relating to Water Separation)~~] as required by §115.930 of this title (relating to Compliance Dates).

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.

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## DIVISION 4. INDUSTRIAL WASTEWATER

### 30 TAC §§115.140, 115.145, 115.147

#### STATUTORY AUTHORITY

The amendments are proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under TWC; Texas Health and Safety Code, TCAA, §382.017, which provides the commission authority to adopt rules consistent with the policy and purposes of TCAA;

§382.002, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which authorizes the commission to control the quality of the state's air; §382.012, which authorizes the commission to develop plans to protect the state's air; and §382.016, which authorizes the commission to require that records of the air contaminant emissions from a source or activity be made and maintained.

The proposed amendments implement TCAA, §382.011, relating to General Powers and Duties; §382.012, relating to State Air Control Plan; §382.017, relating to Rules; and TWC, §5.103, relating to Rules.

#### §115.140. Industrial Wastewater Definitions.

The following terms, when used in this division, shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions for terms used in this division are found in §§115.10, 101.1, and 3.2 [~~§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) - (2) (No change.)

(3) Plant--All facilities included within the same commission [~~Texas Natural Resource Conservation Commission~~] account number.

(4) - (8) (No change.)

#### §115.145. Approved Test Methods.

Compliance with the emission specifications, vapor control system efficiency, and certain control requirements, inspection requirements, and exemption criteria of §§115.142 - 115.144 and 115.147 of this title (relating to Control Requirements; Alternate Control Requirements; Inspection and Monitoring Requirements; and Exemptions) shall be determined by applying one or more of the following test methods and procedures, as appropriate. [ ]

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

(5) Leak determination by instrument method. Use Test Method 21 (40 CFR 60, Appendix A) for determining VOC leaks and for monitoring a carbon canister in accordance with §115.144(3)(D) of this title [~~(relating to Inspection and Monitoring Requirements)~~].

(6) - (9) (No change.)

(10) Alternate test methods. Test methods other than those specified in paragraphs (1) - (8) of this section [~~(concerning to Approved Test Methods)~~] may be used if validated by 40 CFR 63, Appendix A, Test Method 301 (effective December 29, 1992). For the purposes of this paragraph, substitute "executive director" each place that Test Method 301 references "administrator."

#### §115.147. Exemptions.

The following exemptions apply in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas.

(1) Any plant with an annual volatile organic compounds (VOC) loading in wastewater, as determined in accordance with §115.148 of this title (relating to Determination of Wastewater Characteristics), less than or equal to ten [~~40~~] megagrams (Mg) (11.03 tons) is exempt from the control requirements of §115.142 of this title (relating to Control Requirements).

(2) At any plant with an annual VOC loading in wastewater, as determined in accordance with §115.148 of this title greater than ten [~~40~~] Mg (11.03 tons), any person who is the owner or operator of

the plant may exempt from the control requirements of §115.142 of this title one or more affected VOC wastewater streams for which the sum of the annual VOC loading in wastewater for all of the exempted streams is less than or equal to ten [10] Mg (11.03 tons).

(3) Unless specifically required by this division (relating to Industrial Wastewater), any component of a wastewater storage, handling, transfer, or treatment facility to which the control requirements of §115.142 of this title [~~this division~~] apply is exempt from the requirements of any other division [portion] of this chapter.

(4) (No change.)

(5) Wet weather retention basins are exempt from the requirements of this division [~~(relating to Industrial Wastewater)~~].

(6) Petroleum refineries in the Beaumont/Port Arthur area are exempt from the requirements of this division [~~(relating to Industrial Wastewater)~~].

(7) (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.

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## DIVISION 5. MUNICIPAL SOLID WASTE LANDFILLS

### 30 TAC §115.153, §115.159

#### STATUTORY AUTHORITY

The amendments are proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under TWC; Texas Health and Safety Code, TCAA, §382.017, which provides the commission authority to adopt rules consistent with the policy and purposes of TCAA; §382.002, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which authorizes the commission to control the quality of the state's air; §382.012, which authorizes the commission to develop plans to protect the state's air; and §382.016, which authorizes the commission to require that records of the air contaminant emissions from a source or activity be made and maintained.

The proposed amendments implement TCAA, §382.011, relating to General Powers and Duties; §382.012, relating to State Air Control Plan; §382.017, relating to Rules; and TWC, §5.103, relating to Rules.

#### §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 division [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.

#### §115.159. Counties and Compliance Schedule.

(a) All affected municipal solid waste landfills (MSWLFs) in Collin, Dallas, Denton, and Tarrant Counties shall demonstrate [be in] compliance with this division [undesignated head] (relating to Municipal Solid Waste Landfills) as soon as practicable, but no later than May 31, 1996.

(b) All affected MSWLFs in El Paso County shall demonstrate [be in] compliance with this division [undesignated head] (~~relating to Municipal Solid Waste Landfills~~) as soon as practicable, but no later than November 15, 1996.

(c) All affected MSWLFs in Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties shall demonstrate [be in] compliance with this division [undesignated head] (~~relating to Municipal Solid Waste Landfills~~) 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).

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## DIVISION 6. BATCH PROCESSES

### 30 TAC §115.161, §115.169

#### STATUTORY AUTHORITY

The amendments are proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under TWC; Texas Health and Safety Code, TCAA, §382.017, which provides the commission authority to adopt rules consistent with the policy and purposes of TCAA; §382.002, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which authorizes the commission to control the quality of the state's air; §382.012, which authorizes the commission to develop plans to protect the state's air; and §382.016, which authorizes the commission to require that records of the air contaminant emissions from a source or activity be made and maintained.

The proposed amendments implement TCAA, §382.011, relating to General Powers and Duties; §382.012, relating to State

Air Control Plan; §382.017, relating to Rules; and TWC, §5.103, relating to Rules.

§115.161. *Applicability.*

(a) (No change.)

(b) Any batch process operation that is exempt under §115.167(1) or (2)(A) of this title [~~relating to Exemptions~~] is subject to the requirements of Division 2 of this subchapter (relating to Vent Gas Control).

§115.169. *Counties and Compliance Schedules.*

(a) The owner or operator of each batch process operation in Hardin, Jefferson, and Orange Counties shall demonstrate [be in] compliance with this division (relating to Batch Processes) as soon as practicable, but no later than December 31, 2001. All batch process operations subject to this division in Hardin, Jefferson, and Orange Counties shall continue to comply with the requirements of Division 2 of this subchapter (relating to Vent Gas Control) until these batch process operations are in compliance with the requirements of this division.

(b) The owner or operator of each batch process operation in Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties shall demonstrate [be in] compliance with this division (relating to Batch Processes) as soon as practicable, but no later than December 31, 2002. All batch process operations subject to this division in Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties shall continue to comply with the requirements of Division 2 of this subchapter (relating to Vent Gas Control) until these batch process operations are in compliance with the requirements of this division.

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.

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**SUBCHAPTER C. VOLATILE ORGANIC  
COMPOUND TRANSFER OPERATIONS  
DIVISION 1. LOADING AND UNLOADING  
OF VOLATILE ORGANIC COMPOUNDS**

**30 TAC §115.214**

**STATUTORY AUTHORITY**

The amendment is proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under TWC; Texas Health and Safety Code, TCAA, §382.017, which provides the commission authority to adopt rules consistent with the policy and purposes of TCAA; §382.002, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which authorizes the commission to control the quality of the

state's air; §382.012, which authorizes the commission to develop plans to protect the state's air; and §382.016, which authorizes the commission to require that records of the air contaminant emissions from a source or activity be made and maintained.

The proposed amendment implements TCAA, §382.011, relating to General Powers and Duties; §382.012, relating to State Air Control Plan; §382.017, relating to Rules; and TWC, §5.103, relating to Rules.

§115.214. *Inspection Requirements.*

(a) The owner or operator of each volatile organic compound (VOC) transfer operation in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas shall comply with the following inspection requirements.

(1) Land-based VOC transfer to or from transport vessels.

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

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

(b) The owner or operator of each VOC transfer operation in the covered attainment counties shall comply with the following inspection requirements.

(1) Land-based VOC transfer to or from transport vessels. At all VOC transfer operations in Aransas, Bexar, Calhoun, Gregg, Matagorda, Nueces, San Patricio, Travis, and Victoria Counties, and at gasoline terminals and gasoline bulk plants in the covered attainment counties:

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

(D) Subparagraphs (A) and (B) of this paragraph do not apply to fumes from hatches or vents if the fumes result from:

(i) (No change.)

(ii) a VOC loading operation which, under the 90% control option in §115.213(c) [~~§115.213(b)~~] of this title, is not required to control vapors caused by loading VOC.

(2) (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.

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**SUBCHAPTER D. PETROLEUM REFINING,  
NATURAL GAS PROCESSING, AND  
PETROCHEMICAL PROCESSES  
DIVISION 1. PROCESS UNIT TURNAROUND  
AND VACUUM-PRODUCING SYSTEMS IN  
PETROLEUM REFINERIES**

**30 TAC §§115.311 - 115.313, 115.316, 115.319**

**STATUTORY AUTHORITY**

The amendments are proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under TWC; Texas Health and Safety Code, TCAA, §382.017, which provides the commission authority to adopt rules consistent with the policy and purposes of TCAA; §382.002, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which authorizes the commission to control the quality of the state's air; §382.012, which authorizes the commission to develop plans to protect the state's air; and §382.016, which authorizes the commission to require that records of the air contaminant emissions from a source or activity be made and maintained.

The proposed amendments implement TCAA, §382.011, relating to General Powers and Duties; §382.012, relating to State Air Control Plan; §382.017, relating to Rules; and TWC, §5.103, relating to Rules.

*§115.311. Emission Specifications.*

(a) For all affected 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 on vacuum-producing systems shall apply. [?]

(1) No person may be allowed to emit any volatile organic compound (VOC) from a steam ejector or mechanical vacuum pump in a petroleum refinery unless the vent stream is controlled properly in accordance with §115.312(a)(2) [~~§115.312(a)~~] of this title (relating to Control Requirements).

(2) No person may be allowed to emit any VOC from a hotwell with a contact condenser unless the hotwell is covered and the vapors from the hotwell are controlled properly in accordance with §115.312(a)(2) [~~§115.312(a)~~] of this title.

(b) For all affected persons in Gregg, Nueces, and Victoria Counties, the following emission specifications on vacuum-producing systems shall apply. [?]

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

*§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 VOC [~~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 1,300 degrees Fahrenheit (704 degrees Celsius [~~Centi-grade~~]);

(B) (No change.)

(C) by any other vapor control [~~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 1,300 degrees Fahrenheit (704 degrees Celsius [~~Centi-grade~~]);

(B) (No change.)

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

*§115.313. Alternate Control Requirements.*

~~[(a)] Alternate [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 division [~~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.]~~

*§115.316. Monitoring and Recordkeeping Requirements.*

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

(1) Any person who operates a vacuum-producing system affected by §115.311(a) of this title (relating to Emission Specifications) shall keep the following records:

(A) (No change.)

(B) continuous monitoring of temperatures upstream and downstream of a catalytic incinerator or chiller; and

(C) continuous monitoring of the exhaust gas volatile organic compound (VOC) concentration of any carbon adsorption system, as defined in §115.10 of this title (relating to Definitions), to determine breakthrough. [~~]; and~~

~~[(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.]~~

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

(4) All records shall be maintained for two years and be made available for review upon request by authorized representatives of the executive director [~~Texas Air Control Board (TACB)~~], EPA [~~United States Environmental Protection Agency (EPA)~~], or local air pollution control agencies.

(b) For all affected persons in Victoria County, the following recordkeeping requirements shall apply. [?]

(1) Any person who operates a vacuum-producing system affected by §115.311(b) of this title [~~relating to Emission Specifications~~] shall keep the following records:

(A) (No change.)

(B) continuous monitoring of temperatures upstream and downstream of a catalytic incinerator or chiller; and

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

~~[(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.]~~

(2) Any person who conducts a process unit turnaround affected by §115.312(b) of this title [~~relating to Control Requirements~~] shall keep the following records:

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

(3) The results of any testing conducted in accordance with the provisions specified in §115.315(b) of this title [~~relating to Testing Requirements~~] shall be maintained at the affected facility.

(4) All records shall be maintained for two years and be made available for review upon request by authorized representatives of the executive director [TACB], EPA, or local air pollution control agencies.

#### §115.319. Counties and Compliance Schedules.

All affected persons in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Gregg, Hardin, Harris, Jefferson, Liberty, Montgomery, Nueces, Orange, Tarrant, Victoria, and Waller Counties shall continue to comply with this division [~~undesignated head~~] (relating to Process Unit Turnaround and Vacuum-Producing Systems in Petroleum Refineries) as required by §115.930 of this title (relating to Compliance Dates).

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.

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## DIVISION 2. FUGITIVE EMISSION CONTROL IN PETROLEUM REFINERIES IN GREGG, NUECES, AND VICTORIA COUNTIES

### 30 TAC §§115.322, 115.325 - 115.327

#### STATUTORY AUTHORITY

The amendments are proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under TWC; Texas Health and Safety Code, TCAA, §382.017, which provides the commission authority to

adopt rules consistent with the policy and purposes of TCAA; §382.002, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which authorizes the commission to control the quality of the state's air; §382.012, which authorizes the commission to develop plans to protect the state's air; and §382.016, which authorizes the commission to require that records of the air contaminant emissions from a source or activity be made and maintained.

The proposed amendments implement TCAA, §382.011, relating to General Powers and Duties; §382.012, relating to State Air Control Plan; §382.017, relating to Rules; and TWC, §5.103, relating to Rules.

#### §115.322. Control Requirements.

For Gregg, Nueces, and Victoria Counties, no person shall operate a petroleum refinery without complying with the following requirements. ~~;~~

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

(4) Except for [~~safety~~] pressure relief valves, no valves shall be installed or operated at the end of a pipe or line containing a VOC, unless the pipe or line is sealed with a second valve, a blind flange, a plug, or a cap. The sealing device may be removed only while a sample is being taken or during maintenance operations, and when closing the line, the upstream valve shall be closed first.

(5) Pipeline valves and pressure relief valves in gaseous VOC service shall be marked in some manner that will be readily obvious to monitoring personnel. Alternatively, the owner or operator of the refinery may choose to monitor all components in liquid service on the schedule for components in gaseous service specified in §115.324(2) of this title (relating to Inspection Requirements).

#### §115.325. Testing Requirements.

For all affected persons in Gregg, Nueces, and Victoria Counties, compliance with this division (relating to Fugitive Emission Control in Petroleum Refineries in Gregg, Nueces, and Victoria Counties) shall be determined by applying the following test methods, as appropriate:

(1) (No change.)

(2) determination of true vapor pressure using ASTM Test Method D323-82 for the measurement of Reid vapor pressure, adjusted for 68 degrees Fahrenheit (20 degrees Celsius [~~Centigrade~~]) in accordance with American Petroleum Institute (API) [API] Publication 2517, Third Edition, 1989; or

(3) (No change.)

#### §115.326. Recordkeeping Requirements.

For Gregg, Nueces, and Victoria Counties, the owner or operator of a petroleum refinery shall have the following recordkeeping requirements. ~~;~~

(1) (No change.)

(2) Maintain a leaking-components monitoring log for all leaks of more than 10,000 parts per million by volume (ppmv) [ppmv] of volatile organic compound (VOC) detected by the monitoring program required by §115.324 of this title (relating to Inspection Requirements). This log shall contain, at a minimum, the following data:

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

(D) the date the component was monitored;

- (E) the results of the monitoring (in ppmv);
- (F) a record of the calibration of the monitoring instrument;
- (G) if a component is found leaking:
  - (i) ~~[(D)]~~ the date on which a leaking component is discovered;
  - (ii) the date on which a first attempt at repair was made to a leaking component;
  - (iii) ~~[(E)]~~ the date on which a leaking component is repaired;
  - (iv) ~~[(F)]~~ the date and instrument reading of the recheck procedure after a leaking component is repaired; and
- ~~[(G)] a record of the calibration of the monitoring instrument;~~
- (v) ~~[(H)] those leaks that cannot be repaired until turnaround; [and]~~
- (H) ~~[(H)] the total number of components checked and the total number of components found leaking; and [-]~~
- (I) the test method used (Test Method 21, or sight/sound/smell).

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

*§115.327. Exemptions.*

For all affected persons in Gregg, Nueces, and Victoria Counties, the following exemptions shall apply: [-]

(1) Valves with a nominal size of two inches (five centimeters (cm)) ~~[(5 cm)]~~ or less are exempt from the requirements of this division (relating to Fugitive Emission Control in Petroleum Refineries in Gregg, Nueces, and Victoria Counties), provided allowable emissions at any refinery from sources affected by this division ~~[these sections]~~ after controls are applied with exemptions will not exceed by more than 5.0% such allowable emissions with no exemptions. Any person claiming an exemption for valves two inches (five [5] cm) nominal size or smaller under this section shall, at the time he provides his control plan, also provide the following information:

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

(2) (No change.)

(3) Components which contact a process liquid containing a VOC having a true vapor pressure equal to or less than 0.147 pounds per square inch absolute (psia) [psia] (1.013 kPa) at 68 degrees Fahrenheit (20 degrees Celsius) are exempt from the requirements of §115.324 of this title if the components are inspected visually according to the inspection schedules specified within this same section.

(4) (No change.)

(5) Pressure relief devices connected to an operating flare header, components in continuous vacuum service, storage tank valves, and valves that are not externally regulated (such as in-line check valves) are exempt from the monitoring requirement of §115.324 of this title ~~[(relating to Inspection Requirements)]~~.

(6) (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.

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### DIVISION 3. FUGITIVE EMISSION CONTROL IN PETROLEUM REFINING, NATURAL GAS/GASOLINE PROCESSING, AND PETROCHEMICAL PROCESSES IN OZONE NONATTAINMENT AREAS

#### 30 TAC §§115.352, 115.353, 115.355 - 115.357, 115.359 STATUTORY AUTHORITY

The amendments are proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under TWC; Texas Health and Safety Code, TCAA, §382.017, which provides the commission authority to adopt rules consistent with the policy and purposes of TCAA; §382.002, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which authorizes the commission to control the quality of the state's air; §382.012, which authorizes the commission to develop plans to protect the state's air; and §382.016, which authorizes the commission to require that records of the air contaminant emissions from a source or activity be made and maintained.

The proposed amendments implement TCAA, §382.011, relating to General Powers and Duties; §382.012, relating to State Air Control Plan; §382.017, relating to Rules; and TWC, §5.103, relating to Rules.

*§115.352. Control Requirements.*

For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas as defined in §115.10 of this title (relating to Definitions), no person shall operate a petroleum refinery; a synthetic organic chemical, polymer, resin, or methyl tert-butyl ether manufacturing process; or a natural gas/gasoline processing operation as defined in §115.10 of this title, without complying with the following requirements.

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

(4) Except for ~~[safety]~~ pressure relief valves, no valves shall be installed or operated at the end of a pipe or line containing VOC unless the pipe or line is sealed with a second valve, a blind flange, a plug, or a cap. The sealing device may be removed only while a sample is being taken or during maintenance operations, and when closing the line, the upstream valve shall be closed first.

(5) - (9) (No change.)

*§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 division

[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.

§115.355. *Approved Test Methods.*

For all affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, compliance with this division [undesignated head] (relating to Fugitive Emission Control in Petroleum Refining, Natural Gas/Gasoline Processing, and Petrochemical Processes in Ozone Nonattainment Areas) shall be determined by applying the following test methods, as appropriate:

(1) Test Method 21 (40 CFR 60, Appendix A) for determining volatile organic compound leaks, except the calibration shall be at 500 parts per million by volume (ppmv) rather than at 10,000 ppmv;

(2) determination of true vapor pressure using American Society for Testing and Materials Test Methods D323-89, D2879, D4953, D5190, or D5191 for the measurement of Reid vapor pressure, adjusted for 68 degrees Fahrenheit (20 degrees Celsius) in accordance with American Petroleum Institute (API) [API] Publication 2517, Third Edition, 1989;

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

§115.356. *Monitoring and Recordkeeping Requirements.*

All affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas shall have the following recordkeeping requirements:

(1) maintain [Maintain] a components monitoring log which shall contain, at a minimum, the following data:

(A) - (F) (No change.)

(G) if a component is found leaking:

(i) (No change.)

(ii) the date on which a first attempt at repair was made to a leaking component;

(iii) [(ii)] the date on which a leaking component is repaired;

(iv) [(iii)] the date and instrument reading of the recheck procedure after a leaking component is repaired; and

(v) [(iv)] those leaks that cannot be repaired until a unit shutdown;

(H) (No change.)

(I) the test method used (Test Method 21, or sight/sound/smell); [-]

(2) records [Records] of the visual, audible, and olfactory inspections of flanges are not required unless a leak is detected; and [-]

(3) maintain [Maintain] all monitoring records for at least two years and make them available for review upon request by authorized representatives of the executive director, EPA [United States Environmental Protection Agency], or local air pollution control agencies.

§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) Components which contact a process fluid containing volatile organic compounds (VOCs) [VOCs] having a true vapor pressure equal to or less than 0.044 pounds per square inch absolute (psia) (0.3 kPa) at 68 degrees Fahrenheit (20 degrees Celsius) are exempt from the requirements of §115.354 of this title (relating to Inspection Requirements) if the components are inspected visually according to the inspection schedules specified within this same section.

(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 division (relating to Fugitive Emission Control in Petroleum Refining, Natural Gas/Gasoline Processing, and Petrochemical Processes in Ozone Nonattainment Areas) [undesignated head], except that each pressure relief valve equipped with a rupture disc shall comply with §115.352(9) of this title (relating to Control Requirements).

(3) - (5) (No change.)

(6) Components at a petroleum refinery; synthetic organic chemical, polymer, resin, or methyl-tert-butyl ether manufacturing process, which contact a process fluid that contains less than 10% VOC by weight and components at a natural gas/gasoline processing operation which contact a process fluid that contains less than 1.0% VOC by weight are exempt from the requirements of this division [undesignated head].

(7) Facilities with less than 250 components in VOC service are exempt from the requirements of this division [undesignated head].

(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 parts per million by volume (ppmv) [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 division [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) Valves rated greater than 10,000 pounds per square inch gauge (psig) are exempt from the requirements of §115.352(4) of this title [(relating to Control Requirements)].

§115.359. *Counties and Compliance Schedules.*

All affected persons in Brazoria, Chambers, Collin, El Paso, Dallas, Denton, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller Counties shall continue to comply [be in compliance] with this division (relating to Fugitive Emission Control in Petroleum Refining, Natural Gas/Gasoline Processing, and Petrochemical Processes in Ozone Nonattainment Areas) [§115.352 of this title (relating to Control Requirements); §115.353 of this title (relating to Alternate Control Requirements); §115.354 of this title (relating to Inspection Requirements); §115.355 of this title (relating to Testing Requirements); §115.356 of this title (relating to Monitoring and Recordkeeping Requirements); and §115.357 of this title (relating to Exemptions)] as required by §115.930 of this title (relating to Compliance Dates) [soon as practicable, but no later than November 15, 1996].

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.

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For further information, please call: (512) 239-4712



## SUBCHAPTER E. SOLVENT-USING PROCESSES

### DIVISION 2. SURFACE COATING PROCESSES

#### 30 TAC §§115.420 - 115.422

##### STATUTORY AUTHORITY

The amendments are proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under TWC; Texas Health and Safety Code, TCAA, §382.017, which provides the commission authority to adopt rules consistent with the policy and purposes of TCAA; §382.002, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which authorizes the commission to control the quality of the state's air; §382.012, which authorizes the commission to develop plans to protect the state's air; and §382.016, which authorizes the commission to require that records of the air contaminant emissions from a source or activity be made and maintained.

The proposed amendments implement TCAA, §382.011, relating to General Powers and Duties; §382.012, relating to State Air Control Plan; §382.017, relating to Rules; and TWC, §5.103, relating to Rules.

##### §115.420. *Surface Coating Definitions.*

(a) (No change.)

(b) Specific surface coating definitions. The following terms, when used in this division (relating to Surface Coating Processes), shall have the following meanings, unless the context clearly indicates otherwise.

(1) Aerospace coating.

(A) - (QQ) (No change.)

(RR) Hydrocarbon-based cleaning solvent -- A solvent which is composed of VOC (photochemically reactive hydrocarbons) and/or oxygenated hydrocarbons, has a maximum vapor pressure of seven millimeters of mercury (mm Hg) at 20 degrees Celsius (68 degrees Fahrenheit), and contains no hazardous air pollutant (HAP) identified in the 1990 Amendments to the Federal Clean Air Act (FCAA), §112(b).

(SS) [(RR)] Insulation covering -- Material that is applied to foam insulation to protect the insulation from mechanical or environmental damage.

(TT) [(SS)] Intermediate release coating -- A thin coating applied beneath topcoats to assist in removing the topcoat in de-painting operations and generally to allow the use of less hazardous de-painting methods.

(UU) [(FF)] Lacquer -- A clear or pigmented coating formulated with a nitrocellulose or synthetic resin to dry by evaporation without a chemical reaction. Lacquers are resoluble in their original solvent.

(VV) [(UU)] Limited access space -- Internal surfaces or passages of an aerospace vehicle or component that cannot be reached without the aid of an airbrush or a spray gun extension for the application of coatings.

(WW) [(VV)] Metalized epoxy coating -- A coating that contains relatively large quantities of metallic pigmentation for appearance and/or added protection.

(XX) [(WW)] Mold release -- A coating applied to a mold surface to prevent the molded piece from sticking to the mold as it is removed.

(YY) [(XX)] Monthly weighted average -- The [the] total weight of VOC emission from all coatings divided by the total volume of those coatings (minus water and exempt solvents) delivered to the application system each calendar month. Coatings shall not be combined for purposes of calculating the monthly weighted average. In addition, determination of compliance is based on each individual coating operation.

(ZZ) [(YY)] Nonstructural adhesive -- An adhesive that bonds nonload bearing aerospace components in noncritical applications and is not covered in any other specialty adhesive categories.

(AAA) [(ZZ)] Operating parameter value -- A minimum or maximum value established for a control equipment or process parameter that, if achieved by itself or in combination with one or more other operating parameter values, determines that an owner or operator has continued to comply with an applicable emission limitation.

(BBB) [(AAA)] Optical antireflection coating -- A coating with a low reflectance in the infrared and visible wavelength ranges that is used for antireflection on or near optical and laser hardware.

(CCC) [(BBB)] Part marking coating -- Coatings or inks used to make identifying markings on materials, components, and/or assemblies of aerospace vehicles. These markings may be either permanent or temporary.

(DDD) [(CCC)] Pretreatment coating -- An organic coating that contains at least 0.5% acids by weight and is applied directly to metal or composite surfaces to provide surface etching, corrosion resistance, adhesion, and ease of stripping.

(EEE) [(DDD)] Primer -- The first layer and any subsequent layers of identically formulated coating applied to the surface of an aerospace vehicle or component. Primers are typically used for corrosion prevention, protection from the environment, functional fluid resistance, and adhesion of subsequent coatings. Primers that are defined as specialty coatings are not included under this definition.

(FFF) [(EEE)] Radome -- The nonmetallic protective housing for electromagnetic transmitters and receivers (e.g., radar, electronic countermeasures, etc.).

(GGG) [(FFF)] Rain erosion-resistant coating -- A coating or coating system used to protect the leading edges of parts such as flaps, stabilizers, radomes, engine inlet nacelles, etc. against erosion caused by rain impact during flight.

(HHH) [(GGG)] Research and development -- An operation whose primary purpose is for research and development of new

processes and products and that is conducted under the close supervision of technically trained personnel and is not involved in the manufacture of final or intermediate products for commercial purposes, except in a de minimis manner.

(III) [~~(HHH)~~] Rocket motor bonding adhesive -- An adhesive used in rocket motor bonding applications.

(JJJ) [~~(HH)~~] Rocket motor nozzle coating -- A catalyzed epoxy coating system used in elevated temperature applications on rocket motor nozzles.

(KKK) [~~(JJJ)~~] Rubber-based adhesive -- A quick setting contact cement that provides a strong, yet flexible bond between two mating surfaces that may be of dissimilar materials.

(LLL) [~~(KKK)~~] Scale inhibitor -- A coating that is applied to the surface of a part prior to thermal processing to inhibit the formation of scale.

(MMM) [~~(LLL)~~] Screen print ink -- An ink used in screen printing processes during fabrication of decorative laminates and decals.

(NNN) [~~(MMM)~~] Sealant -- A material used to prevent the intrusion of water, fuel, air, or other liquids or solids from certain areas of aerospace vehicles or components. There are two categories of sealants: extrudable/rollable/brushable sealants and sprayable sealants.

(OOO) [~~(NNN)~~] Seal coat maskant -- An overcoat applied over a maskant to improve abrasion and chemical resistance during production operations.

(PPP) [~~(OOO)~~] Self-priming topcoat -- A topcoat that is applied directly to an uncoated aerospace vehicle or component for purposes of corrosion prevention, environmental protection, and functional fluid resistance. More than one layer of identical coating formulation may be applied to the vehicle or component.

(QQQ) [~~(PPP)~~] Semiaqueous cleaning solvent -- A solution in which water is a primary ingredient. More than 60% by volume of the solvent solution as applied must be water.

(RRR) [~~(QQQ)~~] Silicone insulation material -- An insulating material applied to exterior metal surfaces for protection from high temperatures caused by atmospheric friction or engine exhaust. These materials differ from ablative coatings in that they are not "sacrificial."

(SSS) [~~(RRR)~~] Solid film lubricant -- A very thin coating consisting of a binder system containing as its chief pigment material one or more of the following: molybdenum, graphite, polytetrafluoroethylene, or other solids that act as a dry lubricant between faying (i.e., closely or tightly fitting) surfaces.

(TTT) [~~(SSS)~~] Space vehicle -- A man-made device, either manned or unmanned, designed for operation beyond earth's atmosphere. This definition includes integral equipment such as models, mock-ups, prototypes, molds, jigs, tooling, hardware jackets, and test coupons. Also included is auxiliary equipment associated with test, transport, and storage, that through contamination can compromise the space vehicle performance.

(UUU) [~~(TTT)~~] Specialty coating -- A coating that, even though it meets the definition of a primer, topcoat, or self-priming topcoat, has additional performance criteria beyond those of primers, topcoats, and self-priming topcoats for specific applications. These performance criteria may include, but are not limited to, temperature or fire resistance, substrate compatibility, antireflection, temporary protection or marking, sealing, adhesively joining substrates, or enhanced corrosion protection.

(VVV) [~~(UUU)~~] Specialized function coating -- A coating that fulfills extremely specific engineering requirements that are limited in application and are characterized by low volume usage. This category excludes coatings covered in other specialty coating categories.

(WWW) [~~(VVV)~~] Structural autoclavable adhesive -- An adhesive used to bond load-carrying aerospace components that is cured by heat and pressure in an autoclave.

(XXX) [~~(WWW)~~] Structural nonautoclavable adhesive -- An adhesive cured under ambient conditions that is used to bond load-carrying aerospace components or other critical functions, such as nonstructural bonding in the proximity of engines.

(YYY) [~~(XXX)~~] Surface preparation -- The removal of contaminants from the surface of an aerospace vehicle or component or the activation or reactivation of the surface in preparation for the application of a coating.

(ZZZ) [~~(YYY)~~] Temporary protective coating -- A coating applied to provide scratch or corrosion protection during manufacturing, storage, or transportation. Two types include peelable protective coatings and alkaline removable coatings. These materials are not intended to protect against strong acid or alkaline solutions. Coatings that provide this type of protection from chemical processing are not included in this category.

(AAA) [~~(ZZZ)~~] Thermal control coating -- A coating formulated with specific thermal conductive or radiative properties to permit temperature control of the substrate.

(BBB) [~~(AAA)~~] Topcoat -- A coating that is applied over a primer on an aerospace vehicle or component for appearance, identification, camouflage, or protection. Topcoats that are defined as specialty coatings are not included under this definition.

(CCC) [~~(BBB)~~] Touch-up and repair coating -- A coating used to cover minor coating imperfections appearing after the main coating operation.

(DDD) [~~(CCC)~~] Touch-up and repair operation -- That portion of the coating operation that is the incidental application of coating used to cover minor imperfections in the coating finish or to achieve complete coverage. This definition includes out-of-sequence or out-of-cycle coating.

(EEE) [~~(DDD)~~] VOC composite vapor pressure -- The sum of the partial pressures of the compounds defined as VOCs, ~~and is~~ determined by the following calculation:

Figure: 30 TAC §115.420(b)(1)(~~EEEE~~)

[Figure: 30 TAC §115.420(b)(1)(~~DDDD~~)]

(FFF) [~~(EEE)~~] Waterborne (water-reducible) coating -- A coating which contains more than 5.0% water by weight as applied in its volatile fraction.

(GGG) [~~(FFF)~~] Wet fastener installation coating -- A primer or sealant applied by dipping, brushing, or daubing to fasteners that are installed before the coating is cured.

(HHH) [~~(GGG)~~] Wing coating -- A corrosion-resistant topcoat that is resilient enough to withstand the flexing of the wings.

(2) - (11) (No change.)

(12) Vehicle coating.

(A) (No change.)

(B) Vehicle refinishing (body shops).

(i) Basecoat/clearcoat system -- A topcoat system composed of a pigmented basecoat portion and a transparent clearcoat portion. The VOC content of a basecoat (bc)/clearcoat (cc) [~~basecoat (Be)/clearcoat (ee)~~] system shall be calculated according to the following formula:

Figure: 30 TAC §115.420(b)(12)(B)(i) (No change.)

(ii) - (ix) (No change.)

(13) - (14) (No change.)

#### §115.421. Emission Specifications.

(a) No person in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas as defined in §115.10 of this title (relating to Definitions) may cause, suffer, allow, or permit volatile organic compound (VOC) emissions from the surface coating processes affected by paragraphs (1) - (15) of this subsection to exceed the specified emission limits. These limitations are based on the daily weighted average of all coatings delivered to each coating line, except for those in paragraph (10) of this subsection which are based on paneling surface area, and those in paragraph (14) of this subsection which, if using an averaging approach, must use one of the daily averaging equations within that paragraph. The owner or operator of a surface coating operation subject to paragraph (11) of the subsection may choose to comply by using the monthly weighted average option as defined in §115.420(b)(1)(XX) of this title (relating to Surface Coating Definitions).

(1) - (10) (No change.)

(11) Aerospace coatings. The VOC content of coatings, including any VOC-containing materials added to the original coating supplied by the manufacturer, which are applied to aerospace vehicles or components shall not exceed the following limits (in grams of VOC per liter of coating, less water and exempt solvent). The following applications are exempt from the VOC content limits of this paragraph: manufacturing or re-work of space vehicles or antique aerospace vehicles or components of each; touchup; [~~and~~] United States Department of Defense classified coatings; and separate coating formulations in volumes less than 50 gallons per year to a maximum of 200 gallons per year for all such formulations at an account.

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

(12) - (15) (No change.)

(b) (No change.)

#### §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) The following requirements apply to each wood furniture manufacturing facility subject to §115.421(a)(14) of this title (relating to Emission Specifications).

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

(C) Conventional air spray guns shall not be used for applying finishing materials except under one or more of the following circumstances:

(i) to [~~To~~] apply finishing materials that have a VOC content no greater than 1.0 kilograms of VOC per kilogram of solids (1.0 pounds of VOC per pound of solids), as delivered to the application system;

(ii) for [~~For~~] touch-up and repair under the following circumstances:

(I) the [~~The~~] finishing materials are applied after completion of the finishing operation; or

(II) the [~~The~~] finishing materials are applied after the stain and before any other type of finishing material is applied, and the finishing materials are applied from a container that has a volume of no more than 2.0 gallons.

(iii) if [~~If~~] spray is automated, that is, the spray gun is aimed and triggered automatically, not manually;

(iv) if [~~If~~] emissions from the finishing application station are directed to a vapor control system;

(v) the [~~The~~] conventional air gun is used to apply finishing materials and the cumulative total usage of that finishing material is no more than 5.0% of the total gallons of finishing material used during that semiannual period; or

(vi) the [~~The~~] conventional air gun is used to apply stain on a part for which:

(I) - (II) (No change.)

(D) - (E) (No change.)

(4) (No change.)

(5) The following requirements apply to each aerospace vehicle or component coating process subject to §115.421(a)(11) or (b)(10) of this title.

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

(E) All fresh and used cleaning solvents used in solvent cleaning operations shall be stored in containers that are kept closed at all times except when filling or emptying. Cloth and paper, or other absorbent applicators, moistened with cleaning solvents shall be stored in closed containers. Cotton-tipped swabs used for very small cleaning operations are exempt from this subparagraph. In addition, the owner or operator must implement handling and transfer procedures to minimize spills during filling and transferring the cleaning solvent to or from enclosed systems, vats, waste containers, and other cleaning operation equipment that hold or store fresh or used cleaning solvents. The requirements of this subparagraph are known collectively as housekeeping measures. Aqueous, [~~and~~] semiaqueous, and hydrocarbon-based cleaning solvents, as defined in §115.420(b)(1) of this title, are exempt from this subparagraph.

(6) Any surface coating operation that becomes subject to the provisions of §115.421(a) of this title 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 permit by rule required by Chapter 116 or Chapter 106 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification; and Permits by [~~By~~] Rule). If a permit by rule is available for the project, compliance with this subsection must be maintained for 30 days after the filing of documentation of compliance with that permit by rule; or

(B) (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.

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Stephanie Bergeron

Director, Environmental Law Division

Texas Natural Resource Conservation Commission

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For further information, please call: (512) 239-4712



## DIVISION 4. OFFSET LITHOGRAPHIC PRINTING

### 30 TAC §§115.440, 115.442, 115.445, 115.446

#### STATUTORY AUTHORITY

The amendments are proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under TWC; Texas Health and Safety Code, TCAA, §382.017, which provides the commission authority to adopt rules consistent with the policy and purposes of TCAA; §382.002, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which authorizes the commission to control the quality of the state's air; §382.012, which authorizes the commission to develop plans to protect the state's air; and §382.016, which authorizes the commission to require that records of the air contaminant emissions from a source or activity be made and maintained.

The proposed amendments implement TCAA, §382.011, relating to General Powers and Duties; §382.012, relating to State Air Control Plan; §382.017, relating to Rules; and TWC, §5.103, relating to Rules.

#### §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, 101.1, and 3.2 [~~§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) - (9) (No change.)

(10) VOC composite partial pressure - The sum of the partial pressures of the compounds which meet the definition of volatile organic compound (VOC) in §101.1 of this title. The VOC composite partial pressure is calculated as follows.  
Figure: 30 TAC §115.440(10)

#### §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) - (E) (No change.)

(F) Any person who owns or operates an offset lithographic printing press shall reduce VOC emissions from cleaning solutions by one of the following methods:

(i) using cleaning solutions with a VOC content of 50% or less (by volume, as used); [~~or~~]

(ii) using cleaning solutions with a VOC content of 70% or less (by volume, as used) and incorporating a towel handling program which ensures that all waste ink, solvents, and cleanup rags shall be stored in closed containers until removed from the site by a licensed disposal/cleaning service; or [~~or~~]

(iii) using cleaning solutions with a VOC composite partial vapor pressure less than or equal to ten millimeters of mercury (mm Hg) at 20 degrees Celsius (68 degrees Fahrenheit).

(2) No person shall operate or allow the operation of a heat-set offset lithographic printing press unless VOC emissions from the press dryer exhaust vent are reduced 90% by weight or a maximum dryer exhaust outlet concentration of 20 parts per million by volume (ppmv) [~~ppmv~~] is maintained, whichever is less stringent when the press is in operation.

#### §115.445. *Approved Test Methods.*

For the Dallas/Fort Worth, El Paso, and Houston/Galveston areas as defined in §115.10 of this title (relating to Definitions), compliance shall be determined by applying the following test methods, as appropriate:

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

(5) EPA [U.S. Environmental Protection Agency (EPA)] guidelines series document "Procedures for Certifying Quantity of Volatile Organic Compounds Emitted by Paint, Ink, and Other Coatings," EPA-450/3-84-019, as in effect December 1984; or

(6) additional performance test procedures described in 40 CFR §60.444 [60.444] (effective October 18, 1983).

#### §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) The owner or operator of a heatset offset lithographic printing press shall install, calibrate, maintain, and operate a temperature monitoring device, according to the manufacturer's instructions, at the outlet of the control device. The temperature monitoring device shall be equipped with a continuous recorder and shall have an accuracy of ±0.5 degrees Fahrenheit, or alternatively ±1.0% of the temperature being monitored.

(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) - (B) (No change.)

(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.

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

(5) The owner or operator of any offset lithographic printing press using refrigeration equipment on the fountain solution in order to comply with §115.442(1)(A), (C), or (D) [~~§115.442(1)(A) - (D)~~] of this title (relating to Control Requirements) shall monitor the temperature of the fountain solution reservoir at least once per hour. Alternatively, the owner or operator of any offset lithographic printing press using refrigeration equipment on the fountain solution shall install, maintain, and continuously operate a temperature monitor of the fountain solution reservoir. The temperature monitor shall be attached to a continuous recording device such as a strip chart, recorder, or computer.

(6) For any offset lithographic printing press with continuous cleaning equipment, flow meters are required to monitor water and cleaning solution flow rates. The flow meters shall be calibrated so that the VOC content of the mixed solution complies with the requirements of §115.442 of this title [~~(relating to Control Requirements)~~].

(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, or any [the] local air pollution agency having jurisdiction in the area.

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.

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## SUBCHAPTER F. MISCELLANEOUS INDUSTRIAL SOURCES

### DIVISION 2. PHARMACEUTICAL MANUFACTURING FACILITIES

#### 30 TAC §§115.532, 115.533, 115.535, 115.539

#### STATUTORY AUTHORITY

The amendments are proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; Texas Health and Safety Code, TCAA, §382.017, which provides the commission authority to adopt rules consistent with the policy and purposes of the TCAA; §382.002, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which authorizes the commission to control the quality of the state's air; §382.012, which authorizes the commission to develop plans to protect the state's air; and §382.016, which authorizes the commission to require that records of the air contaminant emissions from a source or activity be made and maintained.

The proposed amendments implement the TCAA, §382.011, relating to General Powers and Duties; §382.012, relating to State Air Control Plan; §382.017, relating to Rules; and TWC, §5.103, relating to Rules.

#### §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 permit by rule [~~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 Permits by Rule [~~Exemptions from Permitting~~]). If a permit by rule [~~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 permit by rule [~~standard exemption~~]; or

(B) if authorization by permit, permit amendment, standard permit, or permit by rule [~~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, the owner or operator of a synthesized pharmaceutical manufacturing facility shall provide the following specified controls.

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

(4) Air dryers, production equipment exhaust systems, and loading facilities. Sources affected by §115.531(b) of this title [~~(relating to Emission Specifications)~~] shall be controlled by a system with a reduction efficiency of at least 90% of the uncontrolled emissions.

#### §115.533. Alternate Control Requirements.

(a) Alternate [~~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 division [~~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.

§115.535. *Testing Requirements.*

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, compliance with this division (relating to Pharmaceutical Manufacturing Facilities) [~~undesignated head concerning Pharmaceutical Manufacturing Facilities~~] shall be determined by applying the following test methods, as appropriate:

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

(b) For Gregg, Nueces, and Victoria Counties, compliance with this division [~~undesignated head~~] shall be determined by applying the following test methods, [-] as appropriate:

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

§115.539. *Counties and Compliance Schedules.*

All affected persons in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Gregg, Hardin, Harris, Jefferson, Liberty, Montgomery, Nueces, Orange, Tarrant, Victoria, and Waller Counties shall continue to comply with this division [~~undesignated head~~] (relating to Pharmaceutical Manufacturing Facilities) as required by §115.930 of this title (relating to Compliance Dates).

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.

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### DIVISION 3. DEGASSING OR CLEANING OF STATIONARY, MARINE, AND TRANSPORT VESSELS

#### 30 TAC §§115.541 - 115.543, 115.545 -115.547, 115.549

#### STATUTORY AUTHORITY

The amendments are proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under TWC; Texas Health and Safety Code, TCAA, §382.017, which provides the commission authority to adopt rules consistent with the policy and purposes of TCAA; §382.002, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which authorizes the commission to control the quality of the state's air; §382.012, which authorizes the commission to develop plans to protect the state's air; and §382.016, which authorizes the commission to require that records of the air contaminant emissions from a source or activity be made and maintained.

The proposed amendments implement TCAA, §382.011, relating to General Powers and Duties; §382.012, relating to State Air Control Plan; §382.017, relating to Rules; and TWC, §5.103, relating to Rules.

§115.541. *Emission Specifications.*

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

(1) (No change.)

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

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

(b) For all persons in the Beaumont/Port Arthur and Houston/Galveston areas, the following emission specifications shall apply to degassing during or in preparation of cleaning for all marine vessels, as defined in §101.1 [~~§115.10~~] of this title (relating to Definitions), which have a nominal storage capacity of 10,000 barrels (420,000 gallons) or more and contain VOCs.

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

(5) All marine vessels, as defined in §101.1 [~~§115.10~~] of this title, containing VOCs shall have all cargo tank closures properly secured, or maintain a negative pressure within the tank when a closure is opened, and shall have all pressure/vacuum relief valves operating within certified limits as specified by classification society or flag state until the vapors are discharged to a vapor control system if the vessel is degassed or cleaned.

§115.542. *Control Requirements.*

(a) (No change.)

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

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

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

§115.543. *Alternate Control Requirements.*

For all persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this division (relating to Degassing or Cleaning of Stationary, Marine, and Transport Vessels) [~~undesignated head~~] may be approved by the executive director [~~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.

§115.545. *Approved Test Methods.*

For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, compliance with §115.541 and §115.542 of this title (relating to Emission Specifications and Control Requirements) shall be determined by applying the following test methods, as appropriate:

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

(5) additional test procedures described in 40 CFR §60.503 [~~60.503~~] b, c, and d (effective February 14, 1989) [-] for determining compliance for bulk gasoline terminals;

(6) - (8) (No change.)

(9) 40 CFR §63.565(c) (effective September 19, 1995) or [determination of cargo tank pressurization method described in] 40 CFR §61.304(f) (effective October 17, 2000) for determination of marine vessel vapor tightness [61.304(f)]; or

(10) (No change.)

*§115.546. Monitoring and Recordkeeping Requirements.*

For facilities in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas affected by §115.541 and §115.542 of this title (relating to Emission Specifications and Control Requirements), the owner or operator of any volatile organic compound (VOC) degassing or cleaning facility shall maintain the following information at the facility for at least two years and shall make such information available upon request to representatives of the executive director [Texas Natural Resource Conservation Commission], EPA [United States Environmental Protection Agency], or any local air pollution control agency having jurisdiction in the area:

(1) (No change.)

(2) for vapor control systems:

(A) (No change.)

(B) continuous monitoring and recording of the inlet and outlet gas temperature of a catalytic incinerator; and

(C) continuous monitoring and recording of the exhaust gas VOC concentration for carbon adsorption systems that contain facilities to regenerate the carbon bed directly, as defined in §115.10 of this title (relating to Definitions); or periodic monitoring of the exhaust gas VOC as specified by 40 Code of Federal Regulations §61.354(d) (effective October 17, 2000) [61.354(d)], of any carbon adsorption system that does not regenerate the carbon bed directly, to determine breakthrough; [and]

~~(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;~~

(3) the results of any leak inspection and repair conducted in accordance with the provisions specified in §115.544 of this title (relating to Inspection Requirements); and

(4) (No change.)

*§115.547. Exemptions.*

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 exemptions apply.

(1) Degassing or cleaning any vessel with a vapor space partial pressure less than 0.5 pounds per square inch absolute (3.4 kPa) of volatile organic compound (VOC) under actual storage conditions is exempt from the requirements of this division (relating to Degassing or Cleaning of Stationary, Marine, and Transport Vessels) [undesignated head].

(2) Degassing or cleaning any transport vessel with a nominal storage capacity of less than 8,000 gallons, or any stationary VOC storage tank with a nominal storage capacity of less than 1 million gallons, or any marine vessel with a nominal storage capacity of less than 10,000 barrels (420,000 gallons), is exempt from the requirements of this division [undesignated head].

(3) Any stationary VOC storage tank during preventative maintenance, roof repair, primary seal inspection, or removal and installation of a secondary seal, if product is not moved in or out of the

storage tank, emissions are minimized, and the repair is completed within seven calendar days, is exempt from the requirements of this division.

(4) Any marine vessel which has sustained damage which prevents a cargo tank's opening from being properly secured, the onboard vapor recovery system to be inoperative, or the pressure/vacuum relief valves from operating within certified limits as specified by classification society or flag state is exempt from §115.541(b) [§115.541(3)] and §115.542(b) of this title (relating to Emission Specifications and Control Requirements); however, all reasonable measures shall be taken to minimize VOC emissions.

(5) Any oceangoing, self-propelled marine vessel is exempt from the degassing or cleaning requirements of this division [undesignated head].

*§115.549. Counties and Compliance Schedules.*

(a) All affected persons in the Brazoria, Chambers, ~~El Paso,~~ Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, and Waller Counties shall continue to comply [be in compliance] with this division [undesignated head] (relating to Degassing or Cleaning of Stationary, Marine, and Transport Vessels) as required by §115.930 of this title (relating to Compliance Dates) [soon as practicable, but no later than November 15, 1996].

(b) All affected persons in Collin, Dallas, Denton, and Tarrant Counties shall be in compliance with this division [undesignated head] as soon as practicable, but no later than one year, after the commission [Texas Natural Resource Conservation Commission (TNRCC)] 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).

(c) All affected persons in El Paso County shall be in compliance with this division [undesignated head] as soon as practicable, but no later than one year, after the commission [TNRCC] 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.

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**DIVISION 4. PETROLEUM DRY CLEANING SYSTEMS**

**30 TAC §115.552, §115.559**

**STATUTORY AUTHORITY**

The amendments are proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under TWC; Texas Health and Safety Code, TCAA, §382.017, which provides the commission authority to adopt rules consistent with the policy and purposes of TCAA; §382.002, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which authorizes the commission to control the quality of the state's air; §382.012, which authorizes the commission to develop plans to protect the state's air; and §382.016, which authorizes the commission to require that records of the air contaminant emissions from a source or activity be made and maintained.

The proposed amendments implement TCAA, §382.011, relating to General Powers and Duties; §382.012, relating to State Air Control Plan; §382.017, relating to Rules; and TWC, §5.103, relating to Rules.

§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 ~~permit by rule [standard exemption]~~ required by Chapter 116 or Chapter 106 of this title (relating to ~~[concerning]~~ Control of Air Pollution by Permits for New Construction or Modification; and Permits by Rule ~~[Exemptions from Permitting]~~). If a ~~permit by rule [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 ~~permit by rule [standard exemption]~~; or

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

§115.559. *Counties and Compliance Schedules.*

(a) All affected petroleum solvent dry cleaning facilities in Collin, Dallas, Denton, and Tarrant Counties shall be in compliance with this division (relating to Petroleum Dry Cleaning Systems) ~~[§§115.552, 115.553, and 115.555 - 115.557 of this title (relating to Control Requirements; Alternate Control Requirements; Testing Methods and Procedures; Recordkeeping Requirements; and Exemptions)]~~ as soon as practicable, but no later than one year, after the commission [Texas Natural Resource Conservation Commission ~~(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 [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, §172(c)(9).~~

(b) - (d) (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.

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## SUBCHAPTER J. ADMINISTRATIVE PROVISIONS

### DIVISION 1. ALTERNATE MEANS OF CONTROL

#### 30 TAC §§115.910 - 115.916

##### STATUTORY AUTHORITY

The amendments are proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under TWC; Texas Health and Safety Code, TCAA, §382.017, which provides the commission authority to adopt rules consistent with the policy and purposes of TCAA; §382.002, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which authorizes the commission to control the quality of the state's air; §382.012, which authorizes the commission to develop plans to protect the state's air; and §382.016, which authorizes the commission to require that records of the air contaminant emissions from a source or activity be made and maintained.

The proposed amendments implement TCAA, §382.011, relating to General Powers and Duties; §382.012, relating to State Air Control Plan; §382.017, relating to Rules; and TWC, §5.103, relating to Rules.

§115.910. *Availability of Alternate Means of Control.*

(a) Any person affected by a control requirement and/or emission specification of this chapter may request approval of an alternate means of control (AMOC) plan using the procedures established in §115.913 of this title (relating to Procedures for Alternate Means of Control Plan Submittal). Such AMOC plan shall be approved if it is demonstrated that the plan meets all applicable criteria and procedures of §§115.911 - 115.913, 115.915, and 115.916 of this title (relating to Criteria for Approval of Alternate Means of Control [AMOC] Plans; Calculations for Determining Alternate Means of Control [AMOC] Reductions; Procedures for Alternate Means of Control [AMOC] Plan Submittal; Public Notice Format; and Review of Approved Alternate Means of Control [AMOC] Plans and Termination of Alternate Means of Control [AMOC] Plans). The AMOC plans not satisfying the requirements of this division (relating to Alternate Means of Control) ~~[undesignated head]~~ may apply for a site-specific State Implementation Plan revision approved by the executive director and EPA [~~the United States Environmental Protection Agency~~].

(b) An AMOC applicant may apply to the executive director for a waiver of portions of §115.913 of this title ~~[(relating to Procedures for Alternate Means of Control Plan Submittal)]~~ which may not apply to a single-source AMOC application and for §115.914 and §115.915 of this title (relating to Procedures for an Alternate Means of Control Plan Approval; and Public Notice Format). A single-source AMOC

application is one that proposes only the substitution of one control device for another.

(c) - (d) (No change.)

*§115.911. Criteria for Approval of Alternate Means of Control Plans.*

An alternate means of control (AMOC) plan shall be approved if it meets each of the following criteria, as applicable.

(1) All facilities covered by the AMOC plan are and remain in the same [~~Texas Natural Resource Conservation Commission~~] account number.

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

(4) The AMOC application must demonstrate that the sum of the maximum daily potentials to emit from the sources subject to the proposed AMOC plan shall not be more than 200 pounds per day greater than the sum of the maximum daily potentials to emit from those sources if the emissions were controlled in accordance with this chapter [ ~~concerning Control of Air Pollution from Volatile Organic Compounds~~]. For each nonattainment area, the executive director shall establish a limit upon the sum of the increases of the maximum daily potentials to emit from all AMOC plans in the nonattainment area. The limit shall be set so that the sum of the maximum daily potentials to emit shall not increase the measurable or modeled ozone level by one part per billion.

(5) (No change.)

(6) Reductions in actual emissions accounted for in the AMOC plan must be surplus and remain surplus to reductions required by this chapter and any netting or offsetting requirements of §§~~116.150, 116.151, 116.160, and 116.161~~ of this title (~~relating to New Major Source or Major Modification in Ozone Nonattainment Areas; New Major Source or Major Modification in Nonattainment Area Other Than Ozone; Prevention of Significant Deterioration Requirements; and Source Located in an Attainment Area with a Greater Than De Minimis Impact~~) [~~§116.150 of this title (relating to New Major Source or Major Modification in Ozone Nonattainment Area); §116.151 of this title (relating to New Major Source or Major Modification in Nonattainment Area Other Than Ozone); §116.160 of this title (relating to Prevention of Significant Deterioration Requirements); and §116.161 of this title (relating to Source Located in an Attainment Area with a Greater Than De Minimis Impact)~~]. Reductions for which the state has claimed credit in a State Implementation Plan may not be utilized as reductions in an AMOC plan.

(7) - (9) (No change.)

(10) The AMOC plan must include all necessary and appropriate provisions for monitoring, testing, reporting, and recordkeeping as specified by the executive director. The frequency of AMOC required monitoring, testing, reporting, and recordkeeping shall be sufficient to reasonably ensure compliance with applicable emission limits and/or control requirements. The monitoring, testing, reporting, and recordkeeping shall be at least as reliable, readily retrievable, and retained for a comparable period of time as the underlying requirements of this chapter [ ~~concerning the Control of Air Pollution from Volatile Organic Compounds~~].

(A) If this chapter includes monitoring, testing, reporting, and/or recordkeeping requirements for sources of the type(s) to be covered by an alternate emission limitation and/or control requirement, then such requirement may be used to render the AMOC plan enforceable. If this chapter does not include readily transferable monitoring, testing, reporting, and/or recordkeeping requirements for sources of the

type(s) to be covered by an alternate emission limitation and/or control requirement, then priority may be given to any such set of requirements adopted under other commission [~~TNRCC~~] rules for the control of volatile organic compounds (VOC) emissions from sources of the type(s) to be covered by an alternate emission limitation and/or control requirement.

(B) If this chapter includes emission limits and/or control requirements for sources of the type(s) to be covered by an alternate emission limitation and/or control requirement, then such alternative emission limitation and/or control requirement may be based on the same averaging time as is applied to those same type sources under this chapter. If this chapter does not include emission limitations and/or control requirements for sources of the type(s) to be covered by an alternate emission limit and/or control requirement, then priority may be given to averaging times for emission limits and/or control requirements on similar units governed by other commission [~~TNRCC~~] rules limiting VOC emissions from sources of the type(s) to be covered by an alternate emission limit and/or control requirement.

(C) If no such commission [~~TNRCC~~] monitoring, testing, reporting, and/or recordkeeping rules have been adopted that satisfy the criteria of subparagraphs (A) and (B) of this paragraph, then such requirements or averaging times shall be established on a case-by-case basis.

(D) (No change.)

*§115.912. Calculations for Determining Alternate Means of Control [AMOC] Reductions.*

(a) For purposes of this section, a source's baseline is defined as the annual emissions that are calculated assuming full compliance with the adopted requirements of this chapter and using data representative of actual operations in 1990 or thereafter for all variables necessary to calculate annual emissions for the identified source.

(1) For an alternate means of control (AMOC) [~~AMOC~~] application exclusively utilizing a source that existed prior to January 1, 1990, the AMOC application shall use data representative of actual operations in 1990.

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

(b) The AMOC [~~alternate means of control (AMOC)~~] applicant shall determine annual emissions limits for each source included in the AMOC plan by utilizing the best available data and good engineering practice, which may include the use of statistical techniques to address variations in the data.

(c) For any source not controlled as otherwise specifically required by this chapter where an applicable adopted requirement exists, the AMOC applicant shall calculate credits needed by subtracting the source's baseline from the source's annual emissions limit under the AMOC plan. This difference shall then be multiplied by the appropriate factor in §115.911(3) of this title (relating to Criteria for Approval of Alternate Means of Control [~~AMOC~~] Plans), to determine the credits that must be generated by other sources.

(d) - (f) (No change.)

*§115.913. Procedures for Alternate Means of Control Plan Submittal.*

(a) All persons requesting an alternate means of control (AMOC) plan as provided by §115.910 of this title (relating to Availability of Alternate Means of Control) shall submit a proposed AMOC plan and demonstration to the executive director; copies of such plan and demonstration to the appropriate regional office [~~Texas Natural Resource Conservation Commission (TNRCC) Regional Office~~]; copies to any local air pollution control program with jurisdiction over

the [TNRCC] account affected by the AMOC plan; and copies to the EPA regional office [United States Environmental Protection Agency Regional Office in Dallas].

(b) The proposed AMOC plan shall include the following information:

(1) the AMOC applicant name with mailing address, site name with physical address, [TNRCC] account number, and contact person including address and telephone number;

(2) - (8) (No change.)

(9) a list containing the name, address, and telephone number of any air pollution control program with jurisdiction over the [TNRCC] account affected by the AMOC plan; and

(10) (No change.)

(c) - (d) (No change.)

*§115.914. Procedures for an Alternate Means of Control Plan Approval.*

Upon a preliminary determination to approve or deny the proposed alternative means of control (AMOC) plan, the executive director shall, in writing, so notify the submitter of the plan, any local air pollution control program with jurisdiction over the [Texas Natural Resource Conservation Commission (TNRCC or commission)] account affected by the AMOC plan, and the EPA regional office [United States Environmental Protection Agency (EPA) Regional Office in Dallas].

(1) - (5) (No change.)

(6) The executive director shall send written notice of his/her final determination concerning each AMOC plan to the submitter of the plan, the EPA regional office [Regional Office], any local pollution control program with jurisdiction over the [TNRCC] account affected by the AMOC plan, and to each person who submitted timely written comments. Such notice shall include final AMOC plan provisions, a copy of the response to comments, and an announcement of the opportunity to appeal the executive director's determination to the commission. The notice required by this subsection shall be sent by a means evidencing receipt.

(7) (No change.)

(8) Within 45 days of final approval of the AMOC plan by the executive director, EPA may notify the commission [TNRCC] of EPA's disapproval of the executive director's final decision. Such notification shall be in writing and shall include a statement of the reason(s) for the disapproval and a specific listing of changes to the AMOC plan that must be made in order to overcome the disapproval. Any time prior to the expiration of the 45-day period, EPA may notify the executive director that no disapproval is forthcoming. Upon receipt of a timely EPA disapproval, the executive director shall void or revise the AMOC plan, and reissue the notice as required by paragraph (6) of this section.

(9) - (11) (No change.)

*§115.915. Public Notice Format.*

(a) Public notice shall be published in the public notice section of two successive issues of a newspaper of general circulation in or closest to the municipality in which the facility with the [Texas Natural Resource Conservation Commission (TNRCC)] account affected by the alternative means of control (AMOC) plan is located.

(b) Public notice shall contain the following information:

(1) AMOC plan application number assigned by the executive director [TNRCC];

(2) - (6) (No change.)

(7) the locations and availability of copies of the proposed AMOC plan, related documentation, and the executive director's preliminary analysis of the plan (including the [TNRCC] Austin and appropriate regional offices [Regional Offices], any local pollution control program with jurisdiction over the [TNRCC] account affected by the AMOC plan, and the EPA regional office [United States Environmental Protection Agency's (EPA) Regional Office]);

(8) - (10) (No change.)

(11) the name, address, and phone number of the regional [TNRCC] office to be contacted for further information.

(c) The AMOC plan submitter shall provide proof of adequate notice to the executive director [TNRCC], EPA, and any local pollution control program with jurisdiction over the [TNRCC] account affected by the AMOC plan before the executive director may take final action on the AMOC plan.

*§115.916. Review of Approved Alternate Means of Control Plans and Termination of Alternate Means of Control Plans.*

(a) For the purposes of this division (relating to Alternate Means of Control) [undesignated head], "compliance date" shall mean the date by which a source must comply with new or modified sections of this chapter.

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

(d) Upon final approval of an AMOC plan, the owner or operator of the facilities affected by such plan shall keep a copy of the plan on the site affected by the plan and shall make the plan [which shall be made] available upon request to [the Texas Natural Resource Conservation Commission] representatives of the executive director, EPA, or any local air pollution control agency having jurisdiction in the area [upon request].

(e) Upon request, each holder of an AMOC plan shall submit to the executive director a demonstration that the plan continues to meet all applicable criteria of this division [undesignated head].

(f) (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.

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Stephanie Bergeron

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Texas Natural Resource Conservation Commission

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For further information, please call: (512) 239-4712



**DIVISION 2. EARLY REDUCTIONS**

**30 TAC §115.920, §115.923**

**STATUTORY AUTHORITY**

The amendments are proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under TWC; Texas Health and Safety Code, TCAA, §382.017, which provides the commission authority to adopt rules consistent with the policy and purposes of TCAA;

§382.002, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which authorizes the commission to control the quality of the state's air; §382.012, which authorizes the commission to develop plans to protect the state's air; and §382.016, which authorizes the commission to require that records of the air contaminant emissions from a source or activity be made and maintained.

The proposed amendments implement TCAA, §382.011, relating to General Powers and Duties; §382.012, relating to State Air Control Plan; §382.017, relating to Rules; and TWC, §5.103, relating to Rules.

*§115.920. Applicability.*

Any person affected by any control requirement of this chapter may apply to the ~~executive director [Texas Natural Resource Conservation Commission (TNRCC)]~~ for a six-year extension of the compliance date for the control requirements imposed by any section of this chapter adopted after July 9, 1993, provided that the owner or operator of the affected sources has an approved early reduction application for those sources for which the owner or operator is seeking an extension as specified in 40 Code of Federal Regulations [CFR] §63.79, and for which:

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

(3) the alternate VOC reductions created by the Early Reductions Program must be surplus to reductions required by this chapter and any netting or offsetting requirements of §116.150 of this title (relating to New Major Source or Major Modification in Ozone Nonattainment Areas [~~Area Other Than Ozone~~]) ~~;~~ and §116.161 of this title (relating to Source Located in an Attainment Area with a Greater Than De Minimis Impact); and

(4) (No change.)

*§115.923. Documentation.*

(a) For each source requesting a six-year extension of the compliance date for control requirements in accordance with §115.920 of this title (relating to Applicability), there shall be established an Early Reductions Plan reflecting the emission reduction for VOC which qualifies the source for the six-year extension. In lieu of preparing a site-specific State Implementation Plan (SIP) for such Early Reductions Plan, a facility owner or operator shall comply with the requirements of this ~~division (relating to Early Reductions) [undesignated head]~~.

(b) Documentation required for approval of the extension shall demonstrate to the satisfaction of the ~~[TNRCC]~~ executive director that emissions data for the identified source reflects verifiable data based on information for such source. Documentation shall include but is not limited to:

(1) - (11) (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.

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## DIVISION 3. COMPLIANCE AND CONTROL PLAN REQUIREMENTS

### 30 TAC §§115.930, 115.932, 115.934, 115.940

#### STATUTORY AUTHORITY

The amendments are proposed under TWC, §5.103, which authorizes the commission to adopt rules necessary to carry out its powers and duties under TWC; Texas Health and Safety Code, TCAA, §382.017, which provides the commission authority to adopt rules consistent with the policy and purposes of TCAA; §382.002, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, which authorizes the commission to control the quality of the state's air; §382.012, which authorizes the commission to develop plans to protect the state's air; and §382.016, which authorizes the commission to require that records of the air contaminant emissions from a source or activity be made and maintained.

The proposed amendments implement TCAA, §382.011, relating to General Powers and Duties; §382.012, relating to State Air Control Plan; §382.017, relating to Rules; and TWC, §5.103, relating to Rules.

*§115.930. Compliance Dates.*

For all counties affected by this chapter, the final compliance dates for revisions to control requirements are given within the section relating to counties and compliance schedules in each ~~division [undesignated head]~~ if the final compliance date of any provision is after the date of adoption of the current revision to this chapter. If the compliance dates are not specified for any provision, the compliance date is past and all affected persons must be and remain in compliance with the provision as of the original compliance date.

*§115.932. Control Plan Procedure.*

Within 30 days of a request by the ~~executive director [Texas Natural Resource Commission (TNRCC)]~~, the owner or operator of any facility affected by the requirements of any ~~division [undesignated head]~~ in this chapter ~~[(Chapter 115)]~~ shall submit a control plan for compliance which includes the compliance status of all emission controls required by this ~~chapter [regulation]~~, and a detailed description of the method to be followed to achieve compliance, specifying the exact dates by which the following steps will be taken to achieve compliance:

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

*§115.934. Control Plan Deviation.*

No persons affected by §115.932 of this title (relating to Control Plan Procedure) shall deviate from the terms of the control plans including the date for final compliance and the dates for accomplishing the required steps in such plans. The executive director may, upon application of any person affected, change the date for accomplishing the required steps in a plan. Any control plan that specifies a final compliance date subsequent to the date specified by any sections of this ~~chapter [regulation]~~ must be approved by the executive director ~~[Texas Air Control Board (TACB)]~~. Approval of a delayed compliance order by the ~~executive director [TACB]~~ does not constitute satisfaction of all federal requirements nor eliminate the need for EPA approval ~~[by the United States Environmental Protection Agency]~~.

*§115.940. Equivalency Determination.*

Upon final adoption of any volatile organic compound program of general applicability by EPA ~~[the United States Environmental Protection~~

Agency (EPA)], the executive director may review the provisions of the EPA program and the corresponding state program to determine the essential equivalency of the two programs. If the executive director determines that the EPA program is essentially equivalent to the requirements for this chapter, the executive director will state by notice published in the *Texas Register* that the regulated community will be considered to be in compliance with the new EPA program if they are in compliance with the applicable provisions of this chapter. Conversely, the regulated community will be considered to be in compliance with the applicable provisions of this chapter if they are in compliance with the new EPA program. Notice of intent to publish such equivalency determination shall be provided to the appropriate EPA regional office 45 days prior to publication. The executive director shall review any objection from EPA prior to final publication. Each affected company must file a notice of intent to inform the state which program they intend to use. The executive director will then inform the EPA regional office of each notice of intent.

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.

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## CHAPTER 116. CONTROL OF AIR POLLUTION BY PERMITS FOR NEW CONSTRUCTION OR MODIFICATION

The Texas Natural Resource Conservation Commission (commission) proposes amendments to Subchapter A, Definitions, §§116.10 and §116.18; and Subchapter I, Electric Generating Facilities, §§116.910, 116.911, 116.913, 116.921, and 116.930. The commission proposes new §§116.770 - 116.772, 116.774 - 116.777, 116.779 - 116.781, 116.783, 116.785 - 116.788, 116.790, 116.793 - 116.802, and 116.804 - 116.807 in Subchapter H, Voluntary Emission Reduction Permits; and new §§116.917, 116.918, 116.926, and 116.928 in Subchapter I. All sections of Subchapter H and the new and amended sections of Subchapter A and I are proposed to be submitted to the United States Environmental Protection Agency (EPA) as a revision to the state implementation plan (SIP).

### BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

During the 75th Legislature, 1997, House Bill (HB) 3019 directed the commission to develop a voluntary emissions reduction plan for the permitting of existing significant sources. These existing significant sources are commonly known as grandfathered facilities. A grandfathered facility is one that existed at the time the legislature created the Texas Clean Air Act (TCAA) in 1971. These facilities were not required to comply with (i.e., grandfathered from) the then new requirement to obtain permits for construction or modifications of facilities that emit air contaminants. If grandfathered facilities have not been modified since 1971,

they continue to be authorized to operate without a permit. The intent of HB 3019 was to create a program that would encourage the remaining grandfathered facilities to voluntarily obtain permits that would reduce the emissions from those facilities. In response to HB 3019, the commission created the Clean Air Responsibility Enterprise (CARE) Committee to develop recommendations for the voluntary permitting of grandfathered facilities.

In 1999, the 76th Legislature used the CARE Committee's recommendation as the basis for Senate Bill (SB) 766 which directed the commission to develop rules containing incentives for the voluntary permitting of grandfathered facilities. This program is known as the Voluntary Emission Reduction Permit (VERP) program. The commission adopted rules to implement the VERP program on December 16, 1999. Since the VERP rules became effective, the owners and operators of a number of grandfathered facilities have taken advantage of the incentives offered by the VERP program and submitted VERP applications for their grandfathered facilities. Additionally, the owners and operators of other grandfathered facilities have submitted permit-by-rule registrations and other new source review permit applications to permit their grandfathered facilities. The deadline to apply for a VERP was August 31, 2001.

Additionally, the 76th Legislature, 1999, amended the Texas Utilities Code, Title 2, Public Utility Regulatory Act, Subtitle B, Electric Utilities, and created a new Chapter 39, Restructuring of Electric Utility Industry by adopting SB 7. Senate Bill 7 required the commission to implement the permitting and allowance requirements of new Texas Utilities Code, §39.264, concerning Emissions Reductions of "Grandfathered Facilities." Senate Bill 7 required the commission to develop a mass cap and trade system to distribute emission allowances for use by electric generating facilities (EGFs). Under SB 7, two categories of EGFs are eligible to use the proposed trading system. The first category consisted of EGFs in existence on January 1, 1999, which were not subject to the requirement to obtain a permit under TCAA, §382.0518(g). These facilities are commonly referred to as grandfathered facilities. Senate Bill 7 also mandated that grandfathered EGFs apply for a permit on or before September 1, 2000, and obtain a permit by, or cease operation after May 1, 2003. The second category of EGFs consisted of permitted EGFs that were not subject to the permitting requirements of SB 7, yet elected to participate in the allowance trading system.

Most recently, the 77th Legislature, 2001, amended the Texas Health and Safety Code (THSC), TCAA to require that all grandfathered facilities obtain permits. The mandatory permitting requirements of HB 2912 are the culmination of legislative efforts, beginning in 1997, to permit or otherwise authorize all grandfathered facilities. House Bill 2912 created four new types of permits for grandfathered facilities: existing facility permits, small business stationary source permits, EGF permits, and pipeline facility permits. House Bill 2912 also mandated the dates by which grandfathered facilities must apply for a permit and have controls operational or submit a shutdown notice. Grandfathered facilities that are addressed by an application for a VERP are not required to comply with the provisions of HB 2912 for grandfathered facilities. However, grandfathered facilities that withdraw their VERP applications and elect to submit a permit application for an authorization under HB 2912 will forfeit those incentives, including eligibility for amnesty from enforcement.

House Bill 2912 specifies certain requirements based upon the geographic location of the grandfathered facility. Grandfathered

Figure: 30 TAC §115.420(b)(1)(EEEE)

$$PP_c = \sum_{i=1}^n \frac{\frac{W_i}{MW_i} \times VP_i}{\frac{W_w}{MW_w} + \sum_{c=1}^n \frac{W_c}{MW_c} + \sum_{i=1}^n \frac{W_i}{MW_i}}$$

Where:

- $W_i$  = Weight of the "i"th VOC compound, grams.
- $W_w$  = Weight of water, grams.
- $W_e$  = Weight of nonwater, non-VOC compound, grams.
- $MW_i$  = Molecular weight of the "i"th VOC compound, g/g-mole.
- $MW_w$  = Molecular weight of water, g/g-mole.
- $MW_e$  = Molecular weight of exempt compound, g/g-mole.
- $PP_c$  = VOC composite partial pressure at 20 degrees Celsius, millimeters of mercury (mm Hg).
- $VP_i$  = Vapor pressure of the "i"th VOC compound at 20 degrees Celsius, mm Hg.

Figure: 30 TAC §115.440(10)

$$PP_c = \sum_{i=1}^n \frac{\frac{W_i}{MW_i} \times VP_i}{\frac{W_w}{MW_w} + \sum_{e=1}^n \frac{W_e}{MW_e} + \sum_{i=1}^n \frac{W_i}{MW_i}}$$

Where:

- $W_i$  = Weight of the "i"th VOC compound, grams.
- $W_w$  = Weight of water, grams (g).
- $W_e$  = Weight of nonwater, non-VOC compound, g.
- $MW_i$  = Molecular weight of the "i"th VOC compound, g/g-mole.
- $MW_w$  = Molecular weight of water, g/g-mole.
- $MW_e$  = Molecular weight of exempt compound, g/g-mole.
- $PP_c$  = VOC composite partial pressure at 20 degrees Celsius, millimeters of mercury (mm Hg).
- $VP_i$  = Vapor pressure of the "i"th VOC compound at 20 degrees Celsius, mm Hg.