The Texas Natural Resource Conservation Commission (TNRCC or commission) proposes amendments to §§115.161, 115.162, 115.164-115.167, and 115.169, concerning Batch Processes; §§115.122, 115.125-115.127, and 115.129, concerning Vent Gas Control; and §115.449, concerning Offset Lithographic Printing. The commission proposes these revisions to Chapter 115, concerning Control of Air Pollution from Volatile Organic Compounds, and to the state implementation plan (SIP) in order to conform with the United States Environmental Protection Agency's (EPA) reasonably available control technology (RACT) requirements in the Houston/Galveston (HGA) ozone nonattainment area and to obtain volatile organic compound (VOC) emission reductions which will result in reductions in ozone formation in HGA. In an effort to improve implementation of the existing Chapter 115, the commission also proposes amendments to §115.10, concerning Definitions; and §§115.211, 115.212, and 115.216, concerning Loading and Unloading of Volatile Organic Compounds; new §115.120, concerning Vent Gas Definitions; §115.240, concerning Stage II Vapor Recovery Definitions; and §115.430, concerning Flexographic and Rotogravure Printing Definitions; and revisions to the SIP.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

The HGA ozone nonattainment area is classified as Severe-17 under the 1990 Amendments to the Federal Clean Air Act (FCAA), and therefore is required to attain the one-hour ozone standard of 0.12 parts per million (ppm) by November 15, 2007. The HGA area, defined by Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties, has been working to develop a demonstration of attainment in accordance with the FCAA. On January 4, 1995, the state submitted the first of its Post-1996 SIP revisions for HGA.

The January 1995 SIP consisted of urban airshed model (UAM) modeling for 1988 and 1990 base case episodes, adopted rules to achieve a 9% rate-of-progress (ROP) reduction in VOC, and a commitment schedule for the remaining ROP and attainment demonstration elements. At the same time, but in a separate action, the State of Texas filed for the temporary nitrogen oxide (NO_x) waiver allowed by the FCAA (42 United States Code (USC)), §7511a(f). The January 1995 SIP and the NO_x waiver were based on early base case episodes which marginally exhibited model performance in accordance with EPA modeling performance standards, but which had a limited data set as inputs to the model. In 1993 and 1994, the commission was engaged in an intensive data-gathering exercise known as the Coastal Oxidant Assessment for Southeast Texas (COAST) study. The commission believed that the enhanced emissions inventory, expanded ambient air quality and meteorological monitoring, and other elements would provide a more robust data set for modeling and other analysis, which would lead to modeling results that the commission could use to better understand the nature of the ozone air quality problem in the HGA area. This modeling has been ongoing since that time.

Around the same time as the 1995 submittal, EPA policy regarding SIP elements and timelines went through changes. Two national programs in particular resulted in changing deadlines and requirements. The first of these programs was the Ozone Transport Assessment Group. This group grew out of a March 2, 1995 memo from Mary Nichols, former EPA Assistant Administrator for Air and Radiation, that allowed states to postpone completion of their attainment demonstrations until an assessment of the role of transported ozone and precursors had been completed for the eastern half of the nation, including the eastern portion of Texas. Texas participated in this study, and it has been concluded that Texas does not significantly contribute to ozone exceedances in the Northeastern United States. The

other major national initiative that has impacted the SIP planning process is the revision to the national ambient air quality standard (NAAQS) for ozone. The EPA promulgated a final rule on July 18, 1997 changing the ozone standard to an eight-hour standard of 0.08 ppm. In November 1996, concurrent with the proposal of the standards, the EPA proposed an interim implementation plan (IIP) that it believed would help areas like HGA transition from the old to the new standard. In an attempt to avoid a significant delay in planning activities, Texas began to follow this guidance, and readjusted its modeling and SIP development timelines accordingly. When the new standard was published, the EPA decided not to publish the IIP, and instead stated that, for areas currently exceeding the one-hour ozone standard, that standard would continue to apply until it is attained. The FCAA requires that HGA attain the one-hour standard by November 15, 2007.

The EPA issued revised draft guidance for areas such as HGA that do not attain the one-hour ozone standard. The commission adopted on May 6, 1998 and submitted to the EPA on May 19, 1998 a revision to the HGA SIP which contained the following elements in response to the EPA's guidance: UAM modeling based on emissions projected from a 1993 baseline out to the 2007 attainment date; an estimate of the level of VOC and NO_x reductions necessary to achieve the one-hour ozone standard by 2007; a list of control strategies that the state could implement to attain the one-hour ozone standard; a schedule for completing the other required elements of the attainment demonstration; a revision to the Post-1996 9% ROP SIP that remedied a deficiency that the EPA believed made the previous version of that SIP unapprovable; and evidence that all measures and regulations required by Subpart 2 of Title I of the FCAA to control ozone and its precursors have been adopted and implemented, or are on an expeditious schedule to be adopted and implemented.

In November 1998, the SIP revision submitted to the EPA in May 1998 became complete by operation of law. However, the EPA stated that it could not approve the SIP until specific control strategies were modeled in the attainment demonstration. The EPA specified a submittal date of November 15, 1999 for this modeling. In a letter to the EPA dated January 5, 1999, the state committed to model two strategies showing attainment.

As the HGA modeling protocol evolved, the commission eventually selected and modeled seven basic modeling scenarios. As part of this process, a group of HGA stakeholders worked closely with commission staff to identify local control strategies for the modeling. Some of the scenarios for which the stakeholders requested evaluation include options such as California-type fuel and vehicle programs as well as an acceleration simulation mode equivalent motor vehicle inspection and maintenance program. Other scenarios incorporate the estimated reductions in emissions that are expected to be achieved throughout the modeling domain as a result of the implementation of several voluntary and mandatory statewide programs adopted or planned independently of this SIP. It should be made clear that the commission did not propose that any of these strategies be included in the ultimate control strategy submitted to the EPA in 2000. Decisions regarding the actual control strategy to be submitted to the EPA will be the next step in an iterative process of evaluating potential control strategies, an effort which will continue through 2000. The need for and effectiveness of any controls which may be implemented outside the HGA eight-county area will be evaluated on a county-by-county basis.

The SIP revision was adopted by the commission on October 27, 1999, submitted to the EPA by November 15, 1999, and contained the following elements: photochemical modeling of potential

specific control strategies for attainment of the one-hour ozone standard in the HGA area by the attainment date of November 15, 2007; an analysis of seven specific modeling scenarios reflecting various combinations of federal, state, and local controls in HGA (additional scenarios H1 and H2 build upon Scenario VIf); identification of the level of reductions of VOC and NO_x necessary to attain the one-hour ozone standard by 2007; a 2007 mobile source budget for transportation conformity; identification of specific source categories which, if controlled, could result in sufficient VOC and/or NO_x reductions to attain the standard; a schedule committing to submit by April 2000 an enforceable commitment to conduct a mid-course review; and a schedule committing to submit modeling and adopted rules in support of the attainment demonstration by December 2000.

The HGA Attainment Demonstration SIP revision which was adopted April 19, 2000, contained the following enforceable commitments by the state: to quantify the shortfall of NO_x reductions needed for attainment; to list and quantify potential control measures to meet the shortfall of NO_x reductions needed for attainment; to adopt the majority of the necessary rules for the HGA attainment demonstration by December 31, 2000, and to adopt the rest of the shortfall rules as expeditiously as practical, but no later than July 31, 2001; to submit a Post-1999 ROP plan by December 31, 2000; to perform a mid-course review by May 1, 2004; and to perform modeling of mobile source emissions using the EPA mobile source emissions model (MOBILE6), to revise the on-road mobile source budget as needed, and to submit the revised budget within 24 months of the model's release. In addition, if a conformity analysis is to be performed between 12 months and 24 months after the MOBILE6 release, the state will revise the motor vehicle emissions budget (MVEB) so that the conformity analysis and the SIP MVEB are calculated on the same basis.

The Houston nonattainment area will need to ultimately reduce NO_x more than 750 tons per day (tpd) to reach attainment with the one-hour standard. In addition, a VOC reduction of about 25% will have to be achieved. Adoption of VOC RACT rules can contribute to attainment and maintenance of the one-hour ozone standard in the HGA area. The VOC RACT rules also may contribute to a successful demonstration of transportation conformity in the HGA area.

Under 42 USC, §7511b of the 1990 Amendments to the FCAA, the EPA is required to issue Control Techniques Guideline (CTG) guidance documents for the purpose of assisting states in developing RACT controls for sources of VOC emissions. In turn, each state is required to submit a revision to its SIP which implements RACT regulations for VOC sources in moderate or above ozone nonattainment areas. Specifically, FCAA, 42 USC, §7511a(b)(2)(A), requires states to submit RACT regulations for VOC sources that are covered by a CTG issued after November 15, 1990 (the enactment date of the 1990 FCAA), but prior to the time of attainment. Similarly, FCAA, 42 USC, §7511a(b)(2)(C), requires that RACT be applied to major VOC sources located in moderate or above ozone nonattainment areas which are not the subject of a CTG; such sources are known as "non-CTG" sources. Limits in state rules must be at least as stringent as the CTG limits or otherwise must be determined to meet RACT.

Each CTG contains a “presumptive norm” for RACT for a specific source category, based on the EPA's evaluation of the capabilities and problems general to that category. Where applicable, the EPA recommends that states adopt requirements consistent with the presumptive norm. However, the presumptive norm is only a recommendation. States may choose to develop their own RACT

requirements on a case-by-case basis, considering the emission reductions needed to obtain achievement of the NAAQS and the economic and technical circumstances of the individual source.

Source categories for which the EPA was to issue CTGs under FCAA, 42 USC, §7511a(b)(2)(A), include batch processes and offset lithographic printing. Instead of issuing CTGs for these source categories, the EPA issued guidance documents known as Alternative Control Techniques (ACT) documents. An ACT does not establish the presumptive norm for RACT but merely contains information on emissions, controls, control options, and costs. The EPA itself has consistently noted in the ACT documents that each ACT "…presents options only, and does not contain a recommendation on RACT." Although the EPA has not issued the required CTGs for batch processes and offset lithographic printing, 42 USC, §7511a(b)(2)(C) of the 1990 FCAA Amendments still requires states to ensure that RACT is in place for all major VOC sources in moderate and above ozone nonattainment areas.

Historically, the commission's position has been that the existing general vent gas rule in Chapter 115, Subchapter B: Division 2 is adequate to ensure RACT for batch processes; however, this is difficult to demonstrate because the necessary information for such a demonstration is not in the emissions inventory (EI). Staff attempted to develop a demonstration of equivalency between the existing general vent gas rule and the batch processes ACT using the EPA's 5% rule. The EPA's "5% rule" provides a mechanism for states to justify exemptions or cutpoints which are more lenient than the EPA's RACT baseline. It is applied by determining the total emissions allowed by the EPA's RACT baseline (including exemptions) and comparing this to the emissions allowed (including exemptions) by a state

regulation. If the difference is less than 5.0%, the EPA considers that there is no substantive difference between the EPA and state requirements. The staff was unable to assemble the information necessary to demonstrate to the EPA's satisfaction that existing rules represent RACT for batch processes in HGA. Consequently, it is necessary to adopt and implement Chapter 115 rules for batch processes in HGA.

Bakeries are a non-CTG source category. The EPA published an ACT guidance document detailing appropriate control technology for bakeries. Based on this document, as well as on input from the bakery industry, the commission developed the applicable portion of the Chapter 115 vent gas rule pertaining to bakeries.

The EPA has stated that this rule is deficient in implementing RACT for bakeries and therefore is unapprovable. The EPA has made it clear that failure to correct the deficiencies will result in undesirable consequences for the affected ozone nonattainment areas, as specified in the FCAA. The commission adopted revisions on February 24, 1999 which address deficiencies in the bakery rule as it applies in the Dallas/Fort Worth (DFW) ozone nonattainment area. (See the March 12, 1999 issue of the *Texas Register* (24 TexReg 1777)). However, there are still deficiencies in the bakery rule as it applies in HGA which must be corrected for the HGA Attainment Demonstration SIP to be approvable. Specifically, the EPA has specified that RACT for bakery ovens is 80-90% control efficiency, while the commission rule as negotiated in 1994 requires only a 30% emission reduction.

The Chapter 115 offset lithographic printing rule (§§115.440, 115.442, 115.443, 115.445, 115.446, and 115.449) is currently a contingency rule for HGA. Because HGA is a severe ozone nonattainment area, a source in HGA is major if it has the potential to emit 25 tons per year (tpy) or more of VOC emissions. FCAA, 42 USC, §7511a(b)(2), requires that RACT be applied to major sources, and consequently it is necessary to implement this rule in HGA for sources with VOC emissions equal to or greater than 25 tpy. The rule will remain a contingency rule for offset lithographic printers in HGA with VOC emissions below 25 tpy. The offset lithographic printers in HGA with VOC emissions below 25 tpy must still comply with the general vent gas rules in Chapter 115.

SECTION BY SECTION DISCUSSION

The proposed amendments to §115.10, concerning Definitions, delete the definitions of bakery oven, synthetic organic chemical manufacturing industry batch distillation operation, synthetic organic chemical manufacturing industry batch process, synthetic organic chemical manufacturing industry distillation operation, synthetic organic chemical manufacturing industry distillation unit, and synthetic organic chemical manufacturing industry reactor process. These terms are used solely within the Chapter 115 vent gas rules (§§115.121-115.123, 115.125-115.127, and 115.129) and are proposed to be relocated to a new §115.120, concerning Vent Gas Definitions.

The proposed amendments to §115.10 also delete the definitions of independent small business marketer of gasoline, and owner or operator of a motor vehicle fuel dispensing facility. These terms are used solely within the Chapter 115 Stage II vapor recovery rules (§§115.241-115.249) and are proposed to be relocated to a new §115.240, concerning Stage II Vapor Recovery Definitions.

In addition, the proposed amendments to §115.10 delete the definitions of flexographic printing process, packaging rotogravure printing, publication rotogravure printing, and rotogravure printing. These terms are used solely within the Chapter 115 flexographic and rotogravure printing rules (§§115.432, 115.433, 115.435-115.437, and 115.439) and are proposed to be relocated to a new §115.430, concerning Flexographic and Rotogravure Printing Definitions.

The proposed amendments to §115.10 also delete the definitions of flare and vapor combustor. The definitions of these terms in §115.10 have been superceded by the corresponding definitions of these terms in 30 TAC §101.1, concerning Definitions. (See the December 17, 1999 issue of the *Texas Register* (24 TexReg 11494)). The commission added the definitions of flare and vapor combustor to §115.10 on June 30, 1999 as placeholders until definitions of these terms could be added to §101.1. (See the July 16, 1999 issue of the *Texas Register* (24 TexReg 5488)).

In addition, the proposed amendments to §115.10 delete the definition of vapor recovery system and combine it with the definition of vapor control system. The existing definitions of vapor recovery system and vapor control system are identical, and the commission is in the process of a transition in the Chapter 115 rules to the term "vapor control system" from the misleading term "vapor recovery system," which is defined to include both recovery and combustion control devices. Combining both terms under the definition of vapor control system will facilitate this transition.

The proposed amendments to §115.10 also revise the definitions of external floating roof and internal floating cover to more clearly specify that an external floating roof storage tank which is equipped with

a self-supporting fixed roof (typically a bolted aluminum geodesic dome) is considered to be an internal floating roof storage tank for the purposes of Chapter 115 only.

In addition, the proposed amendments to §115.10 add a definition of liquefied petroleum gas in order to clarify the exemptions in §115.217(a)(3) and (b)(4) for loading and unloading of liquefied petroleum gas. Before the commission adopted revisions on June 30, 1999 (effective date: July 21, 1999), the previous versions of these exemptions referred to the safety rules of the Liquefied Petroleum Gas Division of the Texas Railroad Commission (RRC), which regulates many aspects of the handling and transport of liquefied petroleum gas. Because these exemptions historically referred to the RRC rules, it follows logically that the term “liquified petroleum gas” was intended to have the same meaning as defined in those RRC rules (specifically, 16 TAC §9.2(32), effective March 2, 1998). The National Fire Protection Association, which develops and publishes fire codes and safety standards, has a definition of liquefied petroleum gas in *Standard 58 - Standard for the Storage and Handling of Liquefied Petroleum Gases* which is functionally identical to the RRC’s definition. Furthermore, Section 3-1 of the *Petroleum Products Handbook*, First Edition (Virgil B. Guthrie, editor), states that this is the most commonly used definition of liquefied petroleum gas. Therefore, the proposed definition of liquefied petroleum gas is consistent with other Texas state rules and industrial reference materials.

The proposed amendments to §115.10 also revise the definition of polymer and resin manufacturing process by replacing the "and" with "or" to make it clear that a manufacturing process only has to manufacture a listed polymer or a listed resin, but not both, in order to meet the definition. This

proposed amendment will make the definition consistent with the usage of this definition in the fugitive monitoring rules for ozone nonattainment areas (§§115.352-115.357 and 115.359).

In addition, the proposed amendments to §115.10 revise the definition of synthetic organic chemical manufacturing process by replacing the reference to Table I (Synthetic Organic Chemicals) with a reference to 40 Code of Federal Regulations (CFR) 60.489 (effective October 18, 1983). Concurrently, Table I is being deleted. The list of affected chemicals is unchanged because Table I was derived from the corresponding table in 40 CFR 60.489.

Finally, the proposed amendments to §115.10 revise the definition of transport vessel to delete the ambiguous term "primarily." The revision will clearly specify that a transport vessel includes any land-based mode of transportation (truck or rail) of oil, gasoline, or other volatile organic liquid bulk cargo in a storage tank which has a capacity greater than 1,000 gallons. This has always been the interpretation of the term "transport vessel," so this revision simply makes that interpretation more clear.

The proposed new §115.120, concerning Vent Gas Definitions, adds definitions of bakery oven, synthetic organic chemical manufacturing industry batch distillation operation, synthetic organic chemical manufacturing industry batch process, synthetic organic chemical manufacturing industry distillation operation, synthetic organic chemical manufacturing industry distillation unit, and synthetic organic chemical manufacturing industry reactor process. These definitions are proposed to be

relocated from the §115.10, concerning Definitions, because they are used solely within the Chapter 115 vent gas rules (§§115.121-115.123, 115.125-115.127, and 115.129).

The proposed amendments to §115.122, concerning Control Requirements, change the 30% emission reduction requirement from the 1990 baseline emissions inventory for major source bakeries in HGA to an 80% emission reduction requirement from the uncontrolled VOC emission rate of the oven(s) and establish a December 31, 2001 compliance date. The proposed amendments to §115.122 also change the baseline for major source bakeries in the DFW ozone nonattainment area from the 1990 baseline emissions inventory to the uncontrolled VOC emission rate of the oven(s). In addition, the proposed amendments to §115.122 update rule cross-references; update references from "standard exemption" to "permit by rule;" and change references from “vapor recovery system” to “vapor control system” for clarification.

The proposed amendments to §115.125, concerning Testing Requirements, extend the existing test methods to Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis Counties; consolidate the existing §115.125(a) and (b) into a single subsection; and reorganize the section by grouping related test methods together. Because it is not reasonably possible to measure the mass emission rate from an elevated flare (an elevated flare's flame is open to the atmosphere, such that the emissions cannot be routed through a stack), the test methods for flow rate and VOC concentration in the existing §115.125(a)(3)-(6) and (b)(3)-(6), which are proposed to be renumbered as §115.125(1) and (2), do not apply to flares. In order to specify performance requirements for flares, the proposed revisions to new §115.125(3) establish the test requirements of 40 CFR 60.18(b) for flares in the Beaumont/Port Arthur

(BPA), DFW, and HGA ozone nonattainment areas. Because flares cannot be stack-tested, the proposed amendments to §115.125(3) also specify that compliance with the requirements of 40 CFR 60.18(b) represents compliance with the emission specifications of §115.121 and the control efficiency requirements of §115.122. In addition, the proposed amendments to §115.125 include an option that the owner or operator of a vapor combustor may consider it to be a flare and meet the flare requirements specified in 40 CFR 60.18(b) instead of the test methods and procedures appropriate for a thermal or catalytic oxidizer. The proposed amendments to §115.125 also add a new paragraph (5), which authorizes the use of test methods other than those specifically listed in §115.125, provided that any new test method is validated using the procedures in 40 CFR 63, Appendix A, Test Method 301, with the executive director acting as the administrator. This revision is necessary because in some specific unique situations, the listed test methods may be inappropriate. The new paragraph (5) increases flexibility by allowing the use of additional test methods which may be more cost-effective and more appropriate in certain unique situations.

The proposed amendments to §115.126, concerning Monitoring and Recordkeeping Requirements, extend the existing test methods to Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis Counties; consolidate the existing §115.126(a) and (b) into a single subsection; update references to other sections; and replace "true partial pressure" with the more understandable term "concentration." The proposed amendments to §115.126 also change the 30% emission reduction requirement from the 1990 baseline emissions inventory for major source bakeries in HGA to an 80% emission reduction requirement from the uncontrolled VOC emission rate of the oven(s), establish a December 31, 2001 compliance date, and require submittal of a control plan by March 31, 2001 which shows how the

owner or operator will meet the emission reduction requirements. In addition, the proposed amendments to §115.126 change the baseline for major source bakeries in DFW from the 1990 emissions inventory to the uncontrolled VOC emission rate of the oven(s), and delete the annual reporting requirements for major source bakeries in DFW and HGA. Because the major source bakeries in DFW and HGA have installed (or are in the process of installing) catalytic oxidizers which can readily meet the control requirements and the monitoring and recordkeeping requirements will ensure that these control devices are functioning properly, there is no need for these bakeries to submit an annual report.

Finally, the proposed amendments to §115.126 also specify that flares in BPA, DFW, and HGA must meet the requirements of 40 CFR 60.18(b) and Chapter 111; and state that records of appropriate operating parameters must be kept for types of vapor control systems not specifically listed in §115.126(1)(A) and (B). The proposed §115.126(1)(A)(iv) and (1)(B) specify exhaust gas temperature monitoring of vapor combustors, with an option that the owner or operator of a vapor combustor may consider it to be a flare and monitor the unit under the flare requirements specified in 40 CFR 60.18(b) and 30 TAC Chapter 111. These amendments are necessary to ensure that control devices are functioning properly and to clarify how vapor combustors are to be monitored. Based upon information from the Air Permits Division, most existing flares meet the design and operating criteria of 40 CFR 60.18(b). The commission solicits information regarding vents in BPA, DFW, and HGA which are controlled by flares that do not meet the requirements of 40 CFR 60.18(b).

Sources which are addressed by a Chapter 115 contingency rule (i.e., one in which Chapter 115 requirements are triggered for that source by the commission publishing notification in the *Texas Register* that implementation of the contingency rule is necessary) are subject to the requirements of Division 2, concerning Vent Gas Control, until the compliance date of that contingency rule. The purpose is to ensure that a Chapter 115 rule (either the general vent gas rule or the more specific contingency rule, but not both) applies at all times to sources addressed by a contingency rule. The proposed amendments to §115.127(a) add a new paragraph (8) which specifies that for a source that is addressed by a Chapter 115 contingency rule, the owner or operator of that source may choose to comply with the requirements of the contingency rule as though the contingency rule already had been implemented for that source, rather than complying with Division 2. In the case of bakeries, this option would be an alternative to complying with the general vent gas control requirements of §115.121(a)(1) and §115.122(a)(1) because these currently applicable requirements are in the same division (Division 2, concerning Vent Gas Control), as the bakery contingency measure requirements.

For example, under §115.449(c) the offset printing rules of §§115.442-115.446 are a contingency rule for each printing operation in DFW for which all offset lithographic printing presses on a property, when uncontrolled, emit a combined weight of VOC less than 50 tons per calendar year. Such sources are currently subject to the requirements of Division 2, concerning Vent Gas Control. Under the proposed new §115.127(a)(8), the owner or operator of such a printing operation instead would have the option of complying with the offset printing rules of §§115.442-115.446 as though that offset printing contingency rule had been implemented in DFW and the compliance date had already passed.

In addition, the proposed amendments to §115.127 delete the concentration thresholds in true partial pressure and retain the more understandable concentration thresholds in parts per million by volume.

The proposed amendments to §115.129, concerning Counties and Compliance Schedules, specify the compliance schedule for the new requirements described earlier in this preamble; delete language which is obsolete due to the passing of the May 31, 1996 and November 15, 1996 compliance dates; and update references to other sections.

The proposed rule amendments add the Chapter 115 batch process requirements (§§115.160-115.167 and 115.169) to the eight-county HGA ozone nonattainment area. The rule language is based upon the EPA's *Control of Volatile Organic Compound Emissions from Batch Processes - Alternative Control Techniques Information Document* (EPA-453/R-94-020, February 1994).

The proposed amendments to §115.161, concerning Applicability, specify that the batch process requirements of §§115.162-115.167 apply to vent gas streams at batch process operations in the HGA area under the Standard Industrial Classification (SIC) codes 2821 (plastic resins and materials), 2833 (medicinals and botanicals), 2834 (pharmaceutical preparations), 2861 (gum and wood chemicals), 2865 (cyclic crudes and intermediates), 2869 (industrial organic chemicals, not elsewhere classified), and 2879 (agricultural chemicals, not elsewhere classified).

The proposed amendments to §115.161 also specify that the existing requirements of Subchapter B, Division 2, concerning Vent Gas Control, will continue to apply to batch process operations in HGA

which are exempt from §§115.162-115.166 because they are located at an account which has total VOC emissions (determined before control but after the last recovery device) of less than 25 tpy from all stationary emission sources at the account.

The proposed amendments to §115.162, concerning Control Requirements, make batch process operations in HGA subject to: the applicable RACT equations for low, moderate, and high volatility materials; a successive ranking scheme which determines which sources must be controlled and which are exempt; and the EPA's "once-in, always-in" (OIAI) requirement. OIAI is an EPA concept which means that once emissions from a source exceed the applicability cutoff for a particular VOC regulation in the SIP, that source is always subject to the control requirements of the regulation.

Although no amendments are proposed to §115.163, concerning Alternate Control Requirements, an alternate means of control will be available under this section for batch process operations in HGA.

The proposed amendments to §115.164, concerning Determination of Emissions and Flow Rates, make batch process operations in HGA subject to the procedures for determining the uncontrolled annual emission total and the average flow rate for process vents.

The proposed amendments to §115.165, concerning Approved Test Methods and Testing Requirements, make batch process operations in HGA subject to specified test methods and testing requirements for determining compliance with the control requirements. Minor modifications to the test methods may be used if approved by the executive director.

Because it is not reasonably possible to measure the mass emission rate from an elevated flare (an elevated flare's flame is open to the atmosphere, such that the emissions cannot be routed through a stack), the test methods for flow rate and VOC concentration do not apply to flares. In order to specify performance requirements for flares, §115.165 includes the test requirements of 40 CFR 60.18(b). Because flares cannot be stack-tested, the §115.165 also specifies that compliance with the requirements of 40 CFR 60.18(b) represents a 98% control efficiency. Based upon information from the Air Permits Division, most existing flares meet the design and operating criteria of 40 CFR 60.18(b). The commission solicits information regarding flares which are used to control emissions from batch process operations in HGA, but do not meet the requirements of 40 CFR 60.18(b).

Section 115.165 also includes authorization for the use of test methods other than those specifically listed in §115.165, provided that any new test method is validated using the procedures in 40 CFR 63, Appendix A, Test Method 301, with the executive director acting as the administrator. This option is included in §115.165 because in some specific unique situations the listed test methods may be inappropriate. The availability of this option increases flexibility by allowing the use of additional test methods which may be more cost-effective and more appropriate in certain unique situations.

The proposed amendments to §115.166, concerning Recordkeeping Requirements, make batch process operations in HGA subject to requirements for: continuous monitoring and recording of control device operating parameters; recordkeeping of the annual mass emission total, average flow rate, and associated documentation for each process vent; and the control device operating parameters to be measured and recorded during performance testing. The proposed amendments also change an

incorrect reference in §115.166(1) from "VOC transfer operations" to "batch process operations." As a result of this correction, the term "VOC" is being spelled out in §115.166(1)(A)(iii)(II).

The proposed amendments to §115.167, concerning Exemptions, make the following exemptions available in HGA: batch process operations which are located at an account in HGA which has total VOC emissions (determined before control but after the last recovery device) of less than 25 tpy; single unit operations that have a mass annual emissions of 500 pounds per year or less; and combined vents from a batch process train which have a mass annual emissions total below specified levels which vary depending on the volatility of the VOCs. In addition, the proposed amendments revise the existing exemption in §115.167(2) to clarify that §115.164, concerning Determination of Emissions and Flow Rates, is to be used for determining if the exemptions available under §115.167(2) are met. The proposed amendments to §115.167 also specify that the existing requirements of Subchapter B, Division 2, concerning Vent Gas Control, will continue to apply to batch process operations which qualify for exemption because they are located at an account in HGA which has total VOC emissions (determined before control but after the last recovery device) of less than 25 tpy.

The proposed amendments to §115.169, concerning Counties and Compliance Schedules, specify the newly affected counties in HGA (Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller) and a December 31, 2002 compliance date for the new requirements. The proposed amendments to §115.169 also specify that batch process operations which are subject to the requirements of §§115.162-115.166 must continue to comply with the existing requirements of

Subchapter B, Division 2, concerning Vent Gas Control, until these batch process operations are in compliance with the new requirements.

The proposed amendments to §115.211, concerning Emission Specifications, delete a reference to gasoline bulk plants which is no longer necessary due to the deletion of the gasoline bulk plant emission specification adopted by the commission on November 10, 1999. (See the November 26, 1999 issue of the *Texas Register* (24 TexReg 10559)).

The proposed amendments to §115.212, concerning Control Requirements, revise §115.212(a)(3) and (b)(3) to state that the requirements regarding vapor and liquid leaks during land-based VOC transfer apply specifically to transport vessels. This revision is necessary in order to clarify that the requirements are not intended to apply to vessels which do not meet the definition of "transport vessel" in §115.10 (for example, drums).

The proposed amendments to §115.216, concerning Monitoring and Recordkeeping Requirements, revise §115.216(3)(A)(i) to only require records of the identification number of tank-truck tanks for which annual leak testing is required under §115.214(a)(1)(C) or (b)(1)(C), rather than all tank-truck tanks as is currently required. This amendment is being proposed because it is unnecessary to track the identification number of tank-truck tanks which are excluded from the annual leak testing requirements.

The proposed new §115.240, concerning Stage II Vapor Recovery Definitions, adds definitions of independent small business marketer of gasoline, and owner or operator of a motor vehicle fuel

dispensing facility. These definitions are proposed to be relocated from the §115.10, concerning Definitions, because they are used solely within the Chapter 115 Stage II vapor recovery rules (§§115.241 - 115.249).

The proposed new §115.430, concerning Flexographic and Rotogravure Printing Definitions, adds definitions of flexographic printing process, packaging rotogravure printing, publication rotogravure printing, and rotogravure printing. These definitions are proposed to be relocated from the §115.10, concerning Definitions, because they are used solely within the Chapter 115 flexographic and rotogravure printing rules (§§115.432, 115.433, 115.435 - 115.437, and 115.439). In addition, the commission proposes to change the title of Subchapter E, Division 3 from "Graphic Arts (Printing) by Rotogravure and Flexographic Processes" to "Flexographic and Rotogravure Printing" in order to more clearly specify the operations addressed by to this division.

HGA is classified as a severe ozone nonattainment area and the major source definition includes VOC sources with emissions of 25 tpy and higher. Because FCAA, 42 USC, §7511a(b)(2), requires that RACT be applied to major sources, the proposed amendments to §115.449, concerning Counties and Compliance Schedules, implement the offset lithographic printing rule in HGA for sources with VOC emissions equal to or greater than 25 tpy and establishes a compliance date of December 31, 2002. The offset lithographic printing rule is currently a contingency rule for HGA; after the proposed change, the rule will be a contingency rule for offset lithographic printers in HGA with VOC emissions below 25 tpy.

EFFECT ON SITES SUBJECT TO THE FEDERAL OPERATING PERMITS PROGRAM

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

FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

John Davis, Technical Specialist in the Strategic Planning and Appropriations Section, has reviewed these proposed amendments to Chapter 115, Control of Air Pollution from Volatile Organic Compounds, under the requirements of Texas Government Code, §2001.024, and has made the following determination concerning the fiscal effects of the proposed amendments for each year of the first five years the amendments are in effect.

Mr. Davis has determined that for the first five-year period the proposed amendments to Chapter 115 are in effect, there will be no significant fiscal implications for units of state and local government as a result of administration or enforcement of the proposed amendments, except those that may operate sources subject to the proposed revisions to Chapter 115. For these units of state and local government, the fiscal implications of these revisions to Chapter 115 will be equivalent to those for any affected public or private entity.

Most of the sources which will have to comply with the proposed rules are currently subject to air permits and are already being inspected for compliance. Consequently, only a limited number of

additional facilities will need to be inspected for compliance with the proposed Chapter 115 rule amendments. The commission anticipates that the Field Operations Division inspectors will inspect for compliance with the proposed requirements when conducting their routine inspections. The commission also anticipates that enforcement of these rules will not significantly increase the number of facilities currently inspected by the state and local governments. However, these rules will cause a minor increase in workload when inspecting the affected facilities.

PUBLIC BENEFIT AND COSTS

Mr. Davis has also determined that for each year of the first five years the proposed amendments to Chapter 115 are in effect, the public benefit anticipated from enforcement of and compliance with the proposed amendments will be: a reduction of public exposure to VOC emitted from affected batch processes, offset lithographic printers, and bakeries; the concomitant reduced risks to human health and safety from ozone; a reduction of ground-level ozone in the HGA ozone nonattainment area; and conformance with the requirements of the FCAA.

The proposed amendments to Chapter 115 will ensure that the batch process, offset lithographic printing, and bakery rules represent RACT in HGA, which will satisfy FCAA requirements and enable these rules to be federally approvable. The amendments would require these sources in the HGA ozone nonattainment area to meet new emission specifications and other requirements in order to reduce VOC emissions and ozone air pollution. These standards and specifications are part of the strategy to reduce emissions of VOC necessary for the counties in the HGA ozone nonattainment area to be able to demonstrate attainment with the NAAQS for ozone. The proposed amendments are one element of the

proposed HGA attainment demonstration SIP. A SIP is a plan developed for any region where existing (measured and estimated) ambient levels of pollutant exceeds the levels specified in a national standard. The plan sets forth a control strategy that provides emission reductions necessary for attainment and maintenance of the national standards.

For batch processes, the commission estimates the cost-effectiveness (the cost per ton of VOC emissions reduced), annualized total cost of control, annual operating costs, and total capital cost for flow rates of 500 and 5,000 standard cubic feet per minute (scfm) as follows, based on the cost-effectiveness data of Appendix F of EPA's *Control of Volatile Organic Compound Emissions from Batch Processes - Alternative Control Techniques Information Document* (EPA-453/R-94-020, February 1994).

Figure: 30 TAC Chapter 115 - Preamble

Annual Mass Emission Total (pounds/ year)	Volatility	Cost-effectiveness (Cost of VOC Reductions, in $/ton)		Annualized Total Cost of Control ($1000) (including operating costs)		Annual Operating Cost ($1000) (calculated as 15% of the annualized total cost of control)		Total Capital Cost ($1000) (calculated using a 15 year service life of the equipment)	
		@ 500 scfm	@ 5000 scfm	@ 500 scfm	@ 5000 scfm	@ 500 scfm	@ 5000 scfm	@ 500 scfm	@ 5000 scfm
50,000	Low	1700-2700	5900-8700	43-68	147-218	6-10	22-33	548-867	1874-2780
100,000	Low	900-1450	2900-7250	45-73	145-363	6-11	22-54	574-931	1849-4628
150,000	Low	550-900	2000-2900	41-68	150-218	6-10	22-33	520-868	1909-2776
50,000	Moderate	2550-3100	8150-14,500	63-77	204-363	9-12	31-54	803-982	2601-4628
100,000	Moderate	1200-1700	4250-7750	59-86	213-388	9-13	32-58	752-110	2716-4947
150,000	Moderate	850-1200	2900-5400	65-88	218-405	10-13	33-61	824-1128	2756-5162
50,000	High	2600-5150	8450-27,000	65-129	211-680	9-19	32-102	829-1645	2690-8670
100,000	High	1600-2700	4300-15,900	79-136	215-794	12-20	32-119	1007-1734	2741-10,124
150,000	High	1150-1800	2800-11,300	85-136	211-851	13-20	32-128	1084-1735	2689-10,844

For sources which route vent gas emissions (including batch process emissions) to flares that do not already meet the requirements of 40 CFR 60.18(b), the commission estimates the cost of testing to determine the exit velocity and the net heating value of the vapors being combusted to be approximately $6,000, based upon vendor estimates. The commission estimates that installing a heat-sensing device, such as an ultraviolet beam sensor or thermocouple, at the pilot light to indicate the continuous presence of a flame would cost approximately $19,300 to $22,300, based upon vendor estimates.

For bakeries, an analysis of the emissions inventory revealed that there are four bakeries in HGA with VOC emissions at or above 25 tpy and four bakeries in DFW with VOC emissions at or above 50 tpy that will become subject to the vent gas rule's revised control requirements. These bakeries have already installed (or are installing) catalytic oxidizers in response to previous rulemaking. Each of these catalytic oxidizers can meet the revised control requirements, and therefore there will be no cost to install add-on control devices. Elimination of the annual reporting requirement will result in a minor cost savings due to the associated reduction in manpower needed to assemble the reports.

For offset lithographic printers, the commission estimates that there are approximately 20 sources in HGA with VOC emissions at or above 25 tpy that will become subject to the offset printing requirements. The printers with offset heatset printing presses have already installed add-on controls due to Chapter 111 opacity limitations and/or Chapter 116 new source review permitting requirements. Because these add-on controls can already meet the control requirements, there will be no cost for installation of add-on control devices. Regarding the fountain solution limitations which would apply to both heatset and nonheatset offset printing, EPA's draft *Control Techniques Guideline for Offset*

Lithographic Printing (December 14, 1992) estimates that reducing alcohol in the fountain solution results in a savings of $920 per ton of alcohol not used. This document states that nonalcohol fountain solutions save money because they are used in lower quantities, even though they cost more than alcohol. Regarding the cleaning solution limitations which would apply to both heatset and nonheatset offset printing, the draft CTG states that lower VOC cleaning solutions are slightly more expensive than traditional cleaning solutions. This document estimates that the incremental costs of using lower VOC cleaning solutions range from approximately $550 to $24,000 per year, depending on the size and type of the printing plant.

SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT

The agency has been unable to identify any small businesses or micro-businesses as defined in the Texas Government Code which would be affected by these proposed amendments to Chapter 115. If there are affected small businesses or micro-businesses, the estimated annualized cost for installing and operating the control technology in dollars per ton of VOC reduced that was used for the various types of units in this fiscal note would appear to be a reasonable cost estimate for small businesses or micro-businesses. The proposed amendments do not specify a particular control technology to achieve the emission limits and there may be other control technologies or combinations of control technologies which may be used to comply.

DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The commission has reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and has determined that the rulemaking does not meet the definition of

a "major environmental rule" as defined in that statute. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, 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 amendments to Chapter 115 are one element of the HGA Attainment Demonstration SIP and will require VOC emission reductions from batch processes, offset lithographic printers, and bakeries in the HGA ozone nonattainment area. While the rules are intended to protect the environment, based on the analysis provided earlier in this preamble and in particular, the discussion in the Public Benefit and Costs section, the commission does not believe that the rules will adversely affect, in a material way, the operation of certain batch processes, offset lithographic printers, and bakeries. The commission does not believe these entities comprise a sector of the economy, or that these rules will adversely affect in a material way the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

The amendments do not meet the definition of a "major environmental rule" as defined in the Texas Government Code, and they do not meet any of the four applicability requirements listed in §2001.0225(a). FCAA, 42 USC, §7410, requires states to adopt a SIP which provides for "implementation, maintenance, and enforcement" of the primary NAAQS in each air quality control region of the state. While FCAA, 42 USC, §7410, does not require specific programs, methods, or reductions in order to meet the standard, state SIPs 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," (meaning Chapter 85, Air Pollution Prevention and Control). It is true that the FCAA does require some specific measures for SIP purposes, such as the inspection and maintenance program, but those programs are the exception, not the rule, in the SIP structure of the FCAA. 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 FCAA, 42 USC, §7410. Thus, while specific measures are not generally required, the emission reductions are required. States are not free to ignore the requirements of FCAA, 42 USC, §7410, and must develop programs to assure that the nonattainment areas of the state will be brought into attainment on schedule.

The requirement to provide a fiscal analysis of proposed regulations in the Texas Government Code was amended by Senate Bill 633 (SB 633) during the 75th Legislative Session. The intent of SB 633 was to require agencies to conduct a regulatory impact analysis (RIA) 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 that concluded "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 previously discussed, the FCAA does not require specific programs, methods, or reductions in order to meet the NAAQS; thus, states must develop programs for each nonattainment area to ensure that area will meet the attainment deadlines. Because of the ongoing need to address nonattainment issues, the commission routinely proposes and adopts SIP rules. The legislature is presumed to understand 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 RIA 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 RIA for rules that are extraordinary in nature. While the SIP rules will have a broad impact, that 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 specifically required by federal law. FCAA, 42 USC, §7511a(b)(2)(C), requires states to ensure that RACT is in place for all major VOC sources in moderate and above ozone nonattainment areas. The commission has performed photochemical grid modeling which predicts that VOC emission reductions, such as those required by these rules, will result in reductions in ozone formation in the HGA ozone nonattainment area. This rulemaking is not an express requirement of state law, but was developed specifically in order to ensure

that RACT is in place for all major VOC sources in the HGA ozone nonattainment area as required under federal law. This will enable the Chapter 115 batch process, offset lithographic printing, and bakery rules for HGA to be federally approvable. This rulemaking is also intended to obtain VOC emission reductions which will result in reductions in ozone formation in the HGA ozone nonattainment area and help bring HGA into compliance with the air quality standards established under federal law as NAAQS for ozone. The rulemaking does not exceed a standard set by federal law, exceed an express requirement of state law (unless specifically required by federal law), or exceed a requirement of a delegation agreement. The rulemaking was not developed solely under the general powers of the agency, but was specifically developed to meet the RACT requirements and NAAQS established under federal law and authorized under Texas Clean Air Act (TCAA), §§382.011, 382.012, and 382.017.

The commission invites public comment on the draft regulatory impact analysis.

TAKINGS IMPACT ASSESSMENT

The commission has prepared a takings impact assessment for these rules pursuant to Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of the rulemaking is twofold: to ensure that RACT is in place for all major VOC sources in the HGA ozone nonattainment area in order to conform with the EPA's RACT requirements, thus enabling the Chapter 115 batch process, offset lithographic printing, and bakery rules for HGA to be federally approvable; and to obtain VOC emission reductions which will result in reductions in ozone formation in the HGA ozone nonattainment area and help bring HGA into compliance with the air quality standards established under federal law as NAAQS for ozone. This rulemaking action may require the

installation of control systems at batch process operations, offset lithographic printers, and bakeries in HGA in some cases. Promulgation and enforcement of the rule amendments may possibly burden private property because in some cases the permanent installation of control systems and associated piping is necessary in order to comply with the rules. Although the rule revisions do not directly prevent a nuisance or prevent an immediate threat to life or property, they do prevent a real and substantial threat to public health and safety and fulfill federal mandates under the 1990 Amendments to the FCAA, 42 USC, §7410 and §7511a(b)(2). Specifically, FCAA, 42 USC, §7511a(b)(2)(C), requires states to ensure that RACT is in place for all major VOC sources in moderate and above ozone nonattainment areas. In addition, the emission limitations and control requirements within this rulemaking were developed in order to meet the NAAQS for ozone set by the EPA under FCAA, 42 USC, §7409. States are primarily responsible for ensuring attainment and maintenance of NAAQS once the EPA has established them. Under the FCAA, 42 USC, §7410, and related provisions, states must submit, for approval by the EPA, SIPs that provide for the attainment and maintenance of NAAQS through control programs directed to sources of the pollutants involved. Therefore, the purpose of this rulemaking is to ensure that RACT is in place for all major VOC sources in the HGA ozone nonattainment area as required under federal law and to meet the air quality standards established under federal law as NAAQS. Consequently, the following exemption applies to these rules: an action reasonably taken to fulfill an obligation mandated by federal law.

COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The commission has determined that this rulemaking relates to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as

amended (Texas Natural Resources Code, §§33.201 et seq.), and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with Texas Coastal Management Program. As required by 31 TAC §505.11(b)(2) and 30 TAC §281.45(a)(3), relating to actions and rules subject to the CMP, commission rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission has reviewed this action for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Council. For this rulemaking, the commission has determined that the rules are consistent with the applicable CMP goal expressed in 31 TAC §501.12(1) of protecting and preserving the quality and values of coastal natural resource areas and the policy in 31 TAC §501.14(q), which requires that the commission protect air quality in coastal areas. This rulemaking is intended to reduce overall emissions of VOC from batch process vent gas streams, bakeries, and offset lithographic printers. This action is consistent with the CMP because it does not authorize any new emissions and will reduce existing emissions of VOC. Interested persons may submit comments on the consistency of the proposed rules with the CMP during the public comment period.

ANNOUNCEMENT OF HEARINGS

The commission will hold public hearings on this proposal at the following times and locations: September 18, 2000, 10:00 a.m., Lone Star Convention Center, 9055 Airport Road (FM 1484), Conroe; September 18, 2000, 7:00 p.m., Lake Jackson Civic Center, 333 Highway 332 East, Lake Jackson; September 19, 2000, 10:00 a.m. and 7:00 p.m., George Brown Convention Center, 1001 Avenida de Las Americas, Houston; September 20, 2000, 9:00 a.m., VFW Hall, 6202 George Bush Drive, Katy; September 20, 2000, 6:00 p.m., East Harris County Community Center, 7340 Spencer,

Pasadena; September 21, 2000, 10:00 a.m., Southeast Texas Regional Airport Media Room, 6000 Airline Drive, Beaumont; September 21, 2000, 2:00 p.m., Amarillo City Commission Chambers, City Hall, 509 East 7th Avenue, Amarillo; September 21, 2000, 6:00 p.m., Charles T. Doyle Convention Center, 21st Street at Phoenix Lane, Texas City; September 22, 2000, 10:00 a.m., Dayton High School, 2nd Floor Lecture Room, 3200 North Cleveland Street, Dayton; September 22, 2000, 11:00 a.m., El Paso City Council Chambers, 2 Civic Center Plaza, 2nd Floor, El Paso; September 22, 2000, 2:00 p.m., North Central Texas Council of Governments, 2nd Floor Board Room, 616 Six Flags Drive, Suite 200, Arlington; and September 25, 2000, 10:00 a.m., Texas Natural Resource Conservation Commission, 12100 North I-35, Building E, Room 201S, Austin. The hearings are structured for the receipt of oral or written comments by interested persons. Registration will begin one hour prior to each hearing. Individuals may present oral statements when called upon in order of registration. A four-minute time limit will be established at each hearing to assure that enough time is allowed for every interested person to speak. Open discussion will not occur during each hearing; however, agency staff members will be available to discuss the proposal one hour before each hearing, and will answer questions before and after each hearing.

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

SUBMITTAL OF COMMENTS

Written comments may be submitted to Ms. Heather Evans, Office of Environmental Policy, Analysis, and Assessment, MC 206, P.O. Box 13087, Austin, Texas 78711-3087; faxed to (512) 239-4808; or emailed to *siprules@tnrcc.state.tx.us*. All comments should reference Rule Log Number 2000-011i-115-AI. Comments must be received by 5:00 p.m., September 25, 2000. For further information, please contact Eddie Mack of the Strategic Assessment Division at (512) 239-1488.

STATUTORY AUTHORITY

The amendment is proposed under the Texas Health and Safety Code, TCAA, §382.011, concerning General Powers and Duties, which provides the commission with the authority to establish the level of quality to be maintained in the state's air and the authority to control the quality of the state's air; §382.017, concerning Rules, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.012, concerning State Air Control Plan, which requires the commission to develop plans for protection of the state’s air.

The proposed amendment implements the Texas Health and Safety Code, TCAA, §§382.011, 382.012, and 382.017.

SUBCHAPTER A: DEFINITIONS

§115.10

§115.10. Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Texas Natural Resource Conservation Commission (commission), the terms used by the commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, the following terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions for terms used in this chapter are found in §101.1 of this title (relating to Definitions) and §3.2 of this title (relating to Definitions).

[(1) **Bakery oven** - An oven for baking bread or any other yeast-leavened products.]

(1) [(2)] **Beaumont/Port Arthur area** - Hardin, Jefferson, and Orange Counties.

(2) [(3)] **Capture efficiency** - The amount of volatile organic compounds (VOC) collected by a capture system which is expressed as a percentage derived from the weight per unit time of VOC entering a capture system and delivered to a control device divided by the weight per unit time of total VOC generated by a source of VOC.

(3) [(4)] **Carbon adsorption system** - A carbon adsorber with an inlet and outlet for exhaust gases and a system to regenerate the saturated adsorbent.

(4) [(5)] **Component** - A piece of equipment, including, but not limited to pumps, valves, compressors, and pressure relief valves, which has the potential to leak VOC.

(5) [(6)] **Continuous monitoring** - Any monitoring device used to comply with a continuous monitoring requirement of this chapter will be considered continuous if it can be demonstrated that at least 95% of the required data is captured.

(6) [(7)] **Covered attainment counties** - Anderson, Angelina, Aransas, Atascosa, Austin, Bastrop, Bee, Bell, Bexar, Bosque, Bowie, Brazos, Burleson, Caldwell, Calhoun, Camp, Cass, Cherokee, Colorado, Comal, Cooke, Coryell, De Witt, Delta, Ellis, Falls, Fannin, Fayette, Franklin, Freestone, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Harrison, Hays, Henderson, Hill, Hood, Hopkins, Houston, Hunt, Jackson, Jasper, Johnson, Karnes, Kaufman, Lamar, Lavaca, Lee, Leon, Limestone, Live Oak, Madison, Marion, Matagorda, McLennan, Milam, Morris, Nacogdoches, Navarro, Newton, Nueces, Panola, Parker, Polk, Rains, Red River, Refugio, Robertson, Rockwall, Rusk, Sabine, San Jacinto, San Patricio, San Augustine, Shelby, Smith, Somervell, Titus, Travis, Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Washington, Wharton, Williamson, Wilson, Wise, and Wood Counties.

(7) [(8)] **Dallas/Fort Worth area** - Collin, Dallas, Denton, and Tarrant Counties.

(8) [(9)] **El Paso area** - El Paso County.

(9) [(10)] **External floating roof** - A cover or roof in an open-top tank which rests upon or is floated upon the liquid being contained and is equipped with a single or double seal to close the space between the roof edge and tank shell. A double seal consists of two complete and separate closure seals, one above the other, containing an enclosed space between them. For the purposes of this chapter (relating to Control of Air Pollution from Volatile Organic Compounds), an [An] external floating roof storage tank which is equipped with a self-supporting fixed roof (typically a bolted aluminum geodesic dome) shall be considered to be an internal floating roof storage tank.

[(11) **Flare** - An open combustor without enclosure or shroud which is used as a control device.]

[(12) **Flexographic printing process** - A method of printing in which the image areas are raised above the non-image areas, and the image carrier is made of an elastomeric material.]

(10) [(13)] **Fugitive emission** - Any VOC entering the atmosphere which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening designed to direct or control its flow.

(11) [(14)] **Gasoline bulk plant -** A gasoline loading and/or unloading facility, excluding marine terminals, having a gasoline throughput less than 20,000 gallons (75,708 liters) per

day, averaged over each consecutive 30-day period. A motor vehicle fuel dispensing facility is not a gasoline bulk plant.

(12) [(15)] **Gasoline terminal -** A gasoline loading and/or unloading facility, excluding marine terminals, having a gasoline throughput equal to or greater than 20,000 gallons (75,708 liters) per day, averaged over each consecutive 30-day period.

(13) [(16)] **Houston/Galveston area** - Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties.

[(17) **Independent small business marketer of gasoline** - A person engaged in the marketing of gasoline who owns the dispensing equipment at a motor vehicle fuel dispensing facility and receives at least 50% of his annual income from the marketing of gasoline. A person is not an independent small business marketer of gasoline if such person:]

[(A) is a refiner; or]

[(B) controls (i.e., owns more than 50% of a business or corporation's stock), is controlled by, or is under common control with, a refiner; or]

[(C) is otherwise directly or indirectly affiliated with a refiner or with a person who controls, is controlled by, or is under common control with a refiner (unless the sole affiliation is

by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person).]

(14) [(18)] **Internal floating cover -** A cover or floating roof in a fixed roof tank which rests upon or is floated upon the liquid being contained, and is equipped with a closure seal or seals to close the space between the cover edge and tank shell. For the purposes of this chapter (relating to Control of Air Pollution from Volatile Organic Compounds), an [An] external floating roof storage tank which is equipped with a self-supporting fixed roof (typically a bolted aluminum geodesic dome) shall be considered to be an internal floating roof storage tank.

(15) **Liquefied petroleum gas** - Any material that is composed predominantly of any of the following hydrocarbons or mixtures of hydrocarbons: propane, propylene, normal butane, isobutane, and butylenes.

(16) [(19)] **Leak-free marine vessel** - A marine vessel whose cargo tank closures (hatch covers, expansion domes, ullage openings, butterworth covers, and gauging covers) were inspected prior to cargo transfer operations and all such closures were properly secured such that no leaks of liquid or vapors can be detected by sight, sound, or smell. Cargo tank closures shall meet the applicable rules or regulations of the marine vessel's classification society or flag state. Cargo tank pressure/vacuum valves shall be operating within the range specified by the marine vessel's classification society or flag state and seated when tank pressure is less than 80% of set point pressure

such that no vapor leaks can be detected by sight, sound, or smell. As an alternative, a marine vessel operated at negative pressure is assumed to be leak-free for the purpose of this standard.

(17) [(20)] **Marine loading facility** - The loading arm(s), pumps, meters, shutoff valves, relief valves, and other piping and valves that are part of a single system used to fill a marine vessel at a single geographic site. Loading equipment that is physically separate (i.e., does not share common piping, valves, and other loading equipment) is considered to be a separate marine loading facility.

(18) [(21)] **Marine loading operation** - The transfer of oil, gasoline, or other volatile organic liquids at any affected marine terminal, beginning with the connections made to a marine vessel and ending with the disconnection from the marine vessel.

(19) [(22)] **Marine terminal** - Any marine facility or structure constructed to load oil, gasoline, or other volatile organic liquid bulk cargo into a marine vessel. A marine terminal consists of one or more marine loading facilities.

(20) [(23)] **Natural gas/gasoline processing** - A process that extracts condensate from gases obtained from natural gas production and/or fractionates natural gas liquids into component products, such as ethane, propane, butane, and natural gasoline. The following facilities shall be included in this definition if, and only if, located on the same property as a natural gas/gasoline

processing operation previously defined: compressor stations, dehydration units, sweetening units, field treatment, underground storage, liquified natural gas units, and field gas gathering systems.

[(24) **Owner or operator of a motor vehicle fuel dispensing facility (as used in §§115.241-115.249 of this title (relating to Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities))** - Any person who owns, leases, operates, or controls the motor vehicle fuel dispensing facility.]

[(25) **Packaging rotogravure printing** - Any rotogravure printing upon paper, paper board, metal foil, plastic film, or any other substrate which is, in subsequent operations, formed into packaging products or labels.]

(21) [(26)] **Petroleum refinery** - Any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of crude oil, or through the redistillation, cracking, extraction, reforming, or other processing of unfinished petroleum derivatives.

(22) [(27)] **Polymer or [and] resin manufacturing process** - A process that produces any of the following polymers or resins: polyethylene, polypropylene, polystyrene, and styrenebutadiene latex.

(23) [(28)] **Printing line** - An operation consisting of a series of one or more printing processes and including associated drying areas.

[(29) **Publication rotogravure printing** - Any rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, or other types of printed materials.]

[(30) **Rotogravure printing** - The application of words, designs, and/or pictures to any substrate by means of a roll printing technique which involves a recessed image area. The recessed area is loaded with ink and pressed directly to the substrate for image transfer.]

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

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

[(33) **Synthetic Organic Chemical Manufacturing Industry (SOCMI) distillation operation** - A SOCMI operation separating one or more feed stream(s) into two or more exit streams,

each exit stream having component concentrations different from those in the feed stream(s). The separation is achieved by the redistribution of the components between the liquid and vapor-phase as they approach equilibrium within the distillation unit.]

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

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

(24) [(36)] **Synthetic organic chemical manufacturing process** - A process that produces, as intermediates or final products, one or more of the chemicals listed in 40 Code of Federal Regulations 60.489 (effective October 18, 1983) [Table I of this section].

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

(26) [(38)] **Transport vessel** - Any land-based mode of transportation (truck or rail) that is equipped with a storage tank having a capacity greater than 1,000 gallons which is used [primarily] to transport oil, gasoline, or other volatile organic liquid bulk cargo. Vacuum trucks used exclusively for maintenance and spill response are not considered to be transport vessels.

(27) [(39)] **True partial pressure** - The absolute aggregate partial pressure (psia) of all VOC in a gas stream.

(28) [(40)] **Vapor balance system** - A system which provides for containment of hydrocarbon vapors by returning displaced vapors from the receiving vessel back to the originating vessel.

[(41) **Vapor combustor** - A partially enclosed combustion device, where the combustion flame may be partially visible, but at no time does the device operate with a fully visible flame. A vapor combustor is used to destroy VOCs to the destruction requirements defined in the applicable emission specifications and control requirements sections of this chapter by smokeless combustion without extracting energy in the form of process heat or steam. Auxiliary fuel and/or a

flame air control damping system, which can operate at all times to control the air/fuel mixture to the combustor's flame zone, may be required to ensure smokeless combustion during operation.]

(29) [(42)] **Vapor control system or vapor recovery system** - Any control system which utilizes vapor collection equipment to route VOC to a control device that reduces VOC emissions.

[(43) **Vapor recovery system** - Any control system which utilizes vapor collection equipment to route VOC to a control device that reduces VOC emissions.]

(30) [(44)] **Vapor-tight** - Not capable of allowing the passage of gases at the pressures encountered except where other acceptable leak-tight conditions are prescribed in this chapter [the Regulations].

(31) [(45)] **Waxy, high pour point crude oil** - A crude oil with a pour point of 50 degrees Fahrenheit (10 degrees Celsius) or higher as determined by the American Society for Testing and Materials Standard D97-66, "Test for Pour Point of Petroleum Oils."
[Figure: 30 TAC §115.10(45)]

SUBCHAPTER B: GENERAL VOLATILE ORGANIC COMPOUND SOURCES

DIVISION 2: VENT GAS CONTROL

§§115.120, 115.122, 115.125-115.127, 115.129

STATUTORY AUTHORITY

The new section and amendments are proposed under the Texas Health and Safety Code, Texas Clean Air Act (TCAA), §382.011, concerning General Powers and Duties, which provides the commission with the authority to establish the level of quality to be maintained in the state's air and the authority to control the quality of the state's air; §382.017, concerning Rules, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.012, concerning State Air Control Plan, which requires the commission to develop plans for protection of the state's air.

The proposed new section and amendments implement the Texas Health and Safety Code, TCAA, §§382.011, 382.012, and 382.017.

§115.120. Vent Gas Definitions.

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

(1) **Bakery oven** - An oven for baking bread or any other yeast-leavened products.

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

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

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

(5) **Synthetic Organic Chemical Manufacturing Industry (SOCMI) distillation unit** - A SOCMI device or vessel in which distillation operations occur, including all associated internals (including, but not limited to, trays and packing), accessories (including, but not limited to, reboilers, condensers, vacuum pumps, and steam jets), and recovery devices (such as absorbers, carbon

adsorbers, and condensers) which are capable of, and used for, recovering chemicals for use, reuse, or sale.

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

§115.122. Control Requirements.

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

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

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

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

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

(A) (No change.)

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

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

(A) Each bakery in the Houston/Galveston area with a total weight of VOC emitted from all bakery ovens on the property, when uncontrolled, equal to or greater than 25 tons per calendar year shall ensure that the overall emission reduction from the uncontrolled VOC emission rate of the oven(s) will be [reduce total VOC emissions by] at least 80% [30% from the bakery's 1990 baseline emissions inventory] by December 31, 2001 [May 31, 1996].

(B) Each bakery in the Dallas/Fort Worth area with a total weight of VOC emitted from all bakery ovens on the property, when uncontrolled, equal to or greater than 50 tons per calendar year, shall ensure that the overall emission reduction from the uncontrolled VOC emission rate of the oven(s) will be [reduce total VOC emissions by] at least 80% [from the bakery's 1990 baseline emissions inventory] by December 31, 2000.

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

(D) Each bakery in the El Paso area with a total weight of VOC emitted from all bakery ovens on the property, when uncontrolled, equal to or greater than 25 tons per calendar year shall reduce total VOC emissions by at least 30% from the bakery's 1990 [baseline] emissions inventory in accordance with the schedule specified in §115.129(e) [§115.129(a)(5)] of this title.

(E) (No change.)

(4) Any vent gas stream that becomes subject to the provisions of paragraphs (1), (2), or (3) of this subsection by exceeding provisions of §115.127(a) of this title (relating to Exemptions) shall remain subject to the provisions of this subsection, even if throughput or emissions later fall below

the exemption limits unless and until emissions are reduced to no more than the controlled emissions level existing before implementation of the project by which throughput or emission rate was reduced to less than the applicable exemption limits in §115.127(a) of this title; and:

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

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

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

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

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

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

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

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

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

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

(A) (No change.)

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

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

(A) (No change.)

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

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

(A) (No change.)

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

§115.125. Testing Requirements.

[(a)] Compliance with the emission specifications, vapor control system efficiency, and certain control requirements and exemption criteria of §§115.121-115.123 and 115.127 of this title (relating to Emission Specifications; Control Requirements; Alternate Control Requirements; and Exemptions) [For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, compliance with §115.121(a) of this title (relating to Emission Specifications)] shall be determined by applying one or more of the following test methods and procedures, as appropriate. [:]

(1) Flow rate. Test Methods 1-4 (40 Code of Federal Regulations (CFR) 60, Appendix A) are used for determining flow rates, as necessary.

(2) Concentration of volatile organic compounds (VOC).

(A) Test Method 18 (40 CFR 60, Appendix A) is used for determining gaseous organic compound emissions by gas chromatography.

(B) Test Method 25 (40 CFR 60, Appendix A) is used for determining total gaseous nonmethane organic emissions as carbon.

(C) Test Methods 25A or 25B (40 CFR 60, Appendix A) are used for determining total gaseous organic concentrations using flame ionization or nondispersive infrared analysis.

(3) Performance requirements for flares and vapor combustors.

(A) [(1)] For flares, Test Method 22 (40 CFR [Code of Federal Regulations] 60, Appendix A) is used for visual determination of fugitive emissions from material sources and smoke emissions. [from flares;]

(B) [(2)] For flares, additional test method requirements are [for flares] described in 40 CFR [Code of Federal Regulations] 60.18(f). [;]

(C) For flares in the Beaumont/Port Arthur, Dallas/Fort Worth, and Houston/Galveston areas, the performance test requirements of 40 CFR 60.18(b) shall apply.

(D) For vapor combustors, the owner or operator may consider the unit to be a flare and meet the performance test requirements of 40 CFR 60.18(b) rather than the procedures of paragraphs (1) and (2) of this section.

(E) Compliance with the requirements of 40 CFR 60.18(b) will be considered to demonstrate compliance with the emission specifications and control efficiency requirements of §115.121 and §115.122 of this title.

[(3) Test Methods 1-4 (40 Code of Federal Regulations 60, Appendix A) for determining flow rate, as necessary;]

[(4) Test Method 18 (40 Code of Federal Regulations 60, Appendix A) for determining gaseous organic compound emissions by gas chromatography;]

[(5) Test Method 25 (40 Code of Federal Regulations 60, Appendix A) for determining total gaseous nonmethane organic emissions as carbon;]

[(6) Test Methods 25A or 25B (40 Code of Federal Regulations 60, Appendix A) for determining total gaseous organic concentrations using flame ionization or nondispersive infrared analysis; or]

(4) [(7)] Minor modifications. Minor [minor] modifications to these test methods may be used, if approved by the executive director.

(5) Alternate test methods. Test methods other than those specified in paragraphs (1) - (3) of this section may be used if validated by 40 CFR 63, Appendix A, Test Method 301 (effective

December 29, 1992). For the purposes of this paragraph, substitute "executive director" each place that Test Method 301 references "administrator."

[(b) For Nueces and Victoria Counties, compliance with §115.121(b) of this title shall be determined by applying the following test methods, as appropriate:]

[(1) Test Method 22 (40 Code of Federal Regulations 60, Appendix A) for visual determination of fugitive emissions from material sources and smoke emissions from flares;]

[(2) additional test method requirements for flares described in 40 Code of Federal Regulations 60.18(f);]

[(3) Test Methods 1-4 (40 Code of Federal Regulations 60, Appendix A) for determining flow rate, as necessary;]

[(4) Test Method 18 (40 Code of Federal Regulations 60, Appendix A) for determining gaseous organic compound emissions by gas chromatography;]

[(5) Test Method 25 (40 Code of Federal Regulations 60, Appendix A) for determining total gaseous nonmethane organic emissions as carbon;]

[(6) Test Methods 25A or 25B (40 Code of Federal Regulations 60, Appendix A) for determining total gaseous organic concentrations using flame ionization or nondispersive infrared analysis; or]

[(7) minor modifications to these test methods approved by the executive director.]

§115.126. Monitoring and Recordkeeping Requirements.

[(a)] The [For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the] owner or operator of any facility which emits volatile organic compounds (VOC) through a stationary vent in Aransas, Bexar, Calhoun, Matagorda, Nueces, San Patricio, Travis, and Victoria Counties or in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas shall maintain the following information [records] at the facility for at least two years. The owner or operator [and] shall make the information [such records] available upon request to representatives of the executive director, EPA, or any local air pollution control agency having jurisdiction in the area [upon request]. [These records shall include, but not be limited to, the following.]

(1) Vapor control systems. For vapor control systems used to control emissions in Victoria County and in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas from vents subject to [Records for each vent required to satisfy] the provisions of §115.121 [§115.121(a)(1)-(3)] of this title (relating to Emission Specifications), records of appropriate parameters

to demonstrate compliance, [shall be sufficient to demonstrate the proper functioning of applicable control equipment to design specifications,] including:

(A) continuous monitoring and recording of:

(i) the exhaust gas temperature immediately downstream of a direct-flame incinerator;

(ii) [(B)] [continuous monitoring of] the inlet and outlet gas temperatures [upstream and downstream] of a catalytic incinerator or chiller;

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

(iv) the exhaust gas temperature immediately downstream of a vapor combustor. Alternatively, the owner or operator of a vapor combustor may consider the unit to be a flare and meet the requirements specified in 40 Code of Federal Regulations (CFR) 60.18(b) and Chapter 111 of this title (relating to Control of Air Pollution from Visible Emissions and Particulate Matter) for flares;

(B) in the Beaumont/Port Arthur, Dallas/Fort Worth, and Houston/Galveston areas, the requirements specified in 40 CFR 60.18(b) and Chapter 111 of this title for flares; and

(C) for vapor control systems other than those specified in subparagraphs (A) and (B) of this paragraph, records of appropriate operating parameters.

(2) Test results. A record of

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

(3) [(2)] Records for exempted vents. Records for each vent exempted from control requirements in accordance with §115.127 [§115.127(a)] of this title (relating to Exemptions) shall be sufficient to demonstrate compliance with applicable exemption limits, including:

(A) the pounds of ethylene emitted per 1,000 pounds of low-density polyethylene produced;

(B) the combined weight of VOC of each vent gas stream on a daily basis; and

(C) the concentration [true partial pressure] of VOC in each vent gas stream on a daily basis. [; and]

[(D) the results of any testing of any vent conducted at an affected facility in accordance with the provisions specified in this section.]

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

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

(A) The owner or operator of each bakery in the Houston/Galveston area with a total weight of VOC emitted from all bakery ovens on the property, when uncontrolled, equal to or greater than 25 tons per calendar year, shall submit a control plan no later than March 31, 2001, to the

executive director, the appropriate regional office, and any local air pollution control program with jurisdiction. The plan shall demonstrate that the overall emission reduction from the uncontrolled VOC emission rate of the oven(s) will be at least 80% by December 31, 2001. At a minimum, the control plan shall include the emission point number (EPN) and the facility identification number (FIN) of each bakery oven and any associated control device, a plot plan showing the location, EPN, and FIN of each bakery oven and any associated control device, and the 2000 VOC emission rates (consistent with the bakery's 2000 emissions inventory). The projected 2002 VOC emission rates shall be calculated in a manner consistent with the 2000 emissions inventory.

[(A) The owner or operator of each bakery in the Dallas/Fort Worth area with a total weight of VOC emitted from all bakery ovens on the property, when uncontrolled, equal to or greater than 50 tons per calendar year, shall submit an initial control plan no later than March 31, 2000, to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall reduction of VOC emissions from the bakery's 1990 baseline emissions inventory will be at least 80% by December 31, 2000. At a minimum, the control plan shall include the emission point number (EPN) and the facility identification number (FIN) of each bakery oven and any associated control device, a plot plan showing the location, EPN, and FIN of each bakery oven and any associated control device, and the 1990 VOC emission rates (consistent with the bakery's 1990 emissions inventory). The projected 2000 VOC emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.]

[(B) In order to document continued compliance with §115.122(a)(3) of this title, the owner or operator of each bakery specified in clauses (i) and (ii) of this subparagraph shall submit an annual report no later than March 31 of each year to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction which demonstrates the overall reduction of VOC emissions from the bakery's 1990 baseline emissions inventory during the preceding calendar year. At a minimum, the report shall include the EPN and FIN of each bakery oven and any associated control device, a plot plan showing the location, EPN, and FIN of each bakery oven and any associated control device, and the VOC emission rates. The emission rates for the proceeding calendar year shall be calculated in a manner consistent with the 1990 emissions inventory.]

[(i) The owner or operator of each bakery in the Houston/Galveston area with VOC emissions, when uncontrolled, equal to or greater than 25 tons per calendar year, shall submit an annual report which demonstrates that the overall reduction of VOC emissions from the bakery's 1990 baseline emissions inventory during the preceding calendar year is at least 30% after May 31, 1996.]

[(ii) Beginning in 2002, the owner or operator of each bakery in the Dallas/Fort Worth area with VOC emissions, when uncontrolled, equal to or greater than 50 tons per calendar year, shall submit an annual report which demonstrates that the overall reduction of VOC emissions from the bakery's 1990 baseline emissions inventory during the preceding calendar year is at least 80% after December 31, 2000.]

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

(6) [(5)] Bakeries (contingency measures). For bakeries subject to [affected by] §115.122(a)(3)(C) and (D) of this title, the following additional requirements apply.

(A) No later than six months after the commission publishes notification in the *Texas Register* as specified in §115.129(d) or (e) [§115.129(a)(4)] of this title (relating to Counties and Compliance Schedules), the owner or operator of each bakery shall submit an initial control plan to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall reduction of VOC emissions from the bakery's 1990 [baseline] emissions inventory will be at least 30%. At a minimum, the control plan shall include the EPN and the FIN of each bakery oven and any associated control device, a plot plan showing the location, EPN, and FIN of each bakery oven and any associated control device, and the 1990 VOC

emission rates (consistent with the bakery's 1990 emissions inventory). The projected VOC emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

(B) In order to document continued compliance with §115.122(a)(3) of this title, the owner or operator of each bakery shall submit an annual report no later than March 31 of each year to the executive director, the appropriate regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall reduction of VOC emissions from the bakery's 1990 [baseline] emissions inventory during the preceding calendar year is at least 30%. At a minimum, the report shall include the EPN and FIN of each bakery oven and any associated control device, a plot plan showing the location, EPN, and FIN of each bakery oven and any associated control device, and the VOC emission rates. The emission rates for the proceeding calendar year shall be calculated in a manner consistent with the 1990 emissions inventory.

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

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

[(b) For Victoria County, the owner or operator of any facility which emits VOC through a stationary vent shall maintain records at the facility for at least two years and shall make such records available to representatives of the executive director, EPA, or any local air pollution control agency having jurisdiction in the area upon request. These records shall include, but not be limited to, the following.]

[(1) Records for each vent required to satisfy the provisions of §115.121(b) of this title shall be sufficient to demonstrate the proper functioning of applicable control equipment to design specifications, including:]

[(A) continuous monitoring of the exhaust gas temperature immediately downstream of a direct-flame incinerator;]

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

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

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

[(2) Records for each vent exempted from control requirements in accordance with §115.127(b) of this title shall be sufficient to demonstrate compliance with applicable exemption limits, including:]

[(A) the pounds of ethylene emitted per 1,000 pounds of low-density polyethylene produced;]

[(B) the combined weight of VOC of each vent gas stream on a daily basis;]

[(C) the true partial pressure of VOC in each vent gas stream on a daily basis; and]

[(D) the results of any testing of any vent conducted at an affected facility in accordance with the provisions specified in this section.]

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

§115.127. Exemptions.

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

(1) (No change.)

(2) The following vent gas streams are exempt from the requirements of §115.121(a)(1) of this title:

(A) (No change.)

(B) a vent gas stream specified in §115.121(a)(1) of this title with a concentration of VOC less than 612 parts per million by volume (ppmv) [0.009 pounds per square inch absolute (psia) true partial pressure (612 parts per million (ppm))];

(C) until April 15, 2001, for facilities which have been assigned the code number 26 as described in the document Standard Industrial Classification (SIC) Manual, 1972, as amended by the 1977 Supplement, a vent gas stream specified in §115.121(a)(1) of this title with a concentration of VOC less than 30,000 ppmv [0.44 psia true partial pressure (30,000 ppm)];

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

(3) The following vent gas streams are exempt from the requirements of §115.121(a)(2)(B)-(E) of this title:

(A) (No change.)

(B) a vent gas stream from any air oxidation synthetic organic chemical manufacturing process with a concentration of VOC less than 612 ppmv [0.009 pounds psia true partial pressure (612 ppm))]; and

(C) a vent gas stream from any liquid phase polypropylene manufacturing process, any liquid phase slurry high-density polyethylene manufacturing process, and any continuous

polystyrene manufacturing process with a concentration of VOC less than 408 ppmv [0.006 psia true partial pressure (408 ppm)].

(4) For synthetic organic chemical manufacturing industry (SOCMI) reactor processes and distillation operations:

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

(C) Any reactor process or distillation operation vent gas stream with a flow rate less than 0.011 standard cubic meters per minute or a VOC concentration less than 500 ppmv [parts per million by volume] is exempt from the requirements of §115.121(a)(2)(A) of this title.

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

(5)-(7) (No change.)

(8) As an alternative to complying with the requirements of this division (relating to Vent Gas Control) (or, in the case of bakeries, as an alternative to complying with the requirements of §115.121(a)(1) and §115.122(a)(1) of this title) for a source that is addressed by a Chapter 115 contingency rule (i.e., one in which Chapter 115 requirements are triggered for that source by the commission publishing notification in the *Texas Register* that implementation of the contingency rule is necessary), the owner or operator of that source may instead choose to comply with the requirements of

the contingency rule as though the contingency rule already had been implemented for that source. The owner or operator of each source choosing this option shall submit written notification to the executive director and any local air pollution control program with jurisdiction. When the executive director and the local program (if any) receive such notification, the source will then be considered subject to the contingency rule as though the contingency rule already had been implemented for that source.

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

(1) (No change.)

(2) The following vent gas streams are exempt from the requirements of §115.121(b) of this title:

(A) (No change.)

(B) a vent gas stream with a concentration of the VOC or classes of compounds specified in §115.121(b)(2) and (3) of this title less than 30,000 ppmv [0.44 psia true partial pressure (30,000 ppm)].

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

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

(1) The following vent gas streams are exempt from the requirements of §115.121(c)(1) of this title:

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

(C) a vent gas stream having a concentration of the VOC specified in §115.121(c)(1)(B) and (C) of this title less than 30,000 ppmv [0.44 psia true partial pressure (30,000 ppm)].

(2)-(4) (No change.)

§115.129. Counties and Compliance Schedules.

(a) The owner or operator of each vent gas stream in Aransas, Bexar, Brazoria, Calhoun, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Matagorda, Montgomery, Nueces, Orange, San Patricio, Tarrant, Travis, Victoria, and Waller Counties shall continue to comply with this division (relating to Vent Gas Control) as required by §115.930 of this title (relating to Compliance Dates).

[All affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas shall be in compliance with this undesignated head (relating to Vent Gas Control) in accordance with the following schedules:]

[(1) All affected synthetic organic chemical manufacturing industry reactor process or distillation operations in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller Counties shall be in compliance with §115.121(a)(2)(A) of this title (relating to Emission Specifications) as soon as practicable, but no later than November 15, 1996.]

(b) [(2)] The owner or operator of each bakery [All affected bakeries] in Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties shall comply [be in compliance] with §§115.121(a)(3), 115.122(a)(3), and 115.126(5) [115.126(a)(4), and 115.127(a)(5)] of this title (relating to Emission Specifications; Control Requirements; and Monitoring and Recordkeeping Requirements [; and Exemptions]) as soon as practicable, but no later than December 31, 2001 [May 31, 1996].

(c) [(3)] The owner or operator of each bakery [All bakeries] in Collin, Dallas, Denton, and Tarrant Counties subject to [affected by] §115.122(a)(3)(B) of this title shall comply [be in compliance] with §§115.121(a)(3), 115.122(a)(3), and 115.126(5) [115.126(a)(4), and 115.127(a)(5)] of this title as soon as practicable, but no later than December 31, 2000 [May 31, 1996].

(d) [(4)] The owner or operator of each bakery [All bakeries] in Collin, Dallas, Denton, and Tarrant Counties subject to [affected by] §115.122(a)(3)(C) of this title shall comply [be in compliance] with §§115.121(a)(3), 115.122(a)(3)(C), and 115.126(6) [115.126(a)(5), and 115.127(a)(5)] 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 FCAA [1990 Amendments to the Federal Clean Air Act (FCAA)], §172(c)(9).

(e) [(5)] The owner or operator of each bakery [All bakeries] in El Paso County subject to [affected by] §115.122(a)(3)(D) of this title shall comply [be in compliance] with §§115.121(a)(3), 115.122(a)(3)(D), and 115.126(6) [115.126(a)(5), and 115.127(a)(5)] of this title as soon as practicable, but no later than one year, after the commission publishes notification in the *Texas Register* of its determination that this contingency rule is necessary as a result of failure to attain the NAAQS for ozone by the attainment deadline or failure to demonstrate reasonable further progress as set forth in [the 1990 Amendments to] the FCAA, §172(c)(9).

(f) The owner or operator of each flare in Brazoria, Chambers, Collin, Dallas, Denton, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller Counties which is used to comply with the requirements of §115.121 and/or §115.122 of this title shall comply with §115.125(3)(C) and §115.126(1)(B) of this title (relating to Testing Requirements; and

Monitoring and Recordkeeping Requirements) as soon as practicable, but no later than December 31, 2001.

SUBCHAPTER B: GENERAL VOLATILE ORGANIC COMPOUND SOURCES

DIVISION 6: BATCH PROCESSES

§§115.161, 115.162, 115.164 - 115.167, 115.169

STATUTORY AUTHORITY

The amendments are proposed under the Texas Health and Safety Code, Texas Clean Air Act, (TCAA), §382.011, concerning General Powers and Duties, which provides the commission with the authority to establish the level of quality to be maintained in the state's air and the authority to control the quality of the state's air; §382.017, concerning Rules, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.012, concerning State Air Control Plan, which requires the commission to develop plans for protection of the state's air.

The amendments implement the Texas Health and Safety Code, TCAA, §§382.011, 382.012, and 382.017.

§115.161. Applicability.

(a) The provisions of §§115.162-115.167 of this title (relating to Control Requirements; Alternate Control Requirements; Determination of Emissions and Flow Rates; Approved Test Methods and Testing Requirements; Monitoring and Recordkeeping Requirements; and Exemptions) apply to vent gas streams at batch process operations in the Beaumont/Port Arthur and Houston/Galveston areas

[area], as defined in §115.10 of this title (relating to Definitions), under the following Standard Industrial Classification (SIC) codes:

(1)-(7) (No change.)

(b) (No change.)

§115.162. Control Requirements.

The owner or operator of each batch process operation in the Beaumont/Port Arthur and Houston/Galveston areas [area] shall comply with the following control requirements.

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

§115.164. Determination of Emissions and Flow Rates.

The owner or operator of each batch process operation in the Beaumont/Port Arthur and Houston/Galveston areas [area] shall determine the mass emissions and flow rates as follows.

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

§115.165. Approved Test Methods and Testing Requirements.

The owner or operator of each batch process operation in the Beaumont/Port Arthur and Houston/Galveston areas [area] shall comply with the following.

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

§115.166. Monitoring and Recordkeeping Requirements.

The owner or operator of each batch process operation in the Beaumont/Port Arthur and Houston/Galveston areas [area] shall maintain the following information for at least two years at the plant, as defined by its air quality account number. The owner or operator shall make the information available upon request to representatives of the executive director, EPA, or any local air pollution control agency having jurisdiction in the area:

(1) Vapor control systems. For vapor control systems used to control emissions from batch process [volatile organic compounds (VOC) transfer] operations, records of appropriate parameters to demonstrate compliance, including:

(A) continuous monitoring and recording of:

(i)-(ii) (No change.)

(iii) for an absorber, either:

(I) (No change.)

(II) the concentration level of volatile organic compounds (VOC) [VOC] exiting the recovery device based on a detection principle such as infrared, photoionization, or thermal conductivity;

(iv)-(vii) (No change.)

(B)-(C) (No change.)

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

§115.167. Exemptions.

The following exemptions apply [in the Beaumont/Port Arthur area].

(1) Batch process operations at an account which has total volatile organic compound (VOC) emissions (determined before control but after the last recovery device) of less than the following rates [100 tons per year] from all stationary emission sources included in the account are

exempt from the requirements of this division (relating to Batch Processes), except for §115.161(b) of this title (relating to Applicability): [.]

(A) 100 tons per year (tpy) in the Beaumont/Port Arthur area; and

(B) 25 tpy in the Houston/Galveston area.

(2) The following are exempt from the requirements of this division, except for §115.164 and §115.166(2) and (3) of this title (relating to Determination of Emissions and Flow Rates; and Monitoring and Recordkeeping Requirements):

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

§115.169. Counties and Compliance Schedules.

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

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

SUBCHAPTER C: VOLATILE ORGANIC COMPOUND TRANSFER OPERATIONS

DIVISION 1: LOADING AND UNLOADING OF VOLATILE ORGANIC COMPOUNDS

§§115.211, 115.212, 115.216

STATUTORY AUTHORITY

The amendments are proposed under the Texas Health and Safety Code, Texas Clean Air Act (TCAA), §382.011, concerning General Powers and Duties, which provides the commission with the authority to establish the level of quality to be maintained in the state's air and the authority to control the quality of the state's air; §382.017, concerning Rules, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.012, concerning State Air Control Plan, which requires the commission to develop plans for protection of the state's air.

The proposed amendments implement the Texas Health and Safety Code, TCAA, §§382.011, 382.012, and 382.017.

§115.211. Emission Specifications.

The owner or operator of each gasoline terminal [and gasoline bulk plant] in the covered attainment counties and in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/ Galveston areas, as defined in §115.10 of this title (relating to Definitions), shall ensure that volatile organic compound (VOC) emissions from the vapor control system vent at gasoline terminals do not exceed the following rates:

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

§115.212. Control Requirements.

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

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

(3) Leak-free requirements. All land-based [loading and unloading of] VOC <u>transfer to or from transport vessels</u> shall be conducted such that:

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

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

(b) The owner or operator of each land-based VOC transfer operation and transport vessel in the covered attainment counties shall comply with the following control requirements.

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

(3) Leak-free requirements. All land-based [loading and unloading of] VOC transfer to or from transport vessels shall be conducted such that:

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

(4)-(5) (No change.)

§115.216. Monitoring and Recordkeeping Requirements.

The owner or operator of each volatile organic compound (VOC) loading or unloading operation in the covered attainment counties or in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas shall maintain the following information for at least two years at the plant, as defined by its air quality account number. The owner or operator shall make the information available upon request to representatives of the executive director, EPA, or any local air pollution control agency having jurisdiction in the area.

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

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

(A) A daily record of:

(i) the identification number of each tank-truck tank for which annual leak testing is required under §115.214(a)(1)(C) or (b)(1)(C) of this title (relating to Inspection Requirements);

(ii) (No change.)

(iii) the date of the last leak testing of each tank-truck tank as required by §115.214(a)(1)(C) or (b)(1)(C) of this title [(relating to Inspection Requirements)].

(B)-(E) (No change.)

(4) (No change.)

SUBCHAPTER C: VOLATILE ORGANIC COMPOUND TRANSFER OPERATIONS

DIVISION 4: CONTROL OF VEHICLE REFUELING EMISSIONS (STAGE II) AT MOTOR VEHICLE FUEL DISPENSING FACILITIES

§115.240

STATUTORY AUTHORITY

The new section is proposed under the Texas Health and Safety Code, Texas Clean Air Act (TCAA), §382.011, concerning General Powers and Duties, which provides the commission with the authority to establish the level of quality to be maintained in the state's air and the authority to control the quality of the state's air; §382.017, concerning Rules, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.012, concerning State Air Control Plan, which requires the commission to develop plans for protection of the state's air.

The proposed new section implements the Texas Health and Safety Code, TCAA, §§382.011, 382.012, and 382.017.

§115.240. Stage II Vapor Recovery Definitions.

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

(1) **Independent small business marketer of gasoline** - A person engaged in the marketing of gasoline who owns the dispensing equipment at a motor vehicle fuel dispensing facility and receives at least 50% of his annual income from the marketing of gasoline. A person is not an independent small business marketer of gasoline if such person:

(A) is a refiner; or

(B) controls (i.e., owns more than 50% of a business or corporation's stock), is controlled by, or is under common control with, a refiner; or

(C) is otherwise directly or indirectly affiliated with a refiner or with a person who controls, is controlled by, or is under common control with a refiner (unless the sole affiliation is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person).

(2) **Owner or operator of a motor vehicle fuel dispensing facility** - Any person who owns, leases, operates, or controls the motor vehicle fuel dispensing facility.

SUBCHAPTER E: SOLVENT-USING PROCESSES

DIVISION 3: FLEXOGRAPHIC AND ROTOGRAVURE PRINTING [GRAPHIC ARTS (PRINTING) BY ROTOGRAVURE AND FLEXOGRAPHIC PROCESSES]

§115.430

STATUTORY AUTHORITY

The new section is proposed under the Texas Health and Safety Code, Texas Clean Air Act (TCAA), §382.011, concerning General Powers and Duties, which provides the commission with the authority to establish the level of quality to be maintained in the state's air and the authority to control the quality of the state's air; §382.017, concerning Rules, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.012, concerning State Air Control Plan, which requires the commission to develop plans for protection of the state's air.

The proposed new section implements the Texas Health and Safety Code, TCAA, §§382.011, 382.012, and 382.017.

§115.430. Flexographic and Rotogravure Printing Definitions.

The following words and terms, when used in this division, shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions for terms used in this division are

found in §115.10 of this title (relating to Definitions), §101.1 of this title (relating to Definitions), and §3.2 of this title (relating to Definitions).

(1) **Flexographic printing process** - A method of printing in which the image areas are raised above the non-image areas, and the image carrier is made of an elastomeric material.

(2) **Packaging rotogravure printing** - Any rotogravure printing upon paper, paper board, metal foil, plastic film, or any other substrate which is, in subsequent operations, formed into packaging products or labels.

(3) **Publication rotogravure printing** - Any rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, or other types of printed materials.

(4) **Rotogravure printing** - The application of words, designs, and/or pictures to any substrate by means of a roll printing technique which involves a recessed image area. The recessed area is loaded with ink and pressed directly to the substrate for image transfer.

SUBCHAPTER E: SOLVENT-USING PROCESSES

DIVISION 4: OFFSET LITHOGRAPHIC PRINTING

§115.449

STATUTORY AUTHORITY

The amendment is proposed under the Texas Health and Safety Code, Texas Clean Air Act (TCAA), §382.011, concerning General Powers and Duties, which provides the commission with the authority to establish the level of quality to be maintained in the state's air and the authority to control the quality of the state's air; §382.017, concerning Rules, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and §382.012, concerning State Air Control Plan, which requires the commission to develop plans for protection of the state's air.

The proposed amendment implements the Texas Health and Safety Code, TCAA, §§382.011, 382.012, and 382.017.

§115.449. Counties and Compliance Schedules.

(a)-(c) (No change.)

(d) In Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties, all offset lithographic printing presses on a property which, when uncontrolled, emit a combined weight of VOC equal to or greater than 25 tons per calendar year, shall be in compliance

with §§115.442, 115.443, 115.445, and 115.446 of this title as soon as practicable, but no later than December 31, 2002.

(e) [(d)] In Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties, all offset lithographic printing presses on a property which, when uncontrolled, emit a combined weight of VOC less than 25 tons per calendar year, shall be in compliance with §§115.442, 115.443, 115.445, and 115.446 of this title as soon as practicable, but no later than one year, after the commission publishes notification in the *Texas Register* of its determination that this contingency rule is necessary as a result of failure to attain the NAAQS for ozone by the attainment deadline or failure to demonstrate reasonable further progress as set forth in [the 1990 Amendments to] the FCAA, §172(c)(9).