The commission adopts amendments to §115.214 and §115.216, concerning Loading and Unloading of Volatile Organic Compounds (VOC), with changes to the proposal as published in the April 26, 1996 issue of the *Texas Register* (21 TexReg 3595).

The amendment to §115.214, concerning Inspection Requirements, removes the requirement to comply with the fugitive emissions monitoring requirements of §§115.352-115.357 and 115.359, and substitutes a requirement for an audio-visual-olfactory (AVO) walkthrough monitoring program for control of equipment leaks at gasoline terminals. The amendment to §115.216, concerning Monitoring and Recordkeeping Requirements, replaces the reporting and recordkeeping requirements applicable to §§115.352-115.357 and 115.359 with reporting and recordkeeping requirements for an AVO program. These revisions are in response to a petition for rulemaking, received by the agency on February 15, 1996.

The Federal Clean Air Act (FCAA) requires states to adopt a Rate-of-Progress (ROP) State Implementation Plan (SIP) which achieves by November 15, 1996, in each moderate and above ozone nonattainment area, a 15% net-of-growth reduction in the VOC emissions level. The requirement for gasoline terminals to meet the fugitive emissions monitoring requirements of §§115.352-115.357 and 115.359, part of the 15% ROP SIP for the Houston/Galveston, Dallas/Fort Worth, and El Paso ozone nonattainment areas, was adopted by the commission in May, 1994. The commission originally added the instrument inspection requirement because, at the time, gasoline terminals were characterized by the same equipment leak emission factors as refineries. It was believed that an extension of the fugitive

monitoring rule (which applies to refineries) to gasoline terminals would produce meaningful additional emission reductions that could be credited towards the 15% ROP requirements.

During the development of the federal Maximum Achievable Control Technology (MACT) standards for gasoline terminals (promulgated December 14, 1994; 59 FR 64303), the United States Environmental Protection Agency (EPA) revised the requirement for control of equipment leak fugitives from a quarterly instrument monitoring program to a monthly AVO program. The EPA relaxed the requirement in response to data submitted by the American Petroleum Institute (API) which showed that: 1) emission factors for gasoline terminals using an AVO monitoring program are over 99% lower than the 1980 AP-42 refinery equipment emission factors that the EPA had used for the development of the proposed MACT standard, and 2) gasoline terminals that implemented an AVO program achieved essentially equivalent emission reductions as those terminals that used an instrument monitoring program.

The revision of §115.214(a)(5) removes the requirement for an instrument leak detection and repair program for the control of equipment leaks at gasoline terminals and replaces it with a requirement for an AVO inspection program. The revision will allow up to 15 days for repair of a leaking component. In addition, a minor revision to §115.214(a)(4)(E) corrects a rule reference. The revision of §115.216(a)(7) replaces the reporting and recordkeeping requirements applicable to §§115.352-115.357 and 115.359 with reporting and recordkeeping requirements for an AVO program.

The revisions of §115.214(a)(5) and §115.216(a)(7) make the Chapter 115 fugitive component monitoring requirements for gasoline terminals more consistent with the recently adopted federal MACT standards for gasoline terminals, the New Source Performance Standards (NSPS) for gasoline terminals, and allow for cost-effective implementation of this rule.

The staff's Takings Impact Assessment for these rules has concluded that promulgation and enforcement of this rule as amended will be less burdensome on regulated entities than existing requirements and will not affect private real property, and, therefore, does not constitute a taking.

A public hearing was held May 28, 1996, in Austin. The comment period closed on June 7, 1996.

Six commenters submitted testimony on §115.214 and §115.216. Texas Mid-Continent Oil & Gas Association (TMOGA), Exxon Company, USA (Exxon), Citgo Petroleum Corporation (Citgo), Harris County Pollution Control Department (HCPCD), and EPA generally supported the proposed revisions but suggested changes or clarifications. One individual opposed the proposed revision.

TMOGA, Citgo, and Exxon suggested that the revision allow gasoline terminal owners or operators to delay repair or replacement of a leaking component beyond the 15 day limit if repair or replacement would require a unit shutdown. They requested that repair or replacement of these leaking components be allowed to be delayed until the next scheduled shutdown. The commenters also suggested that the proposed recordkeeping requirement be modified to incorporate this shutdown provision. The

commenters stated that without these changes, the proposed revision is inconsistent with the federal MACT and NSPS, and more stringent than the agency permitting guidelines for gasoline terminals.

The intent of the proposed language was to allow for repairs delayed beyond 15 days. This provision was addressed in the recordkeeping section, §115.216(a)(7)(E), which requires an explanation for those instances in which a repair must be delayed beyond 15 days. This language was taken from, and is therefore consistent with, the federal NSPS. In order to clarify that the revision does in fact allow for a shutdown provision, the commission has incorporated the language found in the agency permitting guidelines, as suggested by the commenters.

EPA commented on the phrase "sight, sound or smell", suggesting that the word "or" be replaced with the word "and." EPA also suggested that the commission add the wording to state that: "each piece of equipment shall be inspected during the loading of gasoline trucks."

These changes are consistent with the MACT standard for gasoline terminals and have been made.

EPA also requested the commission address whether the new fugitive emission information should be addressed in the Emission Inventory and the reductions shown in the 15% plan.

The agency guidance to companies submitting 1990 emissions inventories was to use the AP-42 refinery fugitive emission factors for estimating fugitive emissions from gasoline marketing terminals. This guidance was based on the best information available at the time. The new emission factor information became available in February 1995. It is not practical to revisit the 1990 emissions inventory every time better information becomes available. The agency practice is to incorporate better emission factor data by asking companies required to submit annual inventories to use current AP-42 emission information. With point sources, the reported emission data is a function of emission factors, activity level, and control strategies. It would be inaccurate for the agency to revise the inventory across the board to reflect the 1995 factor without verifying the methods of calculation for each account. Revisiting each company's calculations would not be practical at this time. The control efficiency in the 15% SIP does not change since, for gasoline terminals, an AVO program has been demonstrated to yield emission reductions equivalent to an instrument monitoring program.

HCPCD commented that they have no objection to the revision as long as the emission credits are equivalent to those allowed by the current method in the 15% ROP SIP. They also suggested that the revision include a requirement for a directed maintenance program along with the AVO procedure, and that the period required for repair be shortened from 15 days to a requirement for immediate repair when practicable.

The credit taken in the 15% SIP, as a result of the new rule, is not expected to change, since for gasoline terminals, an AVO program has been demonstrated to yield emission reductions equivalent to an instrument monitoring program. The Chapter 115 rule is being revised in order to be more consistent with the federal standards as well as the agency permitting guidelines. A specification for directed maintenance or for repair within a less than 15 day period would be inconsistent with these other requirements.

An individual opposed the revision, and commented that an AVO program is less effective than an instrument monitoring program - both for locating leaks and for assessing the success of a repair. The commenter stated that the revision gives no guidance on repair of leaking components. The commenter asked that the commission define the term "essentially equivalent emission reductions," as used to describe the comparison of terminals using an instrument monitoring program to those using an AVO program. Finally, the commenter expressed the opinion that the commission is weakening the current rule by allowing emission reductions equivalent to those resulting from an instrument monitoring program, in order to claim additional SIP credit for terminals that do implement an instrument program.

The API data, submitted to and accepted by EPA and used in the agency permitting guidelines, showed that AVO and instrument leak detection and repair fugitive monitoring programs achieve essentially equivalent emission reductions for gasoline terminals. "Essentially equivalent" refers to the API study's conclusion that there was no statistically significant difference in the leak rates

found between terminals using either program. The Chapter 115 revision gives guidance on repair of leaking components. Section 115.214 requires that leaking components be repaired or replaced within 15 days or at the next scheduled shutdown if necessary. In response to the individual's last comment, no additional SIP credit can be claimed for terminals that implement an instrument monitoring program. The data shows the emission reductions from an instrument program are equivalent to, not in excess of, those resulting from an AVO program.

The amendments are adopted 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.

SUBCHAPTER C : VOLATILE ORGANIC COMPOUND TRANSFER OPERATIONS

LOADING AND UNLOADING OF VOLATILE ORGANIC COMPOUNDS

§115.214. Inspection Requirements.

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

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

(4) After November 15, 1996 for marine terminals in the Houston/Galveston area, the following inspection requirements shall apply.

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

(E) All shore-based equipment is subject to the fugitive emissions monitoring requirements of §§115.352-115.357 and 115.359 of this title (relating to Fugitive Emission Control in Petroleum Refining and Petrochemical Processes). For the purposes of this paragraph, shore-based equipment includes, but is not limited to, all equipment such as loading arms, pumps, meters, shutoff valves, relief valves, and other piping and valves between the marine loading facility and the vapor

recovery system and between the marine loading facility and the associated land-based storage tanks, excluding working emissions from the storage tanks.

(5) After November 15, 1996, each gasoline terminal, as defined in §115.10 of this title, in the Dallas/Fort Worth, El Paso, and Houston/Galveston areas shall perform a monthly leak inspection of all equipment in gasoline service. Each piece of equipment shall be inspected during the loading of gasoline tank trucks. For this inspection, detection methods incorporating sight, sound, and smell are acceptable. Alternatively, gasoline terminals may use a hydrocarbon gas analyzer for the detection of leaks, by meeting the requirements of §§115.352-115.357 and 115.359 of this title. Every reasonable effort shall be made to repair or replace a leaking component within 15 days after a leak is found. If the repair or replacement of a leaking component would require a unit shutdown, the repair may be delayed until the next scheduled shutdown.

(b) (No change.)

§115.216. Monitoring and Recordkeeping Requirements.

(a) For volatile organic compound (VOC) loading or unloading operations in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas affected by §115.211(a) or §115.212(a) of this title (relating to Emission Specifications; and Control Requirements), the owner or operator shall maintain the following information at the plant as defined

by its Texas Natural Resource Conservation Commission air quality account number for at least two years and shall make such information available upon request to representatives of the commission, United States Environmental Protection Agency (EPA), or any local air pollution control agency having jurisdiction in the area:

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

(7) For gasoline terminals in the Dallas/Fort Worth, El Paso, and Houston/Galveston areas, records of the results of the required fugitive monitoring and maintenance program, as specified in §115.214(a)(5) of this title, shall be maintained at the plant site for two years, and shall include the following:

(A) a description of the types, identification numbers, and locations of all equipment in gasoline service;

(B) the date of each monthly inspection;

(C) the results of each inspection;

(D) the location, nature, severity, and method of detection for each leak;

(E) the date each leak is repaired and explanation if repair is delayed beyond 15 days;

(F) a list identifying those leaking components which cannot be repaired or replaced until a scheduled unit shutdown; and

(G) the inspector's name and signature.

(8) (No change.)

(b) (No change.)

This agency hereby certifies that the sections as adopted have been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on July 24, 1996