

The commission proposes amendments to Subchapter G (Consumer-Related Sources; Consumer Products), §115.616, concerning Recordkeeping and Reporting Requirements. Subchapter G (“consumer products rule”) was adopted May 4, 1994 in response to the Federal Clean Air Act (FCAA) requirement for states to adopt Rate-of-Progress State Implementation Plans which achieve by November 15, 1996, a 15% net-of-growth reduction in the volatile organic compound (VOC) emissions level in each ozone nonattainment area. Most consumer products regulated under the rule were required to be in compliance with the rule’s VOC content limitation if manufactured after January 1, 1995, with the remainder after January 1, 1996. For practical enforcement and product distribution reasons, the rule applies statewide.

Existing §115.616(a) requires that each consumer product container or package display the day, month, and year of manufacture, or a code indicating that date, if it is manufactured after January 1, 1995.

Dating the product facilitates determination of whether the product is subject to the applicable standard.

Dating also could facilitate determining the magnitude of a compliance problem, if the problem was limited to products manufactured over a specific period. As an alternative to this product dating requirement, the proposed amendment would allow manufacturers of regulated consumer products to display information on the product container or package, upon written request to the Executive Director and receipt of written approval, which enables determination of the applicable VOC limitation for the product. The proposed rule amendment would provide additional flexibility and cost savings to regulated industries without affecting the state’s ability to effectively enforce the rule.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the section as proposed is in effect, there are no significant fiscal implications anticipated for state and local governments as a result of administration or enforcement of the sections. Equipment costs for businesses to comply with the current rule are estimated at \$15,000 per date stamping machine, with the possible need for several machines per business. The proposed amendment provides cost savings comparable to these estimated costs by providing affected businesses with an alternative method of rule compliance.

The proposed rule amendment is expected to have a proportionally greater cost savings impact on small businesses than for larger ones, because small businesses generally have smaller capital investments, and larger businesses typically provide date stamp coding for additional reasons such as formulation, production, and inventory control. Since regulated industries have had to comply with the rule's current date stamping provision since January 1, 1995, the overall potential industry-wide cost savings resulting from the rule amendment is small. For small businesses which do not substantially change product formulations over time, an alternative means of rule compliance represents greater potential cost savings for small businesses than for larger ones.

Mr. Minick has also determined that for each year of the first five years the section as proposed is in effect, the public benefit anticipated as a result of implementing the section will be satisfaction of FCAA amendments and the United States Environmental Protection Agency requirements, and VOC emission reductions in ozone nonattainment areas which are necessary for the timely attainment of the

ozone standard. There are no economic costs anticipated for any individual required to comply with the sections as proposed.

The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated, Section 2007.043. The following is a summary of that assessment. The specific purpose of the rule amendment is to provide an alternative method of complying with the rule's date stamping requirement. The rule amendment will substantially advance this specific purpose by allowing certain identifying information to be displayed on the package container or label.

Promulgation and enforcement of this rule amendment will not affect private real property which is the subject of the rule because the change is only to provide an alternative method of rule compliance.

A public hearing on this proposal will be held May 28, 1996, at 10:00 a.m. in Building F, Room 2210 at the Texas Natural Resource Conservation Commission complex, located at 12100 North IH-35, Park Technology Center, Austin. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments may be mailed to Heather Evans, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96117-115-AI. Comments must be received by

5:00 p.m., June 7, 1996. For further information, please contact Mike Magee, Air Policy and Regulations Division, (512) 239-1511.

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

The amendments are proposed under the Texas Health and Safety Code (Vernon 1992), 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.

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

**SUBCHAPTER G : CONSUMER-RELATED SOURCES
CONSUMER PRODUCTS**

§115.616. Recordkeeping and Reporting Requirements.

(a) Each manufacturer of a consumer product subject to §115.612 of this title (relating to Control Requirements) shall clearly display on each consumer product container or package[,] the day, month, and year on which the product was manufactured, [or] a code indicating such date, or other information, upon written request to the Executive Director and receipt of written approval, which enables determination of the applicable volatile organic compound limitation for the product. This date, [or] code, or other approved identifying information shall be displayed on each [consumer product] container or package for any consumer product regulated under this subchapter which is manufactured after January 1, 1995.

(b)-(d) (No change.)

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

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