

The Texas Natural Resource Conservation Commission (commission) proposes new §122.516, concerning the requirements for a Site-wide General Operating Permit (site-wide GOP or GOP). The commission has developed the proposed new section to provide a simplified alternate permitting mechanism for compliance with the operating permit program mandated by Title V of the Federal Clean Air Act (FCAA) Amendments of 1990. Title 40 Code of Federal Regulations, Part 70 (40 CFR 70) allows general permits as an alternate mechanism for numerous similar sources that are subject to Title V. Chapter 122 was promulgated in response to 40 CFR 70 and also allows this alternate mechanism. The new section will be included in Subchapter F, concerning General Operating Permits.

The rules regarding a Site-wide General Operating Permit are proposed for the entire State of Texas.

EXPLANATION OF THE PROPOSED RULE

Subchapter F of Chapter 122 currently lists five GOPs that the commission developed for major sources subject to the Texas Title V Operating Permits Interim Program. Four GOPs were developed for oil and gas operations listed under Standard Industrial Codes (SIC) 1311, 1321, 4922, and 4923 and are listed in §§122.511-122.514. A GOP was also developed for bulk fuel storage terminals (SIC 5171) and is listed in §122.515. Each GOP has three subsections containing qualification criteria, general conditions, and permit tables which list the requirements that apply to emission units at a site. Owners or operators of these major sources took advantage of this alternate permitting mechanism and submitted approximately 800 GOP applications to the commission for the interim program.

The proposed site-wide GOP will provide an alternate permitting mechanism to owners or operators of major sources subject to the Texas Title V Operating Permits Full Program (Full Program) which have only site-wide requirements. A site-wide requirement is a fairly simple requirement that applies uniformly to the emission units at the site. As an example, the Operating Permits Division has designated certain requirements of 30 TAC Chapter 111, concerning Control of Air Pollution from Visible Emissions and Particulate Matter, such as the opacity limits for stationary vents, as site-wide requirements. These requirements were designated as site-wide, since many sites have numerous stationary vents and each must comply with the appropriate opacity limit.

The proposed rule sets forth, in §122.516(a), the criteria that owners or operators of sites must meet in order to be authorized to operate under this GOP. The qualification criteria consists of the conditions consistent with the limitations of a permit by rule and the intended use of this GOP. Since this proposed GOP is intended for use by sites which are subject to only site-wide requirements, sites requiring another federal operating permit to codify any other applicable requirements will not qualify for this proposed GOP. Additionally, since a permit by rule cannot contain compliance provisions or a schedule for a specific site, owners or operators must apply for a site operating permit that contains a compliance schedule if the site or units at the site are out of compliance at the time of application submittal. The qualification criteria also states that the site and the units located at a site may be authorized to operate under this GOP provided that they are not subject to any federal prevention of significant deterioration or federal nonattainment permits. Once the owner or operator has determined that the site and the units at the site qualify for this proposed general operating permit, a permit application, including a Form OP-1 (Texas Federal Operating Permit Initial Application), should

be submitted to the commission for review at the time specified in §122.130. If the commission grants authority to operate under this GOP, after reviewing the permit application, the owner or operator must comply with §122.516(b) - (f), concerning site-wide requirements; general terms and conditions; recordkeeping terms and conditions; reporting terms and conditions; and compliance certification terms and conditions.

Provisions contained in §122.516(b) codify site-wide requirements for §111.111, concerning Visible Emissions; §§111.133-111.137, concerning Abrasive Blasting of Water Storage Tanks Performed by Portable Operations; §§111.141-111.149, concerning Materials Handling, Construction, Roads, Streets, Alleys, and Parking Lots; §111.151, concerning Emission Limits on Nonagricultural Processes; and §§111.201, 111.205, 111.209, 111.213, 111.219, and 111.221, concerning Outdoor Burning. In order to exclude extraneous requirements from this GOP, the commission requests comments on these provisions with regard to whether sites intending to use this GOP are subject to these requirements.

In addition, provisions in §112.516(b) codify requirements for 30 TAC §§115.221, 115.222, and 115.224-115.226, concerning Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities; §§115.234-115.236, concerning Control of Volatile Organic Compound Leaks From Transport Vessels; §§115.241, 115.242, 115.244, and 115.245- 115.246, concerning Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities; §§115.252, 115.255, and 115.256, concerning Control of Reid Vapor Pressure of Gasoline; and §§115.541, 115.542, and 115.544-115.546, concerning Degassing or Cleaning of Stationary, Marine, and Transport Vessels. In order to exclude extraneous requirements, the commission also requests

comments on these provisions with regard to whether sites intending to use this GOP are subject to these requirements.

A provision for Title 40 Code of Federal Regulations, Part 82 (40 CFR 82), concerning Protection of Stratospheric Ozone is also included in §122.516(b). Also included is a provision for Title 40 Code of Federal Regulations, Part 68 (40 CFR 68) relating to Chemical Accident Prevention Provisions (Risk Management Plans). In order to exclude extraneous requirements, the commission is requesting comments on inclusion of both provisions since they may not apply to sites that will be operating under this proposed GOP.

Additional site-wide requirements may exist for sites intending to use this GOP. The commission, therefore, is requesting comments to determine if additional site-wide requirements need to be included in this GOP.

The proposed rule provides general terms and conditions, in §122.516(c), that the owners or operators must meet following the initial granting of the authorization to operate under this GOP. These general terms and conditions are consistent with Chapter 122 requirements that a federal operating permit must codify. The general terms and conditions provide requirements relating to jurisdiction of the commission or local air pollution program representatives, provisional terms and conditions of the permit, property rights, state-only requirements, and emissions fees. The general terms and conditions also provide requirements relating to permit term length, information that must be maintained, location of the maintained information, and information requested or required by the executive director.

Recordkeeping terms and conditions are in §122.516(d) that the owners or operators must meet following the initial granting of the authorization to operate under this GOP. These recordkeeping terms and conditions are consistent with Chapter 122 requirements that a federal operating permit must codify. The recordkeeping terms and conditions provide requirements relating to maintenance of records, information contained in the records, and confidentiality of records.

The proposed rule sets forth, in §122.516(e), the reporting terms and conditions that the owners or operators must meet following the initial granting of the authorization to operate under this GOP. These reporting terms and conditions are consistent with Chapter 122 requirements that a federal operating permit must codify. The reporting terms and conditions provide requirements relating to monitoring, deviation, unauthorized emission, upset or maintenance, start-up, and shutdown reports.

Provisions in §122.516(f), relating to compliance certification terms and conditions, provide the requirements that owners or operators must meet following the initial granting of the authorization to operate under this GOP. These compliance certification terms and conditions are consistent with Chapter 122 requirements that a federal operating permit must codify. The compliance certification terms and conditions provide requirements relating to information that the annual compliance certification must contain and the date it must be submitted.

FISCAL NOTE

Stephen Minick, Strategic Planning and Appropriations, has determined that for each year of the first five-year period the new section is in effect, there will be no significant economic costs to state or local

government as a result of administration or enforcement of the proposed new GOP. The commission may realize some reduced demand on agency resources and a related cost savings as a result of affected persons using the proposed alternative permitting mechanism. The actual fiscal implications to the commission will depend on the number, type, and location of potential applicants for this proposed GOP and have not been determined at this time.

PUBLIC BENEFIT

Mr. Minick also has determined that for each year of the first five years this proposed new section is in effect, the public benefit anticipated as a result of enforcement of and compliance with the section will be the satisfaction of Title V of the FCAA Amendments of 1990 and 40 CFR 70 and more cost-effective regulation of sources of air emissions. The effect on persons subject to this section will be a reduction in the potential costs of submitting an application for a federal operating permit and the operation of such permitted sites. The actual fiscal impact on any source subject to the provisions of Chapter 122 and which is eligible to be authorized to operate under a GOP cannot be determined prospectively. It is estimated, however, that affected persons will realize a reduction in cost of at least 20% for each GOP as a result of reducing the requirements for public notice procedures that are otherwise imposed for a federal operating permit. Additional savings are realized by the avoidance of engineering and consulting costs that would otherwise be required to determine the applicable requirements for a source that will now be codified in this proposed GOP. The potential cost savings will affect small businesses on the same basis as any larger business and will vary with the specific characteristics of the source authorized to operate under this proposed GOP.

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 act, and it does not meet any of the four applicability requirements listed in §2001.0225(a).

TAKINGS IMPACT ASSESSMENT

The commission has prepared a Takings Impact Assessment for this proposed new section under Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of this rulemaking is to provide a simplified alternate permitting mechanism to owners or operators of major sources subject to the Full Program, having only site-wide requirements. The proposed new section will substantially advance this purpose, since it contains a general operating permit that is a permit by rule. It contains conditions and limitations with which owners or operators of the sources must comply. Adoption is achieved through the rulemaking process consistent with the requirements of the Government Code, Administrative Procedure Act, Chapter 2001 or 2002. The GOP is also subject to the public participation requirements of 40 CFR 70. Each general operating permit, during the rulemaking process, will be subject to review by the United States Environmental Protection Agency (EPA), public petition, and affected state review. Since a review of the proposed general operating permit occurred during the rulemaking process, individual permit applications are not required to undergo public notice or EPA approval prior to sources being authorized to operate under the general operating permit. This then gives the regulated community and the commission a simplified permit application process and review process, respectively. Staff resources of the regulated community and

the commission are, therefore, used more efficiently and a considerable time savings is provided to both parties. Interested members of the public are able to participate in the GOP development during the public comment period as well as by using the public participation options available under 40 CFR 70. Promulgation and enforcement of the proposed new section will not be a burden on private real property which will be subject of the section because it only codifies applicable requirements that may be used by owners or operators of sources subject to the Full Program in order to comply with Chapter 122 and 40 CFR 70. The proposed new section will not make existing regulations less stringent. This rulemaking proposal is also an exempt action under Texas Government Code, §2007.003(b), since the commission is fulfilling its requirement to implement a federally mandated program, Title V of the 1990 FCAA Amendments.

COASTAL MANAGEMENT PLAN

The commission has determined that this rulemaking action 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 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 rulemaking action for consistency with the CMP goals and policies in accordance with the rules of the Coastal Coordination Council, and has determined that this rulemaking action is consistent with the applicable CMP goals and policies. The permits issued under Chapter 122, concerning Federal Operating Permits, do not authorize the

increase in air emissions nor do these permits authorize new air emissions. Interested persons may submit comments on the consistency of the proposed rule with the CMP goals and policies during the public comment period.

PUBLIC HEARING

A public hearing on this proposal will be held December 18, 1997, at 10:00 a.m. in Room 5108 of Texas Natural Resource Conservation Commission (TNRCC) Building F, located at 12100 Park 35 Circle, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion 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 each hearing and will answer questions before and after the hearing.

SUBMITTAL OF COMMENTS

Written comments may be mailed to Lisa Martin, 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 97176-122-AI. Comments must be received by 5:00 p.m., December 22, 1997. For further information or questions concerning this proposal, contact Bruce McFarland of the Operating Permits Division, Office of Air Quality, (512) 239-1132.

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.

STATUTORY AUTHORITY

The new section is proposed under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §§382.017, 382.051, and 382.054, which provide the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA.

The proposed new section implements Texas Health and Safety Code, §382.017, concerning Rules, §382.051(b)(2), concerning Permitting Authority of Commission; Rules, and §382.054, concerning Federal Operating Permits.

CHAPTER 122 - FEDERAL OPERATING PERMITS

SUBCHAPTER F : GENERAL OPERATING PERMITS

§122.516. Site-wide General Operating Permit.

(a) Qualification criteria. A site and the individual emission units located at a site may be authorized to operate under this general operating permit provided that:

(1) no emission unit located at the site is subject to any federal prevention of significant deterioration permits or federal nonattainment permits;

(2) the site and each emission unit located at the site are subject to only the applicable requirements codified in subsection (b) of this section;

(3) at the time of application submittal, the site and each emission unit located at the site are in compliance with the applicable requirements codified in subsection (b) of this section;
and

(4) the site and each emission unit located at the site are not subject to any other permit or general operating permit issued under this chapter.

(b) Site-wide requirements.

(1) The permit holder shall comply with the requirements relating to general operating permits which are contained in this subchapter.

(2) The requirements of preconstruction authorizations referenced in the general operating permit application are not eligible for the permit shield provisions in §122.148 of this title (relating to Permit Shield).

(3) The permit holder shall comply with the following requirements of Chapter 111 of this title (relating to Control of Air Pollution From Visible Emissions and Particulate Matter).

(A) Visible emissions from stationary vents constructed on or before January 31, 1972, shall not exceed 30% opacity averaged over a six-minute period as required in §111.111(a)(1)(A) of this title (relating to Requirements for Specified Sources). Compliance with the visible emission standard of §111.111(a)(1)(A) of this title shall be determined as required in §111.111(a)(1)(F)(ii) of this title by Test Method 9 (40 Code of Federal Regulations (CFR) 60, Appendix A), or as required in §111.111(a)(1)(F)(iii) of this title by Alternate Method 1 to Method 9, Light Detection and Ranging (40 CFR 60, Appendix A).

(B) Visible emissions from stationary vents constructed after January 31, 1972, shall not exceed 20% opacity averaged over a six-minute period as required in §111.111(a)(1)(B) of this title. Compliance with the visible emission standard of §111.111(a)(1)(B) of this title shall be determined as required in §111.111(a)(1)(F)(ii) of this title by Test Method 9 (40 CFR 60, Appendix A), or as required in §111.111(a)(1)(F)(iii) of this title by Alternate Method 1 to Method 9, Light Detection and Ranging (40 CFR 60, Appendix A).

(C) Visible emissions from structures shall not exceed 30% opacity for any six-minute period from any building, enclosed facility, or other structure as required in §111.111(a)(7)(A) of this title. Compliance with the visible emission standard of §111.111(a)(7)(A) of this title shall be determined as required in §111.111(a)(7)(B)(i) of this title by Test Method 9 (40 CFR 60, Appendix A).

(D) Visible emissions during the cleaning of a firebox or the building of a new fire, soot blowing, equipment changes, ash removal, and rapping of precipitators may exceed the limits set forth in §111.111 of this title for a period aggregating not more than six minutes in any 60 consecutive minutes, nor more than six hours in any ten-day period as required in §111.111(a)(1)(E) of this title. This exemption shall not apply to the emissions mass rate standard, as outlined in §111.151(a) of this title (relating to Allowable Emissions Limits).

(E) Visible emissions from all other sources not specified in §111.111(a)(1), (4), or (7) of this title shall not exceed 30% opacity for any six-minute period from any building, enclosed facility, or other structure as required in §111.111(a)(8)(A) of this title. Compliance with the visible emission standard of §111.111(a)(8)(A) of this title shall be determined by applying Test Method 9 (40 CFR 60, Appendix A) as required in §111.111(a)(8)(B)(i) of this title.

(F) Certification of opacity readers determining opacities under Method 9 (as outlined in 40 CFR 60, Appendix A) to comply with §111.111(a)(1)(G) of this title shall be accomplished by completing the Texas Natural Resource Conservation Commission Visible Emissions Evaluators Course, or approved agency equivalent, no more than 180 days before the opacity reading.

(G) Contributions from uncombined water shall not be included in determining compliance with §111.111 of this title as required in §111.111(b) of this title.

(H) Emission limits on nonagricultural processes are as follows.

(i) Emissions of particulate matter from any source may not exceed the allowable rates specified in Table 1 as required in §111.151(a) of this title (relating to Allowable Emissions Limits). Figure 1: 30 TAC §122.516(b)(3)(H)(i)

Figure 1: 30 TAC §122.516(b)(3)(H)(i)

Table 1 - Allowable Particulate Emission Rates for Specific Flow Rates	
Effluent Flow Rate (q)	Rate of Emission (E)
(acfm)	(TSP lb/hr)
1,000	3.5
2,000	5.3
4,000	8.2
6,000	10.6
8,000	12.6
10,000	14.5
20,000	22.3
40,000	34.2
60,000	44.0
80,000	52.6
100,000	60.4
200,000	92.9
400,000	143.0
600,000	184.0
800,000	219.4
1,000,000	252.0

Interpolation and extrapolation of the data in this table shall be accomplished by the use of the equation $E = 0.048q^{0.62}$ for total suspended particulate (TSP) where:

E = allowable emission rate in pounds per hour (lb/hr)

q = stack effluent flow rate in actual cubic feet per minute (acfm)

(ii) Sources with an effective stack height (h_e) less than the standard effective stack height (H_e), as determined from Table 2, must reduce the allowable emission level by multiplying it by $[h_e/H_e]^2$ as required in §111.151(b) of this title. Figure 2: 30 TAC §122.516(b)(3)(H)(ii)

Figure 2: 30 TAC §122.516(b)(3)(H)(ii)

Table 2 - Standard Effective Stack Height Based on Specific Flow Rates	
Effluent Flow Rate (q)	Standard Effective Stack Height (H_e)
(acfm)	(ft)
1,000	12
2,000	15
4,000	19
6,000	22
8,000	24
10,000	26
20,000	34
40,000	43
60,000	49
80,000	55
100,000	59
200,000	75
400,000	96
600,000	110
800,000	122
1,000,000	132

Interpolation and extrapolation of the data in this table shall be accomplished by the use of the equation $H_e = 1.05q^{0.35}$ where:

H_e = standard effective stack height (ft)

q = stack effluent flow rate in actual cubic feet per minute (acfm)

(iii) Effective stack height shall be calculated by the following equation as required in §111.151(c) of this title. Figure 3: 30 TAC §122.516(b)(3)(H)(iii)

Figure 3: 30 TAC §122.516(b)(3)(H)(iii)

$$h_e = h + 0.083 v_e D_e \left[1.5 + 0.82 \left(\frac{T_e - 550}{T_e} \right) D_e \right]$$

where:

h_e = Effective stack height in feet (ft)

h = Physical stack height above ground level in feet (ft)

v_e = Stack exit velocity in feet per second (ft/sec)

D_e = Stack exit inside diameter in feet (ft)

T_e = Stack exit temperature in degrees Rankine ($^{\circ}\text{R}$)

(I) Open burning, as stated in §111.201 of this title (relating to General Prohibition), shall not be authorized unless the following requirements are satisfied:

(i) §111.205 of this title (relating to Exception for Fire Training);

(ii) §111.209(3) of this title (relating to Exception for Disposal Fires);

(iii) §111.213 of this title (relating to Exception for Hydrocarbon Burning);

(iv) §111.219 of this title (relating to General Requirements for Allowable Outdoor Burning); and

(v) §111.221 of this title (relating to Responsibility for Consequences of Outdoor Burning).

(J) The permit holder for a site subject to the provisions of this chapter in which the site has materials handling, construction, roads, streets, alleys, and parking lots shall comply with the requirements of §§111.143, 111.145, 111.147, and 111.149 of this title (relating to Materials Handling; Construction and Demolition; Roads, Streets, and Alleys; and Parking Lots) if they are located in the following areas:

(i) the City of El Paso, including the Fort Bliss Military Reservation, except for training areas as referenced in §111.141 of this title (relating to Geographic Areas of Application and Date of Compliance);

(ii) the area of Harris County located inside Beltway 8 (Sam Houston Tollway); or

(iii) the area of Nueces County outlined in the Group II state implementation plan for inhalable particulate matter.

(K) Abrasive blasting of water storage tanks performed by portable operations shall not be authorized unless the following state-only requirements are satisfied:

(i) §111.133(a)(1) and (2), (b), and (c) of this title (relating to Testing Requirements);

(ii) §111.135(a), (b), and (c)(1) - (4) of this title (relating to Control Requirements for Surfaces with Coatings Containing Lead); and

(iii) §111.137(a), (b)(1) - (4), and (c) of this title (relating to Control Requirements for Surfaces with Coatings Containing Less than 1.0% Lead).

(4) The permit holder for a site in the Houston/Galveston, Beaumont/Port Arthur, Dallas/Fort Worth, or El Paso ozone nonattainment area that is subject to the provisions of this chapter and affected by the requirements of Chapter 115, Subchapter C of this title (relating to Volatile Organic Compound Transfer Operations) shall comply with the following.

(A) The requirements in the undesignated head Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities in Chapter 115, Subchapter C of this title, are as follows:

- (i) §115.221 of this title (relating to Emission Specifications);
- (ii) §115.222 of this title (relating to Control Requirements);
- (iii) §115.224 of this title (relating to Inspection Requirements);
- (iv) §115.225(1) - (5) of this title (relating to Testing Requirements); and
- (v) §115.226 of this title (relating to Recordkeeping Requirements).

(B) The requirements in the undesignated head Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities in Chapter 115, Subchapter C of this title, at motor vehicle fuel dispensing facilities, constructed prior to November 15, 1992, with stationary gasoline storage containers with a nominal capacity less than or equal to 1,000 gallons are as follows:

(i) §115.224 of this title;

(ii) §115.226(1) and (2)(B) of this title; and

(iii) §115.227(1) of this title (relating to Exemptions).

(C) The requirements in the undesignated head Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities in Chapter 115, Subchapter C of this title, at motor vehicle fuel dispensing facilities, constructed prior to November 15, 1992, with transfers to stationary storage tanks located at a facility which has dispensed no more than 10,000 gallons of gasoline in any calendar month after January 1, 1991, are as follows:

(i) §115.224 of this title;

(ii) §115.226 of this title; and

(iii) §115.227(2) of this title.

(D) The requirements in the undesignated head Control of Volatile Organic Compound

Leaks From Transport Vessels in Chapter 115, Subchapter C of this title, are as follows:

(i) §115.234 of this title (relating to Inspection Requirements);

(ii) §115.235(1), (2), (3)(A), and (4) of this title (relating to Approved Test Methods); and

(iii) §115.236 of this title (relating to Recordkeeping Requirements).

(E) The requirements in the undesignated head Control of Vehicle Refueling Emissions

(Stage II) at Motor Vehicle Fuel Dispensing Facilities in Chapter 115, Subchapter C of this title, are as follows:

(i) §115.241 of this title (relating to Emission Specifications);

(ii) §115.242 of this title (relating to Control Requirements);

(iii) §115.244 of this title (relating to Inspection Requirements);

(iv) §115.245(1), (2), (3), (5), and (6) of this title (relating to Testing Requirements); and

(v) §115.246 of this title (relating to Recordkeeping Requirements).

(5) The permit holder for a site in the El Paso ozone nonattainment area that is subject to the provisions of this chapter and affected by the requirements of Chapter 115, Subchapter C of this title (relating to Volatile Organic Compound Transfer Operations) shall comply with the following.

(A) The requirements in the undesignated head Control of Reid Vapor Pressure of Gasoline in Chapter 115, Subchapter C of this title, are as follows:

(i) §115.252 of this title (relating to Control Requirements);

(ii) §115.255 of this title (relating to Approved Test Methods); and

(iii) §115.256 of this title (relating to Recordkeeping Requirements).

(B) The requirements in the undesignated head Control of Reid Vapor Pressure of Gasoline in Chapter 115, Subchapter C of this title, at any stationary tank, reservoir, or other container used exclusively for the fueling of implements of agriculture are as follows:

(i) §115.255 of this title; and

(ii) §115.257(1) of this title (relating to Exemptions).

(C) The requirements in the undesignated head Control of Reid Vapor Pressure of Gasoline in Chapter 115, Subchapter C of this title, at a motor vehicle fuel dispensing facility are as follows:

- (i) §115.252 of this title;
- (ii) §115.255 of this title; and
- (iii) Section 115.257(2) of this title.

(6) The permit holder for a site which degasses or cleans any transport vessel with a nominal storage capacity of 8,000 gallons or more in the Houston/Galveston, Beaumont/Port Arthur, Dallas/Fort Worth, or El Paso ozone nonattainment area that is subject to the provisions of this chapter shall comply with the following requirements in the undesignated head Degassing or Cleaning of Stationary, Marine, and Transport Vessels in Chapter 115, Subchapter F of this title (relating to Miscellaneous Industrial Sources):

- (A) §115.541(a)(2) of this title (relating to Emission Specifications);
- (B) §115.542(a) of this title (relating to Control Requirements);
- (C) §115.544 of this title (relating to Inspection Requirements);

(D) §115.545(1) - (9) of this title (relating to Approved Test Methods); and

(E) §115.546 of this title (relating to Monitoring and Recordkeeping Requirements).

(7) For covered processes subject to 40 CFR and specified in 40 CFR, §68.10, the permit holder shall comply with the requirements of the Accidental Release Prevention Provisions in 40 CFR 68. The permit holder shall submit to the appropriate agency, either a compliance schedule for meeting the requirements of 40 CFR 68 by the date provided in 40 CFR, §68.10(a), or as part of the compliance certification submitted under §122.143(4) of this title (relating to General Terms and Conditions), a certification statement that the source is in compliance with all requirements of 40 CFR 68, including the registration and submission of a risk management plan. This general provision is enforceable only by the EPA.

(8) The permit holder for a site subject to Title VI of the FCAA shall meet the following requirements for protection of stratospheric ozone which are enforceable only by the EPA.

(A) Operation, servicing, maintenance, and repair on refrigeration and non-motor vehicle air conditioning appliances using ozone-depleting refrigerants on-site shall be conducted in accordance with 40 CFR 82, Subpart F. The permit holder shall ensure that repairs or refrigerant

removal are performed only by properly certified technicians using approved equipment. Records shall be maintained as required by Subpart F.

(B) Servicing, maintenance, and repair of fleet vehicle air conditioning using ozone-depleting refrigerants shall be conducted in accordance with 40 CFR 82, Subpart B. The permit holder shall ensure that repairs or refrigerant removal are performed only by properly certified technicians using approved equipment. Records shall be maintained as required by Subpart B.

(c) General terms and conditions.

(1) Compliance with the permit does not relieve the permit holder of the obligation to comply with any other applicable rules, regulations, or orders of the commission, or of the EPA.

(2) The authorization to operate under this general operating permit shall not exceed five years from the date the authorization was granted or renewed.

(3) Consistent with the authority in Texas Health and Safety Code, Chapter 382, Subchapter B (relating to Powers and Duties of Commission), the permit holder shall allow representatives from the commission or the local air pollution control program having jurisdiction to do the following:

(A) enter upon the permit holder's premises where an emission unit is located or emissions-related activity is conducted, or where records must be kept under the conditions of this general operating permit;

(B) access and copy any records that must be kept under the conditions of this general operating permit;

(C) inspect any emission unit, equipment, practices, or operations regulated or required under this general operating permit; and

(D) sample or monitor substances or parameters for the purpose of assuring compliance with this general operating permit at any time.

(4) The permit holder shall comply with all terms and conditions codified in this general operating permit and any provisional terms and conditions required to be included with this general operating permit. Any noncompliance with either the permit terms and conditions or the provisional terms and conditions, if any, constitutes a violation of the FCAA and the TCAA and may be grounds for enforcement action. It shall not be a defense in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to comply with the permit terms and conditions of this general operating permit.

(5) The permit holder need not comply with terms and conditions codified in this general operating permit that have been replaced by provisional terms and conditions before the granting of a new authorization to operate under this general operating permit. In every case, the applicable requirements and state-only requirements are always enforceable.

(6) If the permit holder fails to comply with any provisional terms and conditions, the original terms and conditions of this general operating permit shall be enforceable. In every case, the applicable requirements and state-only requirements are always enforceable.

(7) The executive director may request any information necessary to determine compliance with this general operating permit. The permit holder shall submit the information no later than 60 days after the request, unless the deadline is extended by the executive director.

(8) The permit holder shall pay fees to the commission consistent with the fee schedule in §101.27 of this title (relating to Emissions Fees).

(9) This general operating permit does not convey any property rights of any sort, or any exclusive privilege.

(10) A copy of this general operating permit, the permit application, and the authorization to operate shall be maintained at the location specified in the authorization to operate.

(11) Any report or annual compliance certification required by a permit to be submitted to the executive director shall contain a certification in accordance with §122.165 of this title (relating to Certification by a Responsible Official).

(12) State-only requirements will not be subject to any of the following requirements of this chapter: public notice, affected state review, notice and comment hearings, EPA review, public petition, recordkeeping, six-month monitoring reporting, six-month deviation reporting, compliance certification, or periodic monitoring.

(d) Recordkeeping terms and conditions.

(1) The permit holder shall maintain records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. If an applicable requirement or state-only requirement specifies a longer data retention period, the records shall be maintained for at least the period of time specified in the applicable requirement or state-only requirement. The monitoring records shall include, but are not limited to, the following:

(A) the date, place as defined in this general operating permit, and time of sampling or measurements;

(B) the date(s) analyses were performed;

(C) the company or entity that performed the analyses;

(D) the analytical techniques or methods used;

(E) the results of such analyses;

(F) the relevant operating conditions which are deemed necessary to characterize emission rates at the time of sampling or measurement;

(G) the data from all calibration and maintenance records;

(H) all strip-chart recordings for continuous monitoring instrumentation; and

(I) copies of all reports required by this general operating permit.

(2) Records may be stored electronically.

(3) All records required to be maintained by this chapter shall be maintained at the location specified in the authorization to operate under this general operating permit.

(4) Records required by this general operating permit, including confidential information, shall be provided, upon request, in a legible form, to representatives from the commission or the local air pollution control program having jurisdiction within a reasonable period of time.

(5) The EPA may require that the records be sent directly to the EPA along with any claim of confidentiality. Any confidentiality claim should be made in accordance with federal law, including 40 CFR 2.

(6) Permit holders shall maintain records of the duration of the stay at a site of any temporary source.

(e) Reporting terms and conditions.

(1) Monitoring reports.

(A) Reports of monitoring data required to be submitted by an applicable requirement shall be submitted to the executive director.

(B) Reports shall be submitted for at least each six-month period following the initial granting of the authorization to operate under this general operating permit or at the frequency required by an applicable requirement which requires more frequent reporting.

(C) The monitoring reports shall be submitted no later than 30 days after the end of each reporting period.

(D) The reporting of monitoring data does not change the data collection requirements specified in an applicable requirement.

(2) Deviation reports.

(A) The permit holder shall report, in writing, to the executive director all instances of deviations, the probable cause of the deviations, and any corrective actions or preventative measures taken for each emission unit addressed by the general operating permit application.

(B) A deviation report shall be submitted for at least each six-month period following the initial granting of the authorization to operate under this general operating permit or at the frequency required by an applicable requirement which requires more frequent reporting. However, no report is required if no deviations occurred over the six-month reporting period.

(C) The deviation reports shall be submitted no later than 30 days after the end of each reporting period.

(D) If a deviation is reported, in writing, under paragraph (3) of this subsection, the deviation report need only include a reference to the unauthorized emissions, upset or maintenance, and start-up and shutdown report containing details related to the deviation.

(3) Unauthorized emissions, upset or maintenance, and start-up and shutdown reports.

(A) Reports of deviations resulting from any unauthorized emissions, upset or maintenance, and start-up and shutdown shall be submitted in accordance with §§101.6, 101.7, and 101.11 of this title (relating to Upset Reporting and Recordkeeping Requirements; Maintenance, Start-up and Shutdown Reporting, Recordkeeping, and Operational Requirements; and Exemptions from Rules and Regulations).

(B) Nothing in this paragraph shall relieve the permit holder from submitting any deviation report in accordance with the requirements of paragraph (2) of this subsection.

(f) Compliance certification terms and conditions.

(1) The permit holder shall certify compliance with the terms and conditions of this general operating permit for at least each 12-month period following the initial granting of authority to operate under this general operating permit.

(2) The certification shall be submitted no later than 30 days after the end of the certification period.

(3) The executive director shall make a copy of the compliance certification accessible to the EPA.

(4) The certification shall be based on at a minimum, the monitoring method (or recordkeeping method, if appropriate) required by this general operating permit to be used to assess compliance.

(5) The annual compliance certification shall include or reference the following information:

(A) the identification of each term, or condition, of this general operating permit for which the permit holder is certifying compliance and the method used for determining the compliance status of each emission unit;

(B) for emission units addressed by the general operating permit application for which no deviations have occurred over the certification period, a statement that the emission units were in continuous compliance over the certification period; and

(C) for any emission unit addressed by the general operating permit application for which one or more deviations occurred over the certification period, the following information indicating the potentially intermittent compliance status of the emission unit:

(i) the identification of the emission unit;

(ii) the applicable requirement for which a deviation occurred;

(iii) the monitoring method (or recordkeeping method, if appropriate) used to assess compliance;

(iv) the frequency with which sampling, monitoring, or recordkeeping was required to be conducted by the monitoring or recordkeeping requirement of this general operating permit; and

(v) the total number of times that the assessment required by the monitoring or recordkeeping method specified in this general operating permit indicated that a deviation had occurred;

(D) the identification of all other terms and conditions of this general operating permit for which compliance was not achieved.

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

Issued in Austin, Texas, on November 5, 1997.