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(5) new and/or modified facilities located at a site defined on or before December 31, 2000, as a major source of NO<sub>x</sub>, as defined in §117.10 of this title, that qualified for a permit by rule and commenced construction before January 2, 2001, but have not submitted an ECT-3 Form in accordance to §101.360(a)(2) of this title by March 30, 2010.

~~{(b) For a new and/or modified facility that has submitted, under Chapter 116 of this title (relating to Control of Air Pollution by Permit for New Construction or Modification), an application which the executive director has not determined to be administratively complete before January 2, 2001, or has qualified for a permit by rule under Chapter 106 of this title (relating to Permits by Rule) and has not commenced construction before January 2, 2001, allowances for each control period or the annual allocation rights shall be acquired from facilities already participating under this division, or in accordance with §101.356(g) of this title (relating to Allowance Banking and Trading).}~~

(c) If actual emissions of NO<sub>x</sub> [nitrogen oxides] during a control period exceed the amount of allowances held in a compliance account on March 1 following the control period, allowances for the next control period will be reduced by an amount equal to the emissions exceeding the allowances in the compliance account plus an additional 10%. This does not preclude additional enforcement action by the executive director.

(d) Allowances will be allocated by the executive director, who will deposit allowances into each compliance account:

- (1) initially, by January 1, 2002; and
- (2) subsequently, by January 1 of each following year.

(e) The annual deposit for any control period may be adjusted by the executive director to reflect new or existing state implementation plan requirements.

(f) Allowances may be added or deducted by the executive director from compliance accounts following the review of reports required under §101.359 of this title (relating to Reporting).

(g) The owner or operator of a facility may, due to extenuating circumstances, request a baseline period more representative of normal operation as determined by the executive director. Applications for extenuating circumstances must be submitted by the owner or operator of the facility to the executive director:

- (1) no later than June 30, 2001, to request an alternative three consecutive calendar year period for facilities in operation prior to January 1, 1997;
- (2) no later than 90 days after completion of the baseline period to request up to two additional calendar years to establish a baseline period for facilities whose baseline as described by variable (2)(C) listed in the figure contained in subsection (a) of this section is not complete by June 30, 2001; or
- (3) at any time as authorized by the executive director.

(h) Allowances calculated under subsection (a) of this section will continue to be based on historical activity levels, despite subsequent reductions in activity levels. If allowances are being allocated based on allowables and the facility does not achieve two complete consecutive calendar years of actual level of activity data, then allowances will not continue to be allocated if the facility ceases operation or is not built.

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 September 25, 2009.

TRD-200904266

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Earliest possible date of adoption: November 8, 2009

For further information, please call: (512) 239-0177

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

### SUBCHAPTER E. SOLVENT-USING PROCESSES

#### DIVISION 4. OFFSET LITHOGRAPHIC PRINTING

##### **30 TAC §§115.440 - 115.443, 115.445, 115.446, 115.449**

The Texas Commission on Environmental Quality (commission or agency) proposes amendments to §§115.440, 115.442, 115.443, 115.445, 115.446, and 115.449; and proposes new §115.441.

If adopted, the sections will 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

The 1990 Federal Clean Air Act (CAA) Amendments (42 United States Code (USC), §§7401 *et seq.*) require the EPA to establish primary National Ambient Air Quality Standards (NAAQS) that protect public health and to designate areas exceeding the NAAQS as nonattainment areas. For each designated nonattainment area, the state is required to submit a SIP revision to the EPA that provides for attainment and maintenance of the NAAQS.

CAA, §172(c)(1) requires that the SIP incorporate all reasonably available control measures, including reasonably available control technology (RACT), for sources of relevant pollutants. The EPA defines RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 *Federal Register* 53761, September 17, 1979). For nonattainment areas classified as moderate and above, CAA, §182(b)(2) requires the state to submit a SIP revision that implements RACT for volatile organic compound (VOC) emission sources addressed in a control techniques guidelines (CTG) document issued between November 15, 1990, and the area's attainment date.

CTG documents provide information to assist states and local air pollution control authorities in determining RACT for specific emission sources. CTG documents describe the EPA's evaluation of available information, including emission control options and associated costs, and provide the EPA's RACT recommendations for controlling emissions from these sources. CTG documents do not impose any legally binding regulations or change any applicable regulations. EPA guidance on RACT indicates

that states can choose to implement the CTG recommendations, implement an alternative approach, or demonstrate that additional control for the CTG emission source category is not technologically nor economically feasible in the area.

FCAA, §183(e) directs the EPA to regulate VOC emissions from certain consumer and commercial product categories by issuing national regulations or by issuing CTG documents in lieu of regulations. On October 5, 2006, the EPA published a CTG document in lieu of national regulations for VOC emissions from Offset Lithographic Printing and Letterpress Printing (71 *Federal Register* 58745).

Lithography is a plane-o-graphic printing process where both the image and non-image areas are on the same surface plane of the lithographic plate. The image and non-image areas of the plate are chemically differentiated by rendering the non-image area receptive to water and the image area receptive to oil. The offset lithographic printing process indirectly transfers, or offsets, the inked image from the lithographic plate to a rubber blanket and then to the printing substrate. Products typically printed using offset lithography include books, newspapers, periodicals, advertising flyers, brochures, greeting cards, packaging, and reproductions.

Offset lithographic printing is often characterized by the type of press and the type of ink used in the printing process. Offset lithographic printing presses can be either sheet-fed or web. Sheet-fed presses feed individual sheets of substrate to the press and are typically used for shorter printing runs. Web presses feed continuous rolls of substrate to the press and are typically used for longer printing runs. Offset lithographic printing can use either heatset inks, which require heat to set the ink, or non-heatset inks, which dry by absorption, evaporation, or oxidative polymerization. Web presses can use heatset or non-heatset inks but sheet-fed presses can only use non-heatset ink.

In offset lithographic printing, VOC emissions result from the evaporation of components of the ink, fountain solution, and cleaning solution.

Offset lithographic printing processes use paste inks that contain pigments for color, binders to fix the pigment to the substrate, and oils to carry the pigment and binders. Heatset inks have higher emissions because heatset inks typically have 20% ink oil retention so the remaining 80% of the ink oil is volatilized in and exhausted from the dryer. Non-heatset inks have much lower emissions because these inks typically have 95% ink oil retention so only 5% of the ink oil evaporates.

Water-based fountain solution adheres to the hydrophilic non-image areas of the lithographic plate and helps keep the oil-based ink in the image areas of the plate. Fountain solutions contain water, nonvolatile printing chemicals, and a dampening agent that reduces the surface tension of the water so the fountain solution easily spreads across the lithographic printing plate. The most common dampening agent is isopropyl alcohol, but nonalcohol dampening agents, like glycol ether or ethylene glycol, are also used.

Cleaning solutions containing organic solvents are used to remove excess printing ink oils or unwanted debris from the offset lithographic press equipment. Cleaning can be performed manually by hand-wiping the press surface with a solvent-coated cloth or mechanically using an automatic blanket wash system to clean the internal parts of the press.

Under the 1997 eight-hour ozone NAAQS, the Dallas-Fort Worth eight-hour ozone nonattainment area (DFW area) is currently classified as a moderate nonattainment area and the Houston-Galveston-Brazoria eight-hour ozone nonattainment area (HGB area) is currently classified as a severe nonattainment area. The purpose of the proposed rulemaking is to implement RACT for offset lithographic printing lines in the DFW and HGB areas as required by FCAA, §172(c)(1) and §182(b)(2).

The proposed rules would reduce the VOC content limits on fountain solutions used by offset lithographic printing operations currently subject to the Chapter 115, Subchapter E, Division 4 regulations. The proposed rules would also limit the VOC content of fountain and cleaning solutions used by offset lithographic printing operations that are exempt under current rules. Existing Chapter 115 rules limit the content of fountain and cleaning solutions used by offset lithographic printing lines in the DFW area with combined VOC emissions of at least 50 tons per calendar year (tpy) when uncontrolled and in the HGB area with combined VOC emissions of at least 25 tpy when uncontrolled. The proposed rules would expand requirements in the DFW and HGB areas beginning March 1, 2011, to limit the content of fountain and cleaning solutions used by offset lithographic printing lines located on a property with combined VOC emissions of at least 3.0 tpy when uncontrolled.

The proposed rules implement the EPA's RACT recommendations in the 2006 Offset Lithographic and Letterpress Printing CTG except as specifically discussed in this preamble. The commission is requesting comment on the technological and economic feasibility of the proposed rules.

#### *Letterpresses*

In the 2006 CTG, the EPA recommends controlling VOC emissions from letterpress printing. No rules are being proposed for letterpress printing sources because review of the point source emissions inventory, Title V permits, and central registry databases did not identify any letterpresses that would be subject to the CTG recommended controls.

#### *Heatset Offset Lithographic Presses*

In the 2006 CTG, the EPA recommends requiring an add-on air pollution control device on each individual heatset web offset lithographic press with the uncontrolled potential to emit at least 25 tpy of VOC from the dryer. The EPA recommends different control efficiencies for devices installed before and after the effective date of the rule implementing these CTG recommendations; EPA recommends requiring a 90% overall control efficiency for control devices installed before the rule effective date and a 95% overall control efficiency for control devices installed after the rule effective date. The commission is not proposing any rule amendments or new rules to implement EPA's recommendations for these sources.

In the HGB area, the existing Chapter 115 rules require control devices with an efficiency of at least 90% to be installed on all heatset offset lithographic presses located on a property with combined VOC emissions of at least 25 tpy when uncontrolled. The existing Chapter 115 rules are at least equivalent to the EPA's recommendations for control devices installed before the rule effective date. The existing Chapter 115 rules are potentially more stringent than EPA's recommendations for control devices installed before the rule effective date if the site has multiple presses since the rules would require control devices on individual presses with uncontrolled emissions less than 25 tpy. Since the Chapter 115 rules either meet or exceed EPA's

recommendations for control devices installed before the effective date of the rule, the commission is not proposing any new rules or rule revisions for control devices on heatset presses in the HGB area.

In the DFW area, the existing Chapter 115 rules require control devices with an efficiency of at least 90% to be installed on heatset offset lithographic presses located on a property with combined VOC emissions of at least 50 tpy. The existing Chapter 115 requirement may not be as stringent as the EPA's recommendations for control devices installed before the rule effective date in all instances since an individual press with uncontrolled emissions greater than 25 tpy could be located on a site with total emissions less than 50 tpy when uncontrolled. However, staff reviewed the point source emissions inventory, Title V permits, and central registry databases to identify the heatset presses in the DFW area that are potentially subject to EPA's CTG recommendations and determined that the heatset presses identified have control devices with a minimum efficiency of 90% to comply with either Chapter 115 rules or as part of their permit authorization. Since the level of control on heatset presses identified in the DFW area either meets or exceeds the EPA's recommendations for control devices installed before the effective date of the rule, the commission is not proposing any new rules or rule revisions for control devices on heatset presses in the DFW area.

EPA also recommends requiring a 95% overall efficiency for control devices installed after the rule effective date on individual heatset web offset lithographic presses with the uncontrolled potential to emit at least 25 tpy of VOC. The commission does not agree that applying RACT standards to future equipment installations is necessary to meet the mandates of FCAA, §172(c)(1) and §182(b)(2) and (f). Additionally, control devices installed after the rule effective date will be required to meet best available control technology standards of at least 95% control efficiency as part of their permit authorization. Therefore, the commission is not proposing any new rules or rule revisions for control devices installed on heatset presses after the effective date of the rule.

#### *Fountain Solution*

EPA's 2006 CTG recommends limiting the fountain solution content to 5.0% alcohol substitutes or less by weight and no alcohol in the fountain solution. However, the existing Chapter 115 rules limit the fountain solution content to 3.0% alcohol substitutes or less by weight and no alcohol in the fountain solution. Since the existing rules are incorporated into an EPA-approved SIP, proposing the CTG recommended 5% limit for sources currently complying with the Chapter 115 rules would be backsliding; therefore, the proposed rules retain the 3% limit for these sources. The proposed rules would also require newly affected sources to comply with the more stringent 3% limit in existing Chapter 115 rules because the technological and economic feasibility of the 3% limit is already demonstrated.

#### *Cleaning Solution*

The 2006 CTG also recommends including limiting the VOC content of cleaning solutions used in offset lithographic printing operations to 70.0% VOC by weight in conjunction with work practice standards. However, the proposed rules retain the more stringent existing Chapter 115 cleaning solution content limit of 70% VOC by volume in conjunction with work practice standards. In addition, the proposed rules retain the existing Chapter 115 option to limit the cleaning solution content to 50% VOC by volume. The commission proposes to include this option to retain the flex-

ibility afforded to owners and operators subject to the current rules. EPA's 2006 CTG also recommends specific work practices for cleaning solutions used by offset lithographic printing lines with the uncontrolled potential to emit at least 3.0 tpy of VOC. The commission expects that most facilities are probably voluntarily following similar practices for safety reasons or have required work practices as part of their permit authorization. The commission does not consider it reasonable to impose additional general housekeeping requirements when there is no apparent need or quantifiable benefit.

#### SECTION BY SECTION DISCUSSION

In addition to the proposed amendments to implement RACT for offset lithographic printing press, the commission proposes grammatical, stylistic, and various other non-substantive changes to update the rule in accordance with current Texas Register style and format requirements, improve readability, establish consistency in the rules, and conform to the standards in the *Texas Legislative Council Drafting Manual*, September 2008. Such changes include appropriate and consistent use of acronyms, punctuation, section references, and certain terminology like *that*, *which*, *shall*, and *must*. References to the *Dallas/Fort Worth area* and the *Houston/Galveston area* have been updated to the *Dallas-Fort Worth area* and the *Houston-Galveston-Brazoria area*, respectively, to be consistent with current terminology for the region. These non-substantive changes are not intended to alter the existing rule requirements in any way and are not specifically discussed in this preamble. The commission is requesting comment on any instance where these proposed technical corrections would inadvertently change the existing rule requirements.

#### *Section 115.440, Applicability and Definitions*

The commission proposes changing the title of §115.440 from *Offset Printing Definitions* to *Applicability and Definitions* to reflect the proposed changes to the content of this section to include the rule applicability.

The commission proposes §115.440(a) to specify that the provisions in this division apply to offset lithographic printing lines located in the DFW, El Paso, and HGB areas. Proposed new subsection (a) establishes consistency and improves the readability of the rule by first describing the units affected by the subsequent requirements.

To accommodate proposed new subsection (a), the commission also proposes the offset lithographic definitions currently located in §115.440(1) - (10) be re-lettered as proposed §115.440(b)(1) - (10), respectively. Except as specifically discussed in this preamble, proposed §115.440(b)(1) - (10) re-letters the definitions in existing §115.440(1) - (10) with only non-substantive changes necessary to comply with current rule formatting standards.

Proposed subsection (b) indicates that unless the context clearly indicates otherwise or unless specifically defined in the Texas Clean Air Act (Texas Health and Safety Code, Chapter 382), in 30 TAC §§3.2, 101.1, 115.10, or 115.440(b)(1) - (10), the terms used in this division have the meanings commonly used in the field of air pollution control.

Proposed §115.440(b)(1), (2), (4), (8), and (9) incorporates the corresponding definitions in existing §115.440(1), (2), (4), (8), and (9), respectively, with only non-substantive changes necessary to comply with current rule formatting standards.

Proposed §115.440(b)(3) amends the definition of *Batch* in existing §115.440(3) to apply to cleaning solution as well as foun-

tain solution. Proposed §115.440(b)(3) defines *Batch* as a supply of fountain solution or cleaning solution that is prepared and used without alteration until completely used or removed from the printing process. The proposed change is necessary to clarify proposed new requirements and is not expected or intended to alter any existing requirements that use this term.

Proposed §115.440(b)(5) amends the definition of *Fountain Solution* in existing §115.440(5) to remove the statement that isopropyl alcohol is the most common additive used to reduce the surface tension of the fountain solution. The proposed change removes superfluous information and is not intended to alter any existing requirements.

Proposed §115.440(b)(6) amends the definition of *Heatset* in existing §115.440(6) to remove the statement that hot air dryers are used to deliver the heat. The proposed change removes superfluous information and is not intended to alter any existing requirements.

Proposed §115.440(b)(7) replaces the definition of *Lithography* in existing §115.440(7) to appropriately describe this printing process. The proposed change clarifies the definition but is not intended to alter any existing requirements that use this term. Proposed §115.440(b)(7) defines *Lithography* as a plane-o-graphic printing process where the image and non-image areas are on the same plane of the printing plate. Proposed §115.440(b)(7) also states that the image and non-image areas are chemically differentiated so the image area is oil receptive and the non-image area is water receptive.

Proposed §115.440(b)(10) re-letters the definition of *Volatile organic compound composite partial pressure* in existing §115.440(10) with non-substantive technical corrections necessary to comply with current rule formatting standards. Proposed §115.440(b)(10) re-letters the associated figure with non-substantive technical corrections necessary to comply with current rule formatting standards.

#### *Section 115.441, Exemptions*

The commission proposes new §115.441, *Exemptions*, to list the existing exemptions and the proposed new exemptions recommended in EPA's 2006 Offset Lithographic and Letterpress Printing CTG. Proposed new §115.441 establishes consistency with other Chapter 115 rules and makes the rule easier to read by clearly identifying the offset lithographic printing lines that are exempt from the rule requirements. The commission seeks comment on appropriate exemptions for offset lithographic printing lines in the DFW and HGB areas.

Proposed new §115.441(a) provides an exemption from the proposed new control requirements in §115.442(b) in the DFW and HGB areas for the owner or operator of all offset lithographic printing lines on a property with combined VOC emissions less than 3.0 tpy when uncontrolled. The proposed new exemption is provided because controlling these small sources is not economically feasible and therefore not considered RACT. When determining if a source qualifies for this exemption, or any other exemption that refers to uncontrolled VOC emissions, the combined VOC emissions would be calculated without considering the emission reductions achieved through the use of any add-on controls or other operational changes.

Proposed new §115.441(b)(1) - (5) lists the exemptions in the DFW area for the owner or operator of all offset lithographic printing lines on a property with combined VOC emissions less than 50 tpy when uncontrolled. Proposed new §115.441(b)(1)

exempts the owner or operator of these sources from all requirements in this division until March 1, 2011, to clarify that these currently exempt sources would remain exempt from this division until the compliance date of the proposed new rules. Proposed new §115.441(b)(2) exempts the owner or operator of these sources from the control requirements in proposed §115.442(a)(2) because requiring the installation of add-on emission control devices on small heatset presses is not economically feasible and therefore not considered RACT. This exemption is based on the existing Chapter 115 rules and not on EPA's 2006 CTG recommendations. For reasons discussed elsewhere in this preamble, the commission does not consider EPA's recommendations for add-on emission control devices on small heatset presses to be RACT. Proposed new §115.441(b)(3) allows the owner or operator of these sources to exempt any sheet-fed press with a maximum sheet size of 11.0 inches by 17.0 inches or less from the fountain solution content limits in proposed new §115.442(b)(1) - (3) because controlling emissions from these small presses is not economically feasible and therefore not considered RACT. Proposed new §115.441(b)(4) allows the owner or operator of these sources to exempt any press with a total fountain solution reservoir of less than 1.0 gallons from the fountain solution content limits in proposed §115.442(b)(1) - (3) because controlling emissions from these small presses is not economically feasible and therefore not considered RACT. Proposed new §115.441(b)(5) allows the owner or operator of these sources to exempt up to 110 gallons of cleaning solution from the content limits in proposed §115.442(b)(4) because there are some cleaning tasks that cannot be carried out using solutions that meet the proposed new content limits.

Proposed new §115.441(c)(1) - (5) lists the exemptions in the HGB area for the owner or operator of all offset lithographic printing lines on a property with combined VOC emissions less than 25 tpy when uncontrolled. Proposed new §115.441(c)(1) exempts the owner or operator of these sources from all requirements in this division until March 1, 2011, to clarify that these currently exempt sources would remain exempt from this division until the compliance date of the proposed new rules. Proposed new §115.441(c)(2) exempts the owner or operator of these sources from the control requirements in proposed §115.442(a)(2) because requiring the installation of add-on emission control devices on small heatset presses is not economically feasible and therefore not considered RACT. This exemption is based on the existing Chapter 115 rules and not on EPA's 2006 CTG recommendations. For reasons discussed elsewhere in this preamble, the commission does not consider EPA's recommendations for add-on emission control devices on small heatset presses to be RACT. Proposed new §115.441(c)(3) allows the owner or operator of these sources to exempt any sheet-fed press with a maximum sheet size of 11.0 inches by 17.0 inches or less from the fountain solution content limits in proposed §115.442(b)(1) - (3) because controlling emissions from these small presses is not economically feasible and therefore not considered RACT.

Proposed new §115.441(c)(4) allows the owner or operator of these sources to exempt any press with a total fountain solution reservoir of less than 1.0 gallons from the fountain solution content limits in proposed §115.442(b)(1) - (3) because controlling emissions from these small presses is not economically feasible and therefore not considered RACT. Proposed new §115.441(c)(5) allows the owner or operator of these sources to exempt up to 110 gallons of cleaning solution from the content

limits in proposed §115.442(b)(4) because there are some cleaning tasks that cannot be carried out using solutions that meet the proposed new content limits.

Because the exemptions in proposed §115.440(b)(3) - (5) and (c)(3) - (5) are not included in the existing rule requirements, the commission is only proposing these exemptions for sources that would be newly affected by the proposed rule revisions. However, EPA's 2006 CTG recommends these exemptions for all sources and the commission requests comment on whether providing these exemptions for all sources would be appropriate.

Proposed new §115.441(d) exempts all offset lithographic printing lines in the DFW and HGB areas from the control requirements of §115.442(a)(1) beginning March 1, 2011, to clarify that affected sources would only be required to comply with the existing rule requirements until the compliance date for the proposed new rule requirements.

#### *Section 115.442, Control Requirements*

To accommodate proposed new control requirements, the commission proposes the control requirements currently located in existing §115.442(1) and (2) be re-lettered as proposed §115.442(a)(1) and (2), respectively. Except as specifically discussed in this preamble, proposed §115.442(a)(1) and (2) re-letters the control requirements in existing §115.442(1) and (2) with only non-substantive changes necessary to comply with current rule formatting standards. The proposed formatting change is not intended to alter any existing rule requirements.

Proposed §115.442(a) re-letters existing §115.442 with non-substantive changes necessary to comply with current rule formatting standards. In addition, proposed §115.442(a) indicates that beginning March 1, 2011, affected sources in the DFW and HGB areas would no longer be required to comply with §115.442(a)(1). The proposed addition is necessary to clarify that affected sources would only be required to comply with the existing rule requirements until the compliance date for the proposed new rule requirements.

Proposed §115.442(a)(2) re-letters existing §115.442(2) with non-substantive technical corrections necessary to comply with current rule formatting standards. In addition, proposed §115.442(a)(2) requires the owner or operator of a heatset offset lithographic printing press to maintain the dryer pressure lower than the press room air pressure such that air flows into the dryer at all times when the press is operating. This proposed requirement is currently included in existing §115.446(3) and the proposed change is not expected nor intended to impose any new requirements on units currently subject to this division. The commission proposes only to add the requirement in existing §115.446(3) to the proposed §115.442(a)(2) to more appropriately indicate that this is a control requirement and not a monitoring or recordkeeping requirement.

The commission proposes §115.442(b) to incorporate RACT requirements for affected offset lithographic printing lines in the DFW and HGB areas. Except as specifically discussed elsewhere in this preamble, proposed subsection (b) implements the EPA's RACT recommendations in the 2006 Offset Lithographic and Letterpress Printing CTG. Proposed §115.442(b) also indicates the control requirements in this subsection will apply in the DFW and HGB areas beginning March 1, 2011.

Proposed §115.442(b)(1) requires the owner or operator of an affected non-heatset web offset lithographic printing press to limit the VOC content of the as-applied fountain solution to 3.0% al-

cohol substitutes or less by weight and no alcohol in the fountain solution. The proposed requirement is based on the existing Chapter 115 rules not EPA's 2006 CTG recommendations. The EPA recommended limiting the fountain solution content to 5.0% alcohol substitutes or less by weight and no alcohol in the fountain solution. However, the existing Chapter 115 rules limit the fountain solution content to 3.0% alcohol substitutes or less by weight and no alcohol in the fountain solution. Since the existing rules are incorporated into an EPA-approved SIP, proposing the CTG recommended 5.0% limit for sources currently complying with the Chapter 115 rules would be backsliding; therefore, the proposed rules retain the 3.0% limit for these sources. The proposed rules would also require newly affected sources to comply with the more stringent 3.0% limit in existing Chapter 115 rules because sources currently complying with the Chapter 115 rules have demonstrated that compliant fountain solutions are reasonably available.

Proposed §115.442(b)(2) requires the owner or operator of a heatset web offset lithographic printing press to limit the VOC content of the as-applied fountain solution by complying with one of the options in subparagraphs (A), (B), or (C). These options are provided to give affected owners or operators the flexibility to choose the appropriate option for their facility. Proposed subparagraph (A) limits the fountain solution content to 1.6% alcohol or less by weight. Proposed subparagraph (B) limits the fountain solution content to 3.0% alcohol or less by weight if the fountain solution is refrigerated below 60 degrees Fahrenheit. Proposed subparagraph (C) limits the fountain solution content to 3.0% alcohol substitutes or less by weight and no alcohol in the fountain solution. For reasons discussed elsewhere in this preamble, proposed subparagraph (C) requires the more stringent 3.0% limit in existing Chapter 115 rules instead of the 5.0% limit recommended by EPA in the 2006 CTG.

Proposed §115.442(b)(3) requires the owner or operator of a sheet-fed offset lithographic printing press to limit the VOC content of the as-applied fountain solution by complying with one of the options in subparagraphs (A), (B), or (C). These options are provided to give affected owners or operators the flexibility to choose the appropriate option for their facility. Proposed subparagraph (A) limits the fountain solution content to 5.0% alcohol or less by weight. Proposed subparagraph (B) limits the fountain solution content to 8.5% alcohol or less by weight if the fountain solution is refrigerated below 60 degrees Fahrenheit. Proposed subparagraph (C) limits the fountain solution content to 3.0% alcohol substitutes or less by weight and no alcohol in the fountain solution. For reasons discussed elsewhere in this preamble, proposed subparagraph (C) requires the more stringent 3% limit in existing Chapter 115 rules instead of the 5% limit recommended by EPA in the 2006 CTG.

Proposed §115.442(b)(4) requires the owner or operator of an offset lithographic printing press to limit the VOC content of the as-applied cleaning solution by complying with one of the options in subparagraphs (A), (B), or (C). These options are provided to give affected owners or operators the flexibility to choose the appropriate option for their facility. Proposed subparagraph (A) limits the cleaning solution content to 50% VOC or less by volume. Proposed subparagraph (A) is based on existing §115.442(1)(F) and was not included in EPA's 2006 CTG recommendations. The commission proposes this option to retain the flexibility afforded to affected owners and operators in the current rules. Proposed subparagraph (B) limits the cleaning solution content to 70.0% VOC or less by volume and requires incorporating a towel handling program that ensures all waste ink, solvents, and

cleanup rags are stored in closed containers until removed from the site by a licensed disposal/cleaning service. The 2006 CTG recommends limiting the VOC content of cleaning solutions to 70.0% VOC by weight in conjunction with work practice standards. However, the proposed rules retain the more stringent existing Chapter 115 cleaning solution content limit of 70% VOC by volume in conjunction with work practice standards. Proposed subparagraph (C) limits the cleaning solution VOC composite partial vapor pressure to 10.0 millimeters of mercury or less at 68 degrees Fahrenheit.

#### *Section 115.443, Alternative Control Requirements*

The commission proposes non-substantive changes to §115.443 necessary to comply with current rule formatting standards.

#### *Section 115.445, Approved Test Methods*

The commission proposes non-substantive changes to §115.445(1) - (6) necessary to comply with current rule formatting standards.

The commission also proposes §115.445(7) allowing minor modifications to the test methods listed in this section if the modifications are approved by the executive director. Proposed new paragraph (7) establishes consistency in the rules by providing the owner or operator of an affected offset lithographic printing line with the same flexibility afforded to the owner or operator of other units regulated in Chapter 115.

The commission proposes §115.445(8) allowing the use of test methods not listed in this section if the methods are validated by Title 40 Code of Federal Regulations Part 63, Appendix A, Test Method 301 (effective December 29, 1992). Proposed paragraph (8) establishes consistency in the rules by providing the owner or operator of an affected offset lithographic printing line with the same flexibility afforded to the owner or operator of other units regulated in Chapter 115.

#### *Section 115.446, Monitoring and Recordkeeping Requirements*

To accommodate proposed subsection (b), the commission proposes the requirements currently located in §115.446(1) - (8) be re-lettered as proposed §115.446(a)(1) - (8), respectively. Proposed §115.446(a)(1) - (8) re-letters the requirements currently located in existing §115.446(1) - (8) with non-substantive technical corrections necessary to comply with current rule formatting standards. This proposed formatting change is not intended to alter any existing rule requirements. In addition, proposed §115.446(a) clarifies that the requirements in this subsection would not apply to sources in the DFW and HGB areas beginning on the March 1, 2011, compliance date of the proposed rule requirements.

The commission proposes §115.446(b) to list the monitoring and testing requirements for affected offset lithographic printing presses in the DFW and HGB areas beginning March 1, 2011. Proposed subsection (b) improves the readability of the rule by locating all of the monitoring and recordkeeping requirements for the DFW and HGB areas in the same subsection.

Proposed §115.446(b)(1) requires an owner or operator claiming an exemption in §115.441 to maintain records sufficient to demonstrate continuous compliance with the applicable exemption criteria.

Proposed §115.446(b)(2) provides the monitoring and recordkeeping requirements for the owner or operator of heatset web offset lithographic presses with add-on control devices. Proposed subsection (b)(2) imposes the same requirements in ex-

isting §115.446(1) - (3) with non-substantive changes necessary to comply with current rule formatting standards. Proposed §115.446(b)(2) is not intended to alter any existing rule requirements or impose any new requirements; the proposed new paragraph is only provided to improve the readability of the rule by locating all of the monitoring and recordkeeping requirements for the DFW and HGB areas in the same subsection.

Proposed §115.446(b)(3) requires the owner or operator of an offset lithographic printing press to use one of the options in subparagraphs (A) or (B) to demonstrate compliance with the fountain solution content limits in proposed §115.442(b)(1) - (3). These options are provided to give affected owners or operators the flexibility to choose the appropriate option for their facility.

Proposed §115.446(b)(3)(A) requires the alcohol concentration of each batch of fountain solution to be monitored using a refractometer or a hydrometer that is corrected for temperature; requires the refractometer or hydrometer to have a visual, analog, or digital readout with an accuracy of 0.5% VOC; and requires standard solution to be used to calibrate the refractometer for the type of alcohol used in the fountain solution. Proposed §115.446(b)(3)(A) provides an option for the VOC content of the fountain solution to be monitored with a conductivity meter if a refractometer or hydrometer cannot be used for the type of VOC in the fountain solution and requires the conductivity meter reading to be referenced to the conductivity of the incoming water. Proposed §115.446(b)(3)(A) requires records to be sufficient to demonstrate continuous compliance with the fountain solution content limits in §115.442(b)(1) - (3). Proposed new §115.446(b)(3)(A) imposes the same requirements in existing §115.446(4) except that the option to monitor the fountain solution alcohol concentration once per eight-hour shift has been eliminated because this option could prevent the continuous demonstration of compliance with content limits in proposed §115.442(b)(1) - (3). The commission is requesting comment on this change.

Proposed §115.446(b)(3)(B) requires the VOC concentration of each batch fountain solution to be determined using analytical data from the material safety data sheet (MSDS) or equivalent information from the supplier that was derived using the approved test methods in §115.445. Proposed §115.446(b)(3)(B) requires the concentration of all alcohols or alcohol substitutes used to prepare the batch and, if diluted prior to use, the proportions that each of these materials is used to be recorded for each batch of fountain solution. Proposed §115.446(b)(3)(B) also requires records to be sufficient to demonstrate continuous compliance with the fountain solution content limits in §115.442(b)(1) - (3). This option is expected to be sufficient to ensure continuous compliance with the control requirements in §115.442(b)(1) - (3). The commission proposes this option to reduce the compliance burden for affected sources. The commission is requesting comment on the adequacy of this new option.

Proposed §115.446(b)(4) requires the owner or operator of an offset lithographic printing press using refrigeration equipment on the fountain solution reservoir to monitor and record the fountain solution temperature at least once per hour. Proposed §115.446(b)(4) requires temperature monitoring devices to be installed, maintained, and operated according to the manufacturer's specifications. Proposed §115.446(b)(4) requires records to be sufficient to demonstrate continuous compliance with the fountain solution content limits in §115.442(b)(2) - (3) of this title.

Proposed §115.446(b)(5) requires the owner or operator of an offset lithographic printing press to use one of the options in subparagraphs (A) or (B) to demonstrate compliance with the cleaning solution content limits in proposed §115.442(b)(4). These options are provided to give affected owners or operators the flexibility to choose the appropriate option for their facility.

Proposed §115.446(b)(5)(A) requires the VOC concentration of each batch of cleaning solution to be monitored using flow meters to monitor the water and cleaning solution flow rates on a press with automatic cleaning equipment. Proposed §115.446(b)(5)(A) requires the flow meters to be installed, maintained, and operated according to the manufacturer's instructions and requires the flow meters to be calibrated so that the VOC concentration of the cleaning solution complies with the content limits in §115.442(b)(4). Proposed §115.446(b)(5)(A) requires records to be sufficient to demonstrate continuous compliance with the cleaning solution content limits in §115.442(b)(4). Proposed §115.446(b)(5)(A) imposes the same requirements in existing §115.446(6) with non-substantive changes necessary to comply with current rule formatting standards.

Proposed §115.446(b)(5)(B) requires the VOC concentration of each batch of cleaning solution to be determined using analytical data from the MSDS or equivalent information from the supplier that was derived using the approved test methods in §115.445. Proposed §115.446(b)(5)(B) requires the concentration of all VOC used to prepare the batch and, if diluted prior to use, the proportions that each of these materials is used to be recorded for each batch of cleaning solution. Proposed §115.446(b)(5)(B) also requires records to be sufficient to demonstrate continuous compliance with the cleaning solution content limits in §115.442(b)(4). This option is expected to be sufficient to ensure continuous compliance with the control requirements in §115.442(b)(4). The commission proposes this option to reduce the compliance burden for affected sources. The commission is requesting comment on the adequacy of this new option.

The commission proposes §115.446(b)(6) to require an affected owner or operator to maintain records of any tests conducted using the approved test methods in §115.445. Proposed §115.446(b)(6) imposes the same requirements in existing §115.446(7) with non-substantive technical corrections necessary to comply with current rule formatting standards.

The commission proposes §115.446(b)(7) to require all records to be maintained for at least two years and to make those records available upon request. Proposed §115.446(b)(7) imposes the same requirements in existing §115.446(8) except that proposed §115.446(b)(7) does not require the records to be maintained on site. The commission proposes this change to reduce the compliance burden for affected sources. The commission is requesting comment on this requirement.

#### *Section 115.449, Compliance Schedules*

The commission proposes changing the title of §115.449 from *Counties and Compliance Schedules to Compliance Schedules* to establish consistency in rules by listing the compliance schedule for affected units by nonattainment areas instead of by individual counties within each nonattainment area.

The commission proposes amending §115.449(b) to indicate that requirements in existing §115.442 are proposed to be re-lettered as §115.442(a) and to indicate that requirements in existing §115.446 are proposed to be re-lettered as §115.446(a).

The commission proposes to delete §115.449(c) because the proposed new rule requirements affect the sources currently exempted in this subsection.

The commission proposes to re-letter existing §115.449(d) as proposed §115.449(c) and proposes amending the subsection to indicate that requirements in existing §115.442 are proposed to be re-lettered as §115.442(a) and to indicate that requirements in existing §115.446 are proposed to be re-lettered as §115.446(a).

The commission proposes to delete §115.449(e) because the proposed new rule requirements affect the sources currently exempted in this subsection.

The commission proposes to re-letter existing §115.449(f) as proposed §115.449(d) with amendments to clarify proposed §115.442(a) contains the control requirements in existing §115.442 and proposed §115.446(a) contains the monitoring and recordkeeping requirements in existing §115.446.

The commission proposes subsection (e) requiring the owner or operator of an offset lithographic printing line in the DFW or HGB areas to comply with the requirements in this division no later than March 1, 2011, except as specified in subsection (b) and proposed subsections (c) and (d). The March 1, 2011, compliance date provides affected owners and operators approximately one year to make any necessary changes and ensures that any VOC reductions achieved by the proposed rules will occur prior to the ozone season in the DFW area. The commission is requesting comment on appropriate compliance dates for the proposed new requirements.

The commission also proposes subsection (f) to require the owner or operator of an offset lithographic printing line in the DFW or HGB areas that becomes subject to the requirements of this division on or after March 1, 2011, to comply with the requirements of this division no later than 60 days after becoming subject. The commission is requesting comment on the adequacy of the time provided for newly affected facilities to comply with the proposed new requirements.

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

Nina Chamness, Analyst, Strategic Planning and Assessment, has determined that, for the first five-year period the proposed rules are in effect, no significant fiscal implications are anticipated for the agency or other units of state or local governments as a result of administration or enforcement of the proposed rules. The agency will use existing resources to implement the proposed rules.

FCAA, §182(b)(2) requires states to revise their SIP to include RACT for sources of VOC emissions covered by a CTG document. States can adopt and implement the CTG recommendations or adopt alternative approaches, but in either event the RACT rules must be submitted to the EPA for review and approval as part of the SIP process. On October 5, 2006, the EPA issued a CTG document for Offset Lithographic and Letterpress Printing. The purpose of the proposed rule revisions is to implement RACT rules for offset lithographic printing facilities in the DFW and HGB areas as required by the FCAA.

The proposed rules amend Chapter 115, Subchapter E, Division 4 to reduce the VOC content limits on fountain solutions used by offset lithographic printing facilities and expand RACT requirements to limit VOC content of fountain and cleaning solutions used by facilities that are exempt under current rules. Current rules already regulate offset lithographic printing operations in

the DFW area that emit at least 50 tpy of VOC when uncontrolled and in the HGB area that emit at least 25 tpy of VOC when uncontrolled. The proposed rules would expand RACT requirements in the DFW and HGB areas beginning March 1, 2011, to all offset lithographic printing lines located on a property with combined VOC emissions of at least 3.0 tpy when uncontrolled unless certain exemption criteria are met.

The proposed rules provide options for controlling and monitoring VOC emissions, and affected owners or operators are expected to choose the options that are the most cost effective for their operation. Fiscal impacts of the proposed rules will vary depending on the compliance and monitoring options chosen. Fiscal impacts will also depend on site specific variables like types of solution used and methods of operation. Therefore, fiscal impacts, if any, of the proposed rules are not expected to be the same for each affected offset lithographic printing line.

No units of state or local government have been identified that own or operate an offset lithographic printing line in the DFW and HGB areas. Units of state or local government that may own or operate an offset lithographic printing line subject to the proposed rules will be afforded the same options for compliance and monitoring as those afforded to businesses, and they will be subject to the same recordkeeping requirements. Costs to comply with the proposed rules are not expected to be significant, and details of any fiscal impact can be found in the SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT section of this fiscal note.

#### PUBLIC BENEFITS AND COSTS

Nina Chamness also determined that for each year of the first five years the proposed new rules are in effect, the public benefit anticipated from the changes seen in the proposed rules will be improved air quality in the DFW and HGB areas.

Based on information in the emissions inventory and central registry databases, there are 45 offset lithographic printing operations in the DFW and HGB areas that may be affected by the proposed rules; 13 of the 45 operations identified are small or micro-businesses. In addition, staff anticipates the proposed rules will affect offset lithographic printing operations in the DFW and HGB areas that are not currently required to register with the commission. Information from the 1999 TCEQ report *Emissions Inventory for Texas Graphic Arts Area Sources* indicates that as much as 97% of those currently unregistered facilities will probably be small or micro-businesses. If a large business owns or operates an offset lithographic printing line, it would experience the same fiscal impacts as those experienced by a small business.

Businesses subject to the current rules will not incur additional monitoring, testing, or recordkeeping costs as a result of the proposed rules because they are already required to perform these activities under the current rules. Current rules also require compliance with VOC limits on cleaning solutions. Any fiscal impacts for these businesses from the proposed rules will result from compliance with reducing the VOC content of fountain solutions.

Businesses emitting at least 3.0 tpy of VOC but less than 50 tpy in the DFW area and less than 25 tpy in the HGB area will incur compliance costs, monitoring costs, and recordkeeping costs as a result of the proposed rules to control VOC emissions from both fountain and cleaning solutions.

Details of the fiscal impact of the proposed rules can be found in the SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT section of this fiscal note.

#### SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

Adverse fiscal implications are anticipated for small or micro-businesses owning offset lithographic printing operations as a result of the proposed rules although the magnitude of cost increases will vary depending on the compliance and monitoring options chosen. Recordkeeping costs are expected to be insignificant. The cost estimates that follow are based on technical reports, EPA's CTG documents, and reports from various Air Quality Management Districts in California.

##### *Fountain Solution Costs*

Cost increases may be experienced by businesses required to reduce the alcohol content in fountain solutions, but the proposed rules afford several compliance options, and each business is expected to choose the option that is most cost effective for their operations. Options to reduce the VOC emissions from fountain solutions are: use alcohol substitutes instead of alcohol in the fountain solution; reduce the alcohol content of a fountain solution; or use a refrigeration unit to lower VOC emissions from an alcohol based fountain solution. Businesses are not expected to incur additional costs to substitute a compliant material, but as a conservative estimate, this fiscal note assumes that there could be a 6% price increase for such materials. The average cost of a gallon of fountain solution is \$15.50, and a 6% increase could raise the price to \$16.43 per gallon. Reducing the amount of alcohol in the fountain solution could result in cost savings, but the amount of such savings will depend on a variety of operational factors for each line where this strategy is used. The proposed rules allow a higher fountain solution alcohol concentration if refrigeration is used to cool the solution below 60 degrees Fahrenheit. A small refrigeration unit capable of servicing two to three presses could cost as much as \$27,847 with annual operating costs of \$1,876.

The proposed rules would require offset lithographic printing operations emitting at least 3.0 tpy of VOC but less than 50 tpy in the DFW area and less than 25 tpy in the HGB area to monitor the fountain solution concentration. If these entities choose to use analytical data supplied by manufacturers regarding VOC content, the proposed rules are not expected to increase costs. If the operation decides to directly monitor the fountain solution concentration, they may be required to purchase a refractometer, hydrometer, or conductivity meter. A handheld refractometer is estimated to cost \$200 to \$300; hydrometers are estimated to cost \$50 to \$100; and a portable conductivity meter can cost \$300 to \$1,100. The proposed rules require offset lithographic printing operations using refrigeration equipment to monitor the fountain solution temperature. A digital temperature recorder to monitor refrigerated fountain solution is estimated to cost \$150 to \$400.

##### *Cleaning Solution Costs*

Offset lithographic printing operations emitting at least 3.0 tpy of VOC but less than 50 tpy in the DFW area and less than 25 tpy in the HGB area when uncontrolled will be required limit VOC emissions from cleaning solutions. These operations are expected to choose the most cost effective option in the proposed rules to do so. Businesses are not expected to incur additional costs to substitute a compliant material, but as a conservative estimate, this fiscal note assumes that there could be a 6% price increase for such materials. The average cost of a gallon of cleaning solu-

tion is \$15 and a 6% increase could raise the price to \$15.90 per gallon. Affected operations can choose to monitor VOC emissions of cleaning solutions indirectly under the proposed rules. If this option is chosen, the proposed rules are not expected to increase costs since data supplied from manufacturers can be used to estimate VOC emissions. If direct monitoring is chosen for presses with automatic cleaning equipment, the affected operations may be required to install a flow meter, which could cost \$200 to \$1,000.

#### SMALL BUSINESS REGULATORY FLEXIBILITY ANALYSIS

The commission has reviewed this proposed rulemaking and determined that a small business regulatory flexibility analysis is not required because the proposed rules are required to comply with federal regulations and are necessary to protect the health, safety, and environmental welfare of the state. The agency has attempted to include flexible options in the proposed rules to mitigate the fiscal impact on small businesses. Small businesses that have total uncontrolled VOC emissions of less than 3.0 tpy are exempt from the proposed rules.

#### 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 impact analysis requirements of the Texas Government Code, §2001.0225, and determined that the proposed rulemaking meets the definition of a "major environmental rule" as defined in that statute. A "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, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The proposed rulemaking does not, however, meet any of the four applicability criteria for requiring a regulatory impact analysis for a major environmental rule, which are listed in Texas Government Code, §2001.0225(a). Texas Government Code, §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.

The proposed rules implement the EPA's RACT recommendations in the 2006 Offset Lithographic and Letterpress Printing CTG (71 *Federal Register* 58745, October 5, 2006) that the commission has determined to represent RACT for the DFW and HGB areas. FCAA, §172(c)(1) requires the SIP for nonattainment areas to include reasonably available control measures, including RACT, for sources of pollutants identified by the EPA as required by FCAA, §183(e). FCAA, §182(b)(2) provides that for certain nonattainment areas, states must revise their SIP to include RACT for sources of VOC emissions covered by a CTG document issued after November 15, 1990, and prior to the area's date of attainment. The proposed rule revisions im-

plement RACT for offset lithographic printing lines in the DFW and HGB areas, as required by the FCAA, §172(c)(1). Specifically, the proposed rules limit the VOC content of solvents used by affected offset lithographic printing facilities in the DFW and HGB areas.

The proposed rulemaking implements requirements of 42 USC, §7410, which requires states to adopt a SIP that provides for the implementation, maintenance, and enforcement of the NAAQS in each air quality control region of the state. While 42 USC, §7410 generally does not require specific programs, methods, or reductions in order to meet the standard, the SIP must include enforceable emission limitations and other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance as may be necessary or appropriate to meet the applicable requirements of this chapter (42 USC, Chapter 85, Air Pollution Prevention and Control). The provisions of the FCAA recognize that states are in the best position to determine what programs and controls are necessary or appropriate in order to meet the NAAQS. This flexibility allows states, affected industry, and the public, to collaborate on the best methods for attaining the NAAQS for the specific regions in the state. Even though the FCAA allows states to develop their own programs, this flexibility does not relieve a state from developing a program that meets the requirements of 42 USC, §7410. States are not free to ignore the requirements of 42 USC, §7410, and must develop programs to assure that their contributions to nonattainment areas are reduced so that these areas can be brought into attainment on schedule. Additionally, states have further obligations under FCAA, §172(c)(1) and §182(b)(2) to provide for RACT in nonattainment areas, such as HGB and DFW. The proposed rulemaking will implement RACT for offset lithographic printing facilities in the DFW and HGB areas. Implementation of RACT is a necessary and required component of developing the SIP for nonattainment areas as required by 42 USC, §7410.

The requirement to provide a fiscal analysis of proposed regulations in the Texas Government Code was amended by Senate Bill (SB) 633 during the 75th Legislature, 1997. The intent of SB 633 was to require agencies to conduct a regulatory impact analysis of extraordinary rules. These are identified in the statutory language as major environmental rules that will have a material adverse impact and will exceed a requirement of state law, federal law, or a delegated federal program, or are adopted solely under the general powers of the agency. With the understanding that this requirement would seldom apply, the commission provided a cost estimate for SB 633 concluding that "based on an assessment of rules adopted by the agency in the past, it is not anticipated that the bill will have significant fiscal implications for the agency due to its limited application." The commission also noted that the number of rules that would require assessment under the provisions of the bill was not large. This conclusion was based, in part, on the criteria set forth in the bill that exempted proposed rules from the full analysis unless the rule was a major environmental rule that exceeds a federal law.

As discussed elsewhere in this preamble, the FCAA does not always require specific programs, methods, or reductions in order to meet the NAAQS; thus, states must develop programs for each area contributing to nonattainment to help ensure that those areas will meet the attainment deadlines. Because of the ongoing need to address nonattainment issues, and to meet the requirements of 42 USC, §7410, the commission routinely proposes and adopts SIP rules. The legislature is presumed to un-

derstand this federal scheme. If each rule proposed for inclusion in the SIP was considered to be a major environmental rule that exceeds federal law, then every SIP rule would require the full regulatory impact analysis contemplated by SB 633. This conclusion is inconsistent with the conclusions reached by the commission in its cost estimate and by the Legislative Budget Board (LBB) in its fiscal notes. Since the legislature is presumed to understand the fiscal impacts of the bills it passes, and that presumption is based on information provided by state agencies and the LBB, the commission believes that the intent of SB 633 was only to require the full regulatory impact analysis for rules that are extraordinary in nature. While the SIP rules will have a broad impact, the impact is no greater than is necessary or appropriate to meet the requirements of the FCAA. For these reasons, rules adopted for inclusion in the SIP fall under the exception in Texas Government Code, §2001.0225(a), because they are required by federal law.

The commission has consistently applied this construction to its rules since this statute was enacted in 1997. Since that time, the legislature has revised the Texas Government Code, but left this provision substantially unamended. It is presumed that "when an agency interpretation is in effect at the time the legislature amends the laws without making substantial change in the statute, the legislature is deemed to have accepted the agency's interpretation." *Central Power & Light Co. v. Sharp*, 919 S.W.2d 485, 489 (Tex. App. Austin 1995), *writ denied with per curiam opinion respecting another issue*, 960 S.W.2d 617 (Tex. 1997); *Bullock v. Marathon Oil Co.*, 798 S.W.2d 353, 357 (Tex. App. Austin 1990, *no writ*). *Cf. Humble Oil & Refining Co. v. Calvert*, 414 S.W.2d 172 (Tex. 1967); *Dudney v. State Farm Mut. Auto Ins. Co.*, 9 S.W.3d 884, 893 (Tex. App. Austin 2000); *Southwestern Life Ins. Co. v. Montemayor*, 24 S.W.3d 581 (Tex. App. Austin 2000, *pet. denied*); and *Coastal Indust. Water Auth. v. Trinity Portland Cement Div.*, 563 S.W.2d 916 (Tex. 1978).

The commission's interpretation of the regulatory impact analysis requirements is also supported by a change made to the Texas Administrative Procedure Act (APA) by the legislature in 1999. In an attempt to limit the number of rule challenges based upon APA requirements, the legislature clarified that state agencies are required to meet these sections of the APA against the standard of "substantial compliance." The legislature specifically identified Texas Government Code, §2001.0225, as falling under this standard. The commission has substantially complied with the requirements of Texas Government Code, §2001.0225.

The specific intent of the proposed rulemaking is to protect the environment and to reduce risks to human health by requiring control measures for offset lithographic printing presses that have been determined by the commission to be RACT for the DFW and HGB areas. The proposed rulemaking does not exceed a standard set by federal law or exceed an express requirement of state law. No contract or delegation agreement covers the topic that is the subject of this proposed rulemaking. Therefore, this proposed rulemaking is not subject to the regulatory analysis provisions of Texas Government Code, §2001.0225(b), because although the proposed rulemaking meets the definition of a "major environmental rule", it does not meet any of the four applicability criteria for a major environmental rule.

Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the SUBMITTAL OF COMMENTS section of this preamble.

## TAKINGS IMPACT ASSESSMENT

The commission evaluated the proposed rulemaking and performed an assessment of whether Texas Government Code, Chapter 2007, is applicable. The specific purpose of the proposed rulemaking is to implement RACT for the offset lithographic printing lines in the DFW and HGB areas. FCAA, §182(b)(2) provides that for certain nonattainment areas, states must revise their SIP to include RACT for sources of VOC emissions covered by a CTG document issued after November 15, 1990, and prior to the area's date of attainment. In 2006 the EPA published a CTG for Offset Lithographic and Letterpress Printing. Texas Government Code, §2007.003(b)(4), provides that Texas Government Code, Chapter 2007 does not apply to this proposed rulemaking because it is an action reasonably taken to fulfill an obligation mandated by federal law.

In addition, the commission's assessment indicates that Texas Government Code, Chapter 2007 does not apply to these proposed rules because this is an action that is taken in response to a real and substantial threat to public health and safety; that is designed to significantly advance the health and safety purpose; and that does not impose a greater burden than is necessary to achieve the health and safety purpose. Thus, this action is exempt under Texas Government Code, §2007.003(b)(13). The proposed rules fulfill the FCAA requirement to implement RACT in nonattainment areas. These revisions will result in VOC emission reductions in ozone nonattainment areas which may contribute to the timely attainment of the ozone standard and reduced public exposure to VOC. Consequently, the proposed rulemaking meets the exemption criteria in Texas Government Code, §2007.003(b)(4) and (13). For these reasons, Texas Government Code, Chapter 2007 does not apply to this proposed rulemaking.

## CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the proposed rulemaking and found the proposal is a rulemaking identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(4), relating to rules subject to the Texas Coastal Management Program (CMP) and will therefore require that goals and policies of the CMP be considered during the rulemaking process. The commission reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Council and determined that the rulemaking will not affect any coastal natural resource areas because the rules only affect counties outside the CMP area and is therefore consistent with CMP goals and policies.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the SUBMITTAL OF COMMENTS section of this preamble.

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

Chapter 115 is an applicable requirement under 30 TAC Chapter 122, Federal Operating Permits Program. If the amendments to Chapter 115 are adopted, owners or operators subject to the federal operating permit program must, consistent with the revision process in Chapter 122, upon the effective date of the rulemaking, revise their operating permit to include the new Chapter 115 requirements.

## ANNOUNCEMENT OF HEARINGS

The commission will hold public hearings on this proposal in Houston on October 28, 2009, at 2:00 p.m. and 6:00 p.m. at the Houston-Galveston Area Council, Conference Room A, 3555 Timmons Lane, Houston, TX 77027; in Austin on October 29, 2009, at 1:00 p.m. and 3:00 p.m. at the Texas Commission on Environmental Quality, Building E, Room 201S, 12100 Park 35 Circle, Austin, TX 78753; and in Fort Worth on November 2, 2009, at 2:00 p.m. at the Texas Commission on Environmental Quality, Region 4 Office, DFW Public Meeting Room, 2309 Gravel Road, Fort Worth, TX 76118. The hearings are structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearings; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearings.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Charlotte Horn, Office of Legal Services at (512) 239-0779. Requests should be made as far in advance as possible.

#### SUBMITTAL OF COMMENTS

Written comments may be submitted to Michael Parrish, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <http://www5.tceq.state.tx.us/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2008-019-115-EN. The comment period closes November 9, 2009. Copies of the proposed rule-making can be obtained from the commission's Web site at [http://www.tceq.state.tx.us/nav/rules/propose\\_adopt.html](http://www.tceq.state.tx.us/nav/rules/propose_adopt.html). For further information, please contact Lindley Anderson, Air Quality Planning Section, at (512) 239-0003.

#### STATUTORY AUTHORITY

The new and amended sections are proposed under Texas Water Code (TWC), §5.102, concerning General Powers, that provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, concerning Rules, that authorizes the commission to adopt rules necessary to carry out its powers and duties under the TWC; TWC, §5.105, concerning General Policy, that authorizes the commission by rule to establish and approve all general policy of the commission; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, that authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The new and amended sections are also proposed under THSC, §382.002, concerning Policy and Purpose, that 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, concerning General Powers and Duties, that authorizes the commission to control the quality of the state's air; and §382.012, concerning State Air Control Plan, that authorizes the commission to prepare and develop a general, comprehensive plan for the proper control of the state's air. The new and amended sections are also proposed under THSC, §382.016, concerning Monitoring Requirements; Examination of Records, that authorizes the commission to prescribe reasonable requirements for the measuring and monitoring of air contaminant emissions and §382.021, concerning Sampling Methods and Procedures, that authorizes the commission to prescribe the sampling methods and procedures to determine com-

pliance with its rules. The new and amended sections are also proposed under Federal Clean Air Act (FCAA), 42 USC, §§7401, *et seq.*, which requires states to submit SIP revisions that specify the manner in which the NAAQS will be achieved and maintained within each air quality control region of the state.

The new and amended sections implement THSC, §§382.002, 382.011, 382.012, 382.016, and 382.017, and FCAA, 42 USC, §§7401 *et seq.*

#### §115.440. *Applicability and Definitions [Offset Printing Definitions].*

(a) Applicability. The provisions in this division apply to offset lithographic printing lines located in the Dallas-Fort Worth, El Paso, and Houston-Galveston-Brazoria areas, as defined in §115.10 of this title (relating to Definitions).

(b) Definitions. Unless specifically defined in the Texas Clean Air Act (Texas Health and Safety Code, Chapter 382) or in §§3.2, 101.1, and 115.10 of this title (relating to Definitions), the terms in this division have the meanings commonly used in the field of air pollution control. In addition, the following meanings apply unless the context clearly indicates otherwise. [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 of this title (relating to Definitions).]

(1) Alcohol--Any [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. [(which includes methanol, ethanol, propanol, and butanol).]

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

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

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

(5) Fountain solution--A mixture of water, nonvolatile printing chemicals, and a liquid additive [an additive (liquid)] that reduces the surface tension of the water so that it spreads easily across the printing plate surface. The fountain solution wets the non-image [nonimage] areas so that the ink is maintained within the image areas. [Isopropyl alcohol, a VOC, is the most common additive used to reduce the surface tension of the fountain solution.]

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

(7) Lithography--A plane-o-graphic printing process where the image and non-image areas are on the same plane of the printing plate. The image and non-image areas are chemically differentiated so the image area is oil receptive and the non-image area is water receptive. [A printing process where the image and nonimage areas are chemically differentiated; the image area is oil receptive, and the nonimage area is water receptive. This method differs from other printing methods, where the image is a raised or recessed surface.]

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

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

(10) Volatile organic compound (VOC) ~~[VOC]~~ composite partial pressure--The sum of the partial pressures of the compounds that ~~[which]~~ meet the definition of VOC ~~[volatile organic compound (VOC)]~~ in §101.1 of this title (relating to Definitions). The VOC composite partial pressure is calculated as follows.

Figure: 30 TAC §115.440(b)(10)

~~[Figure: 30 TAC §115.440(10)]~~

§115.441. Exemptions.

(a) In the Dallas-Fort Worth and Houston-Galveston-Brazoria areas, as defined in §115.10 of this title (relating to Definitions), the owner or operator of all offset lithographic printing lines located on a property with combined volatile organic compound (VOC) emissions less than 3.0 tons per calendar year (tpy) when uncontrolled, is exempt from the control requirements in §115.442 of this title (relating to Control Requirements).

(b) In the Dallas-Fort Worth area, the owner or operator of all offset lithographic printing lines located on a property with combined VOC emissions less than 50 tpy when uncontrolled:

(1) is exempt from the requirements in this division until March 1, 2011;

(2) is exempt from the control requirements in §115.442(a)(2) of this title;

(3) may exempt any sheet-fed press with a maximum sheet size of 11.0 inches by 17.0 inches or less from the fountain solution content limits in §115.442(b)(1) - (3) of this title;

(4) may exempt any press with a total fountain solution reservoir less than 1.0 gallons from the fountain solution content limits in §115.442(b)(1) - (3) of this title; and

(5) may exempt up to 110 gallons of cleaning solution per calendar year from the content limits in §115.442(b)(4) of this title.

(c) In the Houston-Galveston-Brazoria area, the owner or operator of all offset lithographic printing lines located on a property with combined VOC emissions less than 25 tpy when uncontrolled:

(1) is exempt from the requirements in this division until March 1, 2011;

(2) is exempt from the requirements in §115.442(a)(2) of this title;

(3) may exempt any sheet-fed press with a maximum sheet size of 11.0 inches by 17.0 inches or less from the fountain solution content limits in §115.442(b)(1) - (3) of this title;

(4) may exempt any press with a total fountain solution reservoir less than 1.0 gallons from the fountain solution content limits in §115.442(b)(1) - (3) of this title; and

(5) may exempt up to 110 gallons of cleaning solution per calendar year from the content limits in §115.442(b)(4) of this title.

(d) Beginning March 1, 2011, the requirements in §115.442(a)(1) of this title and §115.446(a) of this title (relating to Monitoring and Recordkeeping Requirements) no longer apply in the Dallas-Fort Worth and Houston-Galveston-Brazoria areas.

§115.442. Control Requirements.

(a) In the Dallas-Fort Worth, ~~[For the Dallas-Fort Worth,]~~ El Paso, and Houston-Galveston-Brazoria areas, ~~[Houston-Galveston areas]~~ as defined in §115.10 of this title (relating to Definitions), the fol-

lowing control requirements ~~[shall]~~ apply. Beginning March 1, 2011, paragraph (1) of this subsection no longer applies in the Dallas-Fort Worth and Houston-Galveston-Brazoria areas.

(1) The owner or operator ~~[No person shall operate or allow the operation]~~ of an offset lithographic printing line that uses solvent-containing ink shall limit ~~[, unless]~~ volatile organic compound (VOC) emissions as follows. ~~[are limited by the following.]~~

(A) The owner or operator of ~~[Any person who owns or operates]~~ a heatset web offset lithographic printing press that uses alcohol in the fountain solution shall maintain total fountain solution alcohol to 5.0% or less (by volume). Alternatively, a standard of 10.0% or less (by volume) alcohol may be used if the fountain solution containing alcohol is refrigerated to less than 60 degrees Fahrenheit (15.5 degrees Celsius).

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

(C) The owner or operator of a non-heatset ~~[Any person who owns or operates a nonheatset]~~ web offset lithographic printing press that ~~[which]~~ does not print newspaper and that uses alcohol in the fountain solution shall maintain the use of alcohol at 5.0% or less (by volume). Alternatively, a standard of 10.0% or less (by volume) alcohol may be used if the fountain solution is refrigerated to less than 60 degrees Fahrenheit (15.5 degrees Celsius).

(D) The owner or operator of a sheet-fed ~~[Any person who owns or operates a sheetfed]~~ offset lithographic printing press shall maintain the use of alcohol at 10.0% or less (by volume). Alternatively, a standard of 12.0% or less (by volume) alcohol may be used if the fountain solution is refrigerated to less than 60 degrees Fahrenheit (15.5 degrees Celsius).

(E) The owner or operator of ~~[Any person who owns or operates]~~ any type of offset lithographic printing press shall be considered in compliance with the fountain solution limitations of this paragraph if the only VOC ~~[VOCs]~~ in the fountain solution are in nonalcohol additives or alcohol substitutes, so that the concentration of VOC ~~[VOCs]~~ in the fountain solution is 3.0% or less (by weight). The fountain solution must ~~[shall]~~ not contain any isopropyl alcohol.

(F) The owner or operator of ~~[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);

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

(iii) using cleaning solutions with a VOC composite partial vapor pressure less than or equal to 10 ~~[ten]~~ millimeters of mercury ~~[mm Hg]~~ at 68 degrees Fahrenheit (20 degrees Celsius). ~~[20 degrees Celsius (68 degrees Fahrenheit).]~~

(2) The owner or operator ~~[No person shall operate or allow the operation]~~ of a heatset offset lithographic printing press shall operate a control device to reduce ~~[unless]~~ VOC emissions from the press dryer exhaust vent by ~~[are reduced]~~ 90% by weight or maintain a maximum dryer exhaust outlet VOC concentration of 20 parts per

million by volume [~~(ppmv) is maintained~~], whichever is less stringent when the press is in operation. The dryer air pressure must be lower than the pressroom air pressure at all times when the press is operating to ensure the dryer has a capture efficiency of 100%.

(b) In the Dallas-Fort Worth and Houston-Galveston-Brazoria areas, the following control requirements apply beginning March 1, 2011.

(1) The owner or operator of a non-heatset web offset lithographic printing press shall limit the VOC content of the as-applied fountain solution to 3.0% alcohol substitutes or less by weight and no alcohol in the fountain solution.

(2) The owner or operator of a heatset web offset lithographic printing press shall limit the VOC content of the as-applied fountain solution to:

(A) 1.6% alcohol or less by weight;

(B) 3.0% alcohol or less by weight if the fountain solution is refrigerated below 60 degrees Fahrenheit (15.5 degrees Celsius); or

(C) 3.0% alcohol substitutes or less by weight and no alcohol in the fountain solution.

(3) The owner or operator of a sheet-fed offset lithographic printing press shall limit the VOC content of the as-applied fountain solution to:

(A) 5.0% alcohol or less by weight;

(B) 8.5% alcohol or less by weight if the fountain solution is refrigerated below 60 degrees Fahrenheit (15.5 degrees Celsius); or

(C) 3.0% alcohol substitutes or less by weight and no alcohol in the fountain solution.

(4) The owner or operator of an offset lithographic printing press shall limit the VOC content of the as-applied cleaning solution to:

(A) 50% VOC or less by volume;

(B) 70.0% VOC or less by volume if incorporating a towel handling program that ensures all waste ink, solvents, and cleanup rags are stored in closed containers until removed from the site by a licensed disposal/cleaning service; or

(C) a VOC composite partial vapor pressure less than or equal to 10.0 millimeters of mercury at 68 degrees Fahrenheit (20 degrees Celsius).

#### *§115.443. Alternate Control Requirements.*

In the Dallas-Fort Worth, [For all affected persons in the Dallas/Fort Worth,] El Paso, and Houston-Galveston-Brazoria [Houston/Galveston] areas, as defined in §115.10 of this title (relating to Definitions), alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this division 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.

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

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

(1) Test Methods 1-4 (40 Code of Federal Regulations (CFR) Part 60, Appendix A) for determining flow rates;

(2) Test Method 24 (40 CFR Part 60, Appendix A) for determining the volatile organic compound content and density of printing inks and related coatings;

(3) Test Method 25 (40 CFR Part 60, Appendix A) for determining total gaseous nonmethane organic emissions as carbon with the modification that [~~To prevent condensation,~~] the probe and filter should be heated to the gas stream temperature, typically closer to 350 degrees Fahrenheit (177 degrees Celsius) to prevent condensation;

(4) Test Methods 25A or 25B (40 CFR Part 60, Appendix A) for determining total gaseous organic concentrations using flame ionization or nondispersive infrared analysis;

(5) the United States 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, effective December 1984); [EPA-450/3-84-019, as in effect December 1984; or]

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

(7) minor modifications to these test methods if approved by the executive director; and

(8) test methods other than those specified in this section if validated by 40 CFR Part 63, Appendix A, Test Method 301 (effective December 29, 1992).

#### *§115.446. Monitoring and Recordkeeping Requirements.*

(a) In the Dallas-Fort Worth, [For the Dallas/Fort Worth,] El Paso, and Houston-Galveston-Brazoria areas, [Houston/Galveston areas] as defined in §115.10 of this title (relating to Definitions), the following monitoring and recordkeeping requirements [shall] apply. Beginning March 1, 2011, this subsection no longer applies in the Dallas-Fort Worth and Houston-Galveston-Brazoria areas.

(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 must [shall] be equipped with a continuous recorder and must [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) the exhaust gas temperature of direct-flame incinerators or [and/or] the gas temperature immediately upstream and downstream of any catalyst bed;

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

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

(3) The dryer pressure must [shall] be maintained lower than the pressroom air pressure such that air flows into the dryer at all times when the offset lithographic printing press is operating. A 100%

emissions capture efficiency for the dryer must [shall] be demonstrated using an air flow direction measuring device.

(4) The owner or operator of any offset lithographic printing press shall monitor fountain solution alcohol concentration with a refractometer or a hydrometer that is corrected for temperature at least once per eight-hour shift or once per batch, whichever is longer. The refractometer or hydrometer must [shall] have a visual, analog, or digital readout with an accuracy of 0.5% VOC. A standard solution must [shall] be used to calibrate the refractometer for the type of alcohol used in the fountain. The VOC content of the fountain solution may be monitored with a conductivity meter if it is determined that a refractometer or hydrometer cannot be used for the type of VOC [VOCs] in the fountain solution. The conductivity meter reading for the fountain solution must [shall] be referenced to the conductivity of the incoming water.

(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(a)(1)(A), (C), or (D) [~~§115.442(1)(A), (C), or (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 must [shall] be attached to a continuous recording device such as a strip chart, recorder, or computer.

(6) For any offset lithographic printing press with automatic cleaning equipment, flow meters are required to monitor water and cleaning solution flow rates. The flow meters must [shall] be calibrated so that the VOC content of the mixed solution complies with the requirements of §115.442(a)(1) [~~§115.442~~] of this title.

(7) The owner or operator of any offset lithographic printing press shall maintain the results of any testing conducted at an affected facility in accordance with the provisions specified in §115.445 of this title (relating to Approved Test Methods).

(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 authorized representatives of the executive director, the United States Environmental Protection Agency, [EPA,] or any local air pollution agency with jurisdiction. [~~having jurisdiction in the area.~~]

(b) In the Dallas-Fort Worth and Houston-Galveston-Brazoria areas, the following monitoring and recordkeeping requirements apply beginning March 1, 2011.

(1) The owner or operator of an offset lithographic printing press claiming an exemption in §115.441 of this title (relating to Exemptions) shall maintain records sufficient to demonstrate continuous compliance with the applicable exemption criteria.

(2) The owner or operator of a heatset web offset lithographic printing press shall comply with the following monitoring and recordkeeping requirements to demonstrate continuous compliance with the control requirements in §115.442(a)(2) of this title.

(A) Operational parameters of any emission control device installed to comply with the requirements in §115.442(a)(2) of this title must be continuously measured and recorded. Monitors must be installed, calibrated, maintained, and operated according to the manufacturer's instructions. Temperature monitors must be equipped with a continuous recorder and have an accuracy of  $\pm 0.5$  degrees Fahrenheit or  $\pm 1.0\%$  of the temperature being monitored. Records must be suffi-

cient to demonstrate proper functioning of the device to design specifications and must include:

(i) the exhaust gas temperature of direct-flame incinerators and/or the gas temperature immediately upstream and downstream of any catalyst bed;

(ii) the total amount of VOC recovered by a carbon adsorption system or other solvent recovery system per calendar month; and

(iii) the exhaust gas VOC concentration of any carbon adsorption system to determine if breakthrough has occurred.

(B) An air flow direction measuring device must be used to demonstrate the dryer meets the 100% capture efficiency required in §115.442(a)(2) of this title.

(3) The owner or operator of an offset lithographic printing press shall use one of the following options to demonstrate compliance with the fountain solution content limits in §115.442(b)(1) - (3) of this title.

(A) The VOC concentration of each batch of fountain solution must be monitored using a refractometer or a hydrometer that is corrected for temperature. The refractometer or hydrometer must have a visual, analog, or digital readout with an accuracy of 0.5% VOC. A standard solution must be used to calibrate the refractometer for the type of alcohol used in the fountain solution. The VOC content of the fountain solution may be monitored with a conductivity meter if it is determined that a refractometer or hydrometer cannot be used for the type of VOC in the fountain solution. The conductivity meter reading for the fountain solution must be referenced to the conductivity of the incoming water. Records must be sufficient to demonstrate continuous compliance with the fountain solution content limits in §115.442(b)(1) - (3) of this title.

(B) The VOC concentration of each batch fountain solution must be determined using analytical data from the material safety data sheet (MSDS) or equivalent information from the supplier that was derived using the approved test methods in §115.445 of this title. The concentration of all alcohols or alcohol substitutes used to prepare the batch and, if diluted prior to use, the proportions that each of these materials is used must be recorded for each batch of fountain solution. Records must be sufficient to demonstrate continuous compliance with the fountain solution content limits in §115.442(b)(1) - (3) of this title.

(4) The owner or operator of an offset lithographic printing press using refrigeration equipment on the fountain solution reservoir shall monitor and record the fountain solution temperature at least once per hour. Temperature monitoring devices must be installed, maintained, and operated according to the manufacturer's specifications. Records must be sufficient to demonstrate continuous compliance with the fountain solution content limits in §115.442(b)(2) - (3) of this title.

(5) The owner or operator of an offset lithographic printing press shall use one of the following options to demonstrate compliance with the cleaning solution content limits in §115.442(b)(4) of this title.

(A) Flow meters must be used to monitor the water and cleaning solution flow rates on a press with automatic cleaning equipment. The flow meters must be installed, maintained, and operated according to the manufacturer's instructions. The flow meters must be calibrated so that the VOC concentration of the cleaning solution complies with the requirements of §115.442(b)(4) of this title. Records must be sufficient to demonstrate continuous compliance with the cleaning solution content limits in §115.442(b)(4) of this title.

(B) The VOC concentration of each batch of cleaning solution must be determined using analytical data derived from the

MSDS or equivalent information from the supplier that was derived using the approved test methods in §115.445 of this title. The concentration of all VOC used to prepare the batch and, if diluted prior to use, the proportions that each of these materials is used must be recorded for each batch of cleaning solution. Records must be sufficient to demonstrate continuous compliance with the cleaning solution content limits in §115.442(b)(4) of this title.

(6) The owner or operator of an offset lithographic printing press shall maintain the results of any tests conducted using the approved test methods in §115.445 of this title.

(7) The owner or operator of an offset lithographic printing press shall maintain all records for at least two years and make such records available upon request to authorized representatives of the executive director, the United States Environmental Protection Agency, or any local air pollution agency with jurisdiction.

§115.449. *Compliance Schedules [Counties and Compliance Schedules].*

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

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

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

~~(c) [(d)] In Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties, all offset lithographic printing presses on a property that, when uncontrolled, emit a combined weight of VOC equal to or greater than 25 tons per calendar year, must be in compliance with §§115.442(a), [115.442,] 115.443, 115.445, and 115.446(a) [115.446] of this title as soon as practicable, but no later than December 31, 2002.~~

~~(e) In Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties, all offset lithographic printing presses on a property that, when uncontrolled, emit a combined weight of VOC less than 25 tons per calendar year, must be in compliance with §§115.442, 115.443, 115.445, and 115.446 of this title as soon as practicable, but no later than one year, after the commission publishes notification in the Texas Register of its determination that this contingency rule is necessary as a result of failure to attain the NAAQS for ozone by the attainment deadline or failure to demonstrate reasonable further progress as set forth in the FCAA, §172(e)(9).]~~

(d) [(f)] In Ellis, Johnson, Kaufman, Parker, and Rockwall Counties, the owner or operator of all offset lithographic printing

presses on a property that, when uncontrolled, emit a combined weight of VOC equal to or greater than 50 tons per calendar year, shall comply with §§115.442(a), [115.442,] 115.443, 115.445, and 115.446(a) [115.446] of this title as soon as practicable, but no later than March 1, 2009.

(e) The owner or operator of an offset lithographic printing line in the Dallas-Fort Worth or Houston-Galveston-Brazoria areas, as defined in §115.10 of this title (relating to Definitions), shall comply with the requirements in this division no later than March 1, 2011, except as specified in subsections (b), (c), and (d) of this section.

(f) The owner or operator of an offset lithographic printing line in the Dallas-Fort Worth or Houston-Galveston-Brazoria areas that becomes subject to this division on or after March 1, 2011, shall comply with the requirements in this division no later than 60 days after becoming subject.

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 September 25, 2009.

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Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

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For further information, please call: (512) 239-2548



## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### PART 1. GENERAL LAND OFFICE

#### CHAPTER 15. COASTAL AREA PLANNING

##### SUBCHAPTER B. COASTAL EROSION PLANNING AND RESPONSE

###### 31 TAC §15.42

The Texas General Land Office (Land Office) proposes to amend 31 TAC Chapter 15, relating to Coastal Area Planning, §15.42, relating to Funding Projects From the Coastal Erosion Response Account.

###### BACKGROUND

The amendments are proposed pursuant to the Coastal Erosion Planning and Response Act (CEPRA), Texas Natural Resources Code, Chapter 33, Subchapter H, §§33.601 - 33.612. The CEPRA requires the Land Office to implement a program of coastal erosion avoidance, remediation, and planning. House Bill (H.B.) 2387, 81st Legislature, Regular Session amended §33.603(b), Texas Natural Resources Code, to add new §33.603(b)(12) to allow the use of CEPRA funds for buyouts of property on a public beach. Section 33.603(b)(13), Texas Natural Resources Code was also added to allow the use of CEPRA funds for reimbursement of the cost of acquisition of property necessary for the construction, reconstruction, maintenance, widening, or extension of an erosion response project. House Bill 2387 also amended §33.603(h), Texas Natural Resources Code, to allow the Commissioner of the GLO to determine the

Figure: 30 TAC §101.399(i)(4)

$$A = \frac{1}{11.57} \sum (R_i \times E_i)$$

Where:

A = yearly allocation of highly-reactive volatile organic compound allowances.

$R_i$  = the reactivity of each speciated volatile organic compound reduced as specified in California Code of Regulations, Title 17, Chapter 1, §94700, concerning MIR Values for Compounds, as amended.

$E_i$  = the actual emissions reduced, in tons per year, of each speciated volatile organic compound.

Figure: 30 TAC §115.440(b)(10)

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

Where:

$PP_C$  = the VOC composite partial pressure of a solution at 20 degrees Celsius, millimeters of mercury (mm Hg);

$W_i$  = the weight of VOC i, grams (g);

$MW_i$  = the molecular weight of VOC i, g/g-mole;

$VP_i$  = the vapor pressure of VOC i at 20 degrees Celsius, mm Hg;

$W_w$  = the weight of water, g;

$MW_w$  = the molecular weight of water, g/g-mole;

$W_e$  = the weight of non-water exempt compound e, g; and

$MW_e$  = the molecular weight of non-water exempt compound e, g/g-mole.