

The Texas Natural Resource Conservation Commission (TNRCC or commission) proposes amendments to §§115.211, 115.212, and 115.219, concerning Loading and Unloading of Volatile Organic Compounds (VOC). The commission proposes these revisions to Chapter 115, concerning Control of Air Pollution from VOCs, and to the State Implementation Plan (SIP) in order to delete requirements for gasoline terminals and gasoline bulk plants which the commission has determined are unnecessary.

EXPLANATION OF PROPOSED RULES

A gasoline terminal is a gasoline transfer facility, excluding marine terminals, with a gasoline throughput of at least 20,000 gallons per day, averaged over any consecutive 30-day period. A gasoline bulk plant is a gasoline transfer facility, excluding marine terminals, with a gasoline throughput less than 20,000 gallons per day, averaged over any consecutive 30-day period.

The proposed changes to §115.211, concerning Emission Specifications, delete the emission specification for gasoline bulk plants in the Beaumont/Port Arthur (BPA), Dallas/Fort Worth (DFW), El Paso (ELP), and Houston/Galveston (HGA) ozone nonattainment areas, and in 95 counties in the eastern half of Texas. These 95 counties are: 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. The affected ozone nonattainment counties are Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller.

For gasoline bulk plants, §115.211(2) sets an emission limit of 140 milligrams per liter (mg/l) of gasoline transferred. Under §115.212(a)(5)(A), a vapor balance system is required. Alternatively, add-on controls with a control efficiency of at least 90% may be used. Deletion of the 140 mg/l limit would eliminate this difficult-to-quantify/enforce emission limit, but the rules would still require a vapor balance system or a 90% efficient add-on control device. The United States Environmental Protection Agency (EPA) control techniques guideline guidance document upon which the Chapter 115 gasoline bulk plant rules are largely based supports deletion of the emission limit for gasoline bulk plants. Specifically, on page 1-3 of *Control of Volatile Organic Emissions from Bulk Gasoline Plants* (EPA-450/2-77-035, December 1977), the EPA states: "Regulations should be written in terms of operating procedures and equipment specifications rather than emission limits." In addition, the EPA's model reasonably available control technology (RACT) rules do not include an emission limit for gasoline bulk plants. Because the Chapter 115 rules would continue to require a vapor balance system or a 90% efficient add-on control device, the EPA's RACT requirements will continue to be satisfied, and no emission reduction credit will be affected by deletion of the emission limit in §115.211(2). Finally, the proposed revisions to §115.211 renumber the gasoline terminal emission specifications in the current §115.211(1)(A) and (B) as §115.211(1) and (2), respectively.

The proposed changes to §115.212, concerning Control Requirements, revise the "loading lockout" requirement of §115.212(a)(4)(C) and (D) by deleting the requirement to equip gasoline terminals in the DFW, ELP, and HGA ozone nonattainment areas with sensors and other equipment which monitor either a positive coupling of the vapor return line to the transport vessel or the presence of vapor flow in the vapor return line between the transport vessel and the terminal's vapor collection system. The affected counties are Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Harris, Liberty, Montgomery, Tarrant, and Waller. In addition, the existing §115.212(a)(4)(E) is proposed for deletion because it will become unnecessary due to the revisions to §115.212(a)(4)(C) and (D), described earlier.

The "loading lockout" rule was initially adopted by the commission on May 4, 1994, and included a requirement for instrumentation which prevents gasoline transfer if the vapor line is not connected between the transport vessel and the terminal's vapor collection system. The specific intent of this requirement was for gasoline terminals to be equipped with sensors and other equipment which is designed and connected to monitor either a positive coupling of the vapor return line to the transport vessel, or the presence of vapor flow in the vapor return line between the transport vessel and the terminal's vapor collection system. Further, the intent was that if the system detects that the vapor return line is not connected during gasoline transfer, then the system automatically stops the transfer of gasoline to the transport vessel in the affected loading bay. These requirements have applied to gasoline terminals in the DFW, ELP, and HGA ozone nonattainment areas since the November 15, 1996 compliance date.

The commission is proposing to delete this "loading lockout" requirement because instrumentation will not prevent the vapor hose from being improperly connected, and can allow loading to continue if the hose is damaged or only partially connected. Loading lockout instrumentation would prevent completely uncontrolled gasoline loading from occurring. However, the commission's experience is that it is far more likely that tank-truck drivers and/or gasoline terminal operators would fail to take corrective action when vapor and/or liquid gasoline leaks occur than it is for completely uncontrolled loading to occur. Inspection for leaks and correction of leaks are specifically addressed by §115.212(a)(3) and §115.214(a)(1). Because the "loading lockout" instrumentation would not prevent such leaks, the commission believes that this instrumentation is unnecessary. However, the commission intends to vigorously enforce the requirements of §115.212(a)(3) and §115.214(a)(1) to ensure that when vapor and/or liquid gasoline leaks do occur at gasoline terminals, corrective action is taken in a timely manner.

For the DFW, ELP, and HGA ozone nonattainment areas, gasoline terminal emission reduction estimates of 2.17, 0.77, and 0.63 tons per day, respectively, were given in the 1996 *Fix-Ups to the 15% Rate-of-Progress SIP for Dallas/Fort Worth, El Paso, Beaumont/Port Arthur, and Houston/Galveston Ozone Nonattainment Areas*. Deletion of the requirement for instrumentation which prevents gasoline transfer if the vapor line is not connected between the transport vessel and the terminal's vapor collection system will not have an impact on emission reduction credits already taken because that credit was based on tightening the stringency of the gasoline terminal emission specification from 40 to 10.8 milligrams per liter (mg/l) of gasoline loaded. Although the loading lockout requirement was used as additional substantiation for the commission's estimate of gasoline

terminal emission reductions associated with implementation of the 10.8 mg/l emission specification, deletion of this requirement will not affect the emission reduction credit.

The proposed changes to §115.219, concerning Counties and Compliance Schedules, eliminate references to the gasoline bulk plant emission specification of §115.211(2) and update rule references to the gasoline terminal emission specification from the current §115.211(1)(A) and (B) to §115.211(1) and (2), respectively. These changes are necessary due to the changes to §115.211 and §115.212 described earlier.

FISCAL NOTE

Jeff Horvath, Strategic Planning and Appropriations Division, has determined that for the first five-year period the revisions as proposed are in effect, there will be no fiscal implications for state or local governments as a result of administration or enforcement of the proposed amendments. Enforcement of the rule will not result in an increase in workload for commission staff.

There are approximately 36 gasoline terminals in the DFW, ELP, and HGA ozone nonattainment areas, and most of these do not have sensors and other equipment which monitor either a positive coupling of the vapor return line to the transport vessel, or the presence of vapor flow in the vapor return line between the transport vessel and the terminal's vapor collection system. It is estimated to cost \$2,400 per loading bay to install this equipment. A typical gasoline terminal has three to eight loading bays, so the savings to each terminal from not installing this equipment are estimated to range from \$7,200 to \$19,200. There are numerous gasoline bulk plants in the BPA, DFW, ELP, and HGA ozone nonattainment areas, and in 95

counties in the eastern half of Texas. The proposed revisions will relieve gasoline bulk plants from the cost of conducting performance testing to demonstrate compliance with the 140 mg/l emission limit of §115.211(2). The estimated cost savings is \$5,000 per test.

PUBLIC BENEFIT

Mr. Horvath has also determined that for each year of the first five years the proposed revisions are in effect, the public benefit anticipated from enforcement of and compliance with the rules will be more cost-effective rules. The proposed revisions will relieve gasoline terminals that are not already complying with the loading lockout requirements of §115.212(a)(4)(C)-(D) from the cost of installing sensors and other equipment which monitor either a positive coupling of the vapor return line to the transport vessel, or the presence of vapor flow in the vapor return line between the transport vessel and the terminal's vapor collection system. None of the gasoline terminals affected by this proposed revision are small businesses. In addition, the proposed revisions will relieve gasoline bulk plants from the cost of conducting performance testing to demonstrate compliance with the 140 mg/l emission limit of §115.211(2). Most of the gasoline bulk plants affected by this proposed revision are small businesses.

SMALL BUSINESS ANALYSIS

As identified in the PUBLIC BENEFIT and FISCAL NOTE sections, the rule revision does not impose any costs on persons or small businesses and, in fact, is expected to result in cost savings.

DRAFT REGULATORY IMPACT ANALYSIS

The commission has reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and has determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a “major environmental rule” as defined in the Texas Government Code. The revision proposed in this rulemaking will delete requirements for gasoline terminals and gasoline bulk plants which the commission has determined are unnecessary for the reasons stated earlier in this preamble. This revision does not meet the definition of a major environmental rule, as it will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, or jobs. This rulemaking will result in a cost savings to the industry. Furthermore, this rulemaking will not adversely affect in a material way the environment, or the public health and safety of the state or a sector of the state. This revision will not adversely affect any SIP emission reduction obligations relating to attainment demonstrations, because deletion of the loading lockout provisions described earlier is not expected to increase the duration or amount of emissions. There is no contract or delegation agreement that covers the topic that is the subject of this rulemaking. Therefore, this rulemaking does not involve an agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program, and was not developed solely under the general powers of the agency. 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 to delete requirements for gasoline terminals and gasoline bulk plants which the commission has determined are unnecessary. The proposed revisions will relieve gasoline terminals that are not already complying with the loading lockout requirements of §115.212(a)(4)(C)-(D) from the cost of installing sensors and other equipment which monitor either a positive coupling of the vapor return line to the transport vessel, or the presence of vapor flow in the vapor return line between the transport vessel and the terminal's vapor collection system. In addition, the proposed revisions will relieve gasoline bulk plants from the cost of conducting performance testing to demonstrate compliance with the 140 mg/l emission limit of §115.211(2). This rulemaking will result in a cost savings to the industry. Therefore, this revision will not constitute a takings under Chapter 2007 of the Texas Government Code.

COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The commission has determined that the proposed rulemaking relates to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code, §§33.201 et seq.), and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with the CMP. As required by 31 TAC §505.11(b)(2) and 30 TAC §281.45(a)(3) relating to actions and rules subject to the CMP, commission rules governing air pollutant emissions must be consistent with the applicable goals and policies of the CMP. The commission has reviewed this proposed action for consistency with the CMP goals and policies in accordance with the rules of the Coastal Coordination Council, and has determined that the proposed action is consistent with the applicable CMP goals and policies. The CMP policy applicable to this rulemaking action is the policy that commission rules comply with regulations in Title 40, Code

of Federal Regulations, to protect and enhance air quality in the coastal area (31 TAC §501.14(q)).

This rulemaking will not have a significant adverse effect on air quality in the coastal area, because it will not affect any SIP emission reduction obligations relating to attainment demonstrations, and because deletion of the loading lockout and gasoline bulk plant emission limit described earlier is not expected to increase the duration or amount of emissions. Interested persons may submit comments on the consistency of the proposed rules with the CMP during the public comment period.

PUBLIC HEARINGS

A public hearing on this proposal will be held in Austin on October 4, 1999 at 2:00 p.m. in Building F, Room 5108 at the Texas Natural Resource Conservation Commission Complex, located at 12100 Park 35 Circle. Individuals may present oral statements when called upon in order of registration. Open discussion will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes before the hearing and will answer questions before and after the hearing.

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

SUBMITTAL OF COMMENTS

Written comments may be submitted to Lola Brown, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 99053-115-AI. Comments must be received by 5:00 p.m., October 11, 1999. For further information, please contact Eddie Mack, Strategic Environmental Analysis and Assessment Division, at (512) 239-1488.

STATUTORY AUTHORITY

The amendments are proposed under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA; and TCAA, §382.012, which requires the commission to develop plans for protection of the state's air.

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

SUBCHAPTER C : VOLATILE ORGANIC COMPOUND TRANSFER OPERATIONS

DIVISION 1: LOADING AND UNLOADING OF VOLATILE ORGANIC COMPOUNDS

§§115.211, 115.212, 115.219

§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) [VOC] emissions from the vapor control system vent at gasoline terminals [gasoline transfer] do not exceed the following rates:

(1) [from the vapor control system vent at gasoline terminals:]

[A] in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, 0.09 pound per 1,000 gallons (10.8 mg/liter) of gasoline loaded into transport vessels.

[B] (2) in the covered attainment counties, 0.17 pound per 1,000 gallons (20 mg/liter) of gasoline loaded into transport vessels. Until April 30, 2000 in Gregg, Nueces, and Victoria Counties, VOC emissions are limited to [shall not exceed] 0.67 pound per 1,000 gallons (80 mg/liter) of gasoline loaded into transport vessels.

[(2) at gasoline bulk plants, 1.2 pounds per 1,000 gallons (140 mg/liter) of gasoline transferred into transport vessels or storage tanks.]

§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)-(3) (No change.)

(4) Gasoline terminals. The following additional control requirements apply to the transfer of gasoline at gasoline terminals.

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

(C) Each gasoline terminal shall be equipped with sensors and other equipment designed and connected to monitor the status of the control device [, and to monitor either a positive coupling of the vapor return line to the transport vessel or the presence of vapor flow in the vapor return line between the transport vessel and the terminal's vapor collection system].

[(i)] If the control device malfunctions or is not operational, the system shall automatically stop gasoline transfer to the transport vessel(s) immediately.

[(ii) If the vapor return line is not connected during gasoline transfer, then:]

[(I) systems which monitor for a positive coupling of the vapor return line to the transport vessel shall automatically stop the transfer of gasoline to the transport vessel in that loading bay immediately; and]

[(II) systems which monitor for the presence of vapor flow shall allow no more than one minute of gasoline transfer to occur before automatically stopping the transfer of gasoline to the transport vessel in that loading bay.]

(D) As an alternative to subparagraph (C) of this paragraph, the following requirements apply to gasoline terminals which have a variable vapor space holding tank design that can process the vapors independent of transport vessel loading. Such gasoline terminals shall be equipped with sensors and other equipment designed and connected to monitor the status of the control device [, and to monitor either a positive coupling of the vapor return line to the transport vessel or the presence of vapor flow in the vapor return line between the transport vessel and the terminal's vapor collection system].

[(i)] If the variable vapor space holding tank serving the loading rack(s) does not have the capacity to store additional vapors for processing by the control device at a later time and the control device malfunctions or is not operational, the system shall automatically stop gasoline transfer to the transport vessel(s) immediately.

[(ii) If the vapor return line is not connected during gasoline transfer, then:]

[(I) systems which monitor for a positive coupling of the vapor return line to the transport vessel shall automatically stop the transfer of gasoline to the transport vessel in that loading bay immediately; and]

[(II) systems which monitor for the presence of vapor flow shall allow no more than one minute of gasoline transfer to occur before automatically stopping the transfer of gasoline to the transport vessel in that loading bay.]

[(E) As an alternative to subparagraphs (C) and (D) of this paragraph, gasoline terminals in the Beaumont/Port Arthur area may comply with subsection (b)(4)(C) or (D) of this section.]

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

(b) (No change.)

§115.219. Counties and Compliance Schedules.

(a) (No change.)

(b) The owner or operator of each gasoline bulk plant in the covered attainment counties, as defined in §115.10 of this title (relating to Definitions), shall comply with §§[115.211(2),] 115.212(b), 115.214(b), 115.216, and 115.217(b) of this title (relating to [Emission Specifications;] Control Requirements; Inspection Requirements; Monitoring and Recordkeeping Requirements; and Exemptions) as soon as practicable, but no later than April 30, 2000.

(c) The owner or operator of each gasoline terminal in the covered attainment counties, as defined in §115.10 of this title (excluding Gregg, Nueces, and Victoria Counties), shall comply with §§ 115.211(2) [115.211(1)(B)], 115.212(b), 115.214(b), 115.216, and 115.217(b) of this title as soon as practicable, but no later than April 30, 2000.

(d) The owner or operator of each gasoline terminal in Gregg, Nueces, and Victoria Counties shall:

(1) (No change.)

(2) be in compliance with the following specifications as soon as practicable, but no later than April 30, 2000:

(A) the 20 mg/liter emission specification of §115.211(2) [§115.211(1)(B)] of this title;

(B)-(D) (No change.)

(e)-(i) (No change.)