

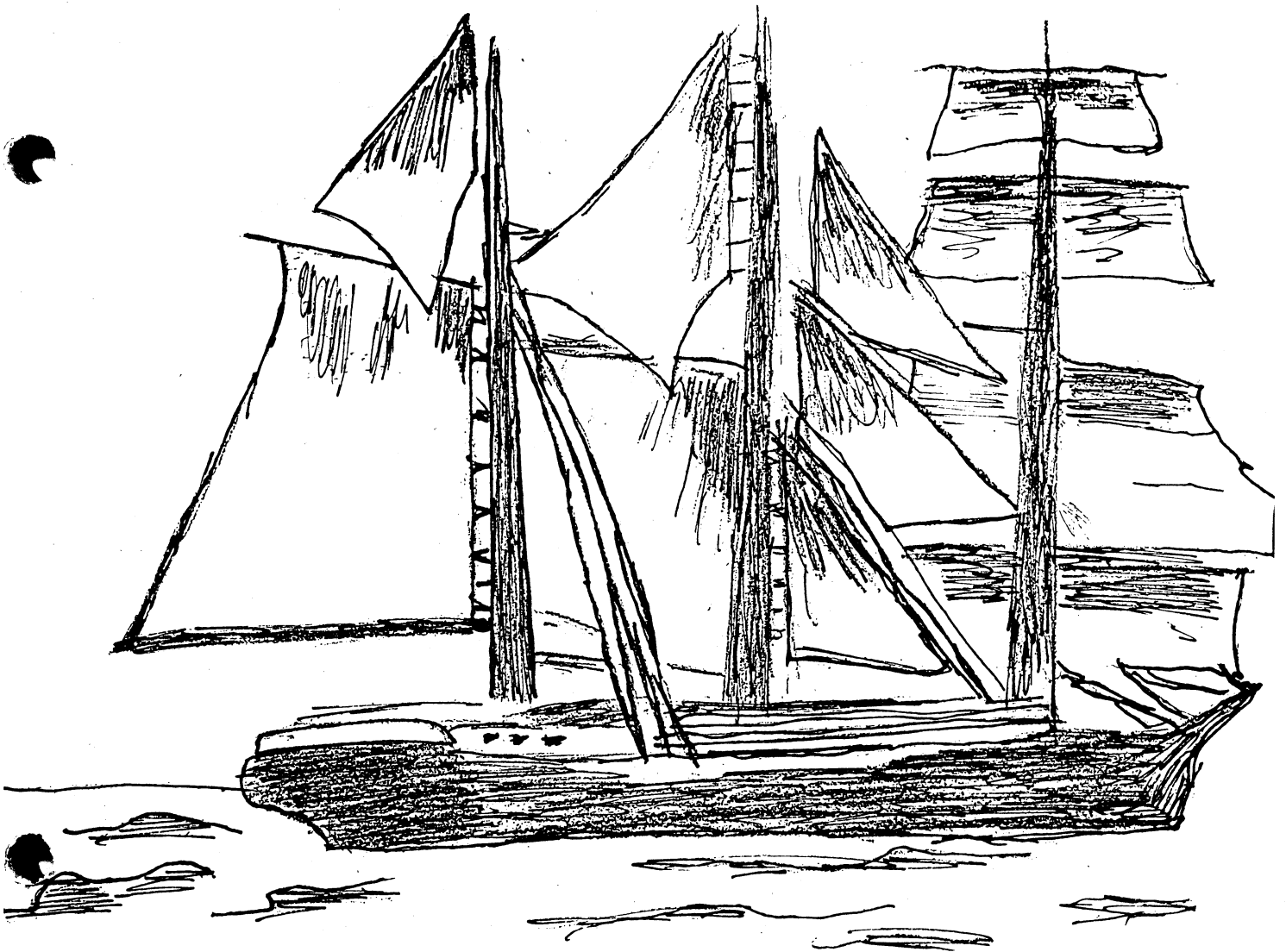
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# TEXAS REGISTER

Volume 21 Number 86 November 19, 1996

Page 11211-11328

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***This month's front cover artwork:***

***Artist: Nick Davis***

***5th grade***

***Copeland Intermediate, Huffman ISD***

School children's artwork has decorated the blank filler pages of the *Texas Register* since 1987. Teachers throughout the state submit the drawings for students in grades K-12. The drawings dress up the otherwise gray pages of the *Texas Register* and introduce students to this obscure but important facet of state government.

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The artwork is published on what would otherwise be blank pages in the *Texas Register*. These blank pages are caused by the production process used to print the *Texas Register*. The artwork does not add additional pages to each issue and does not increase the cost of the *Texas Register*.

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*Doan Nguyen*

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Grade: 10

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# OFFICE OF THE ATTORNEY GENERAL

Under provisions set out in the Texas Constitution, the Texas Government Code, Title 4, §402.042, and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure. Requests for opinions, opinions, and open records decisions are summarized for publication in the *Texas Register*. The attorney general responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the attorney general unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record. To request copies of opinions, phone (512) 462-0011. To inquire about pending requests for opinions, phone (512) 463-2110.

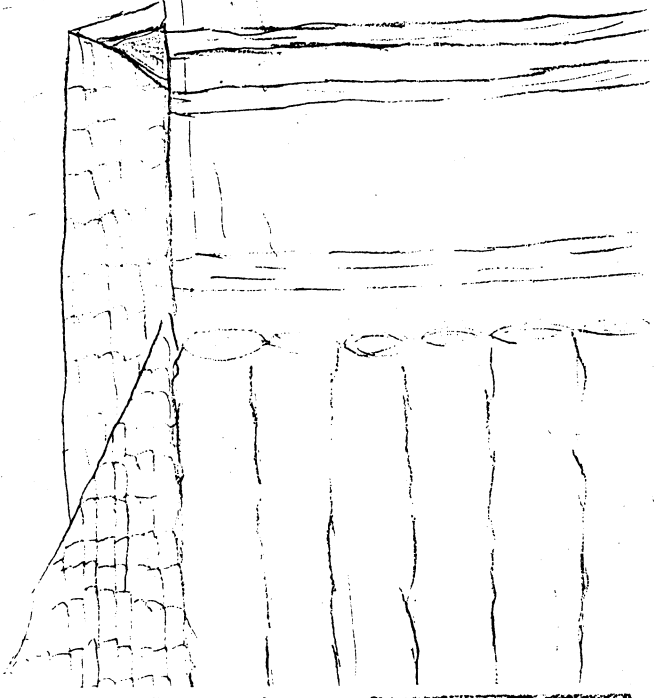
*(Editor's note: The Office of the Attorney General submitted notice of Letter of Opinion LO-96-071 (ID #38869) in the November 8, 1996, issue of the Texas Register (21 TexReg 10952). Due to an error, the Letter of Opinion Number was published incorrectly as LO-96-064, the ID number as well as the request and summary are printed correctly. The notice is reprinted here as follows.*

## Letter of Opinion

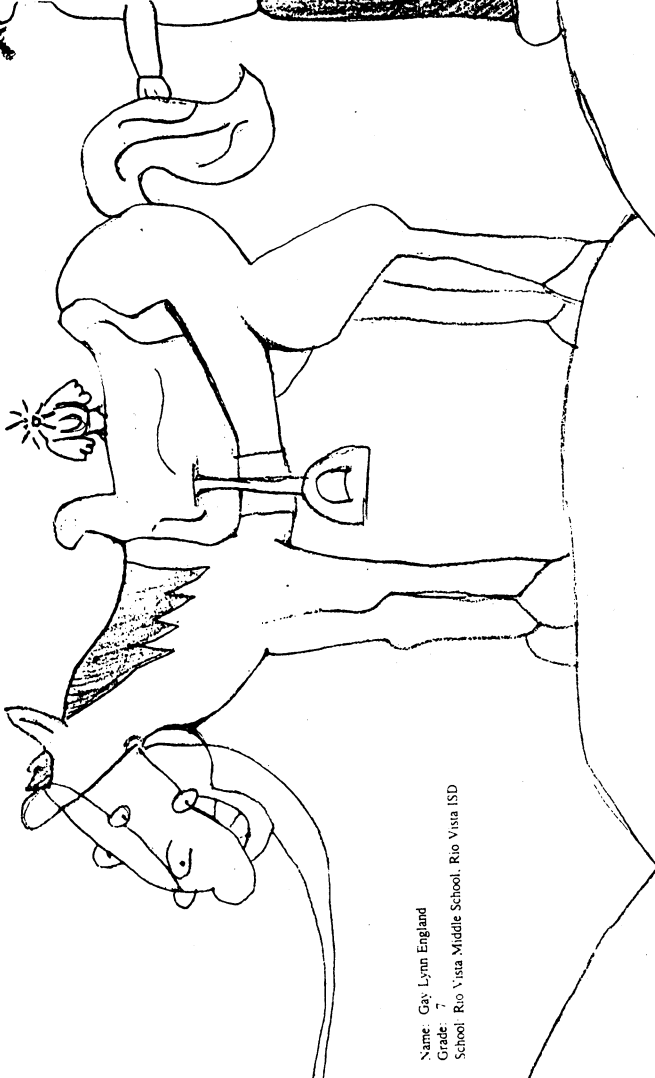
LO-96-071 (ID#38869). Request from David R. Smith, M.D., Commissioner, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, concerning whether a special hospital may provide surgical and obstetrical services.

**Summary** Special hospitals, as defined in §241.003(11), Health and Safety Code, may not provide surgical or obstetrical services.

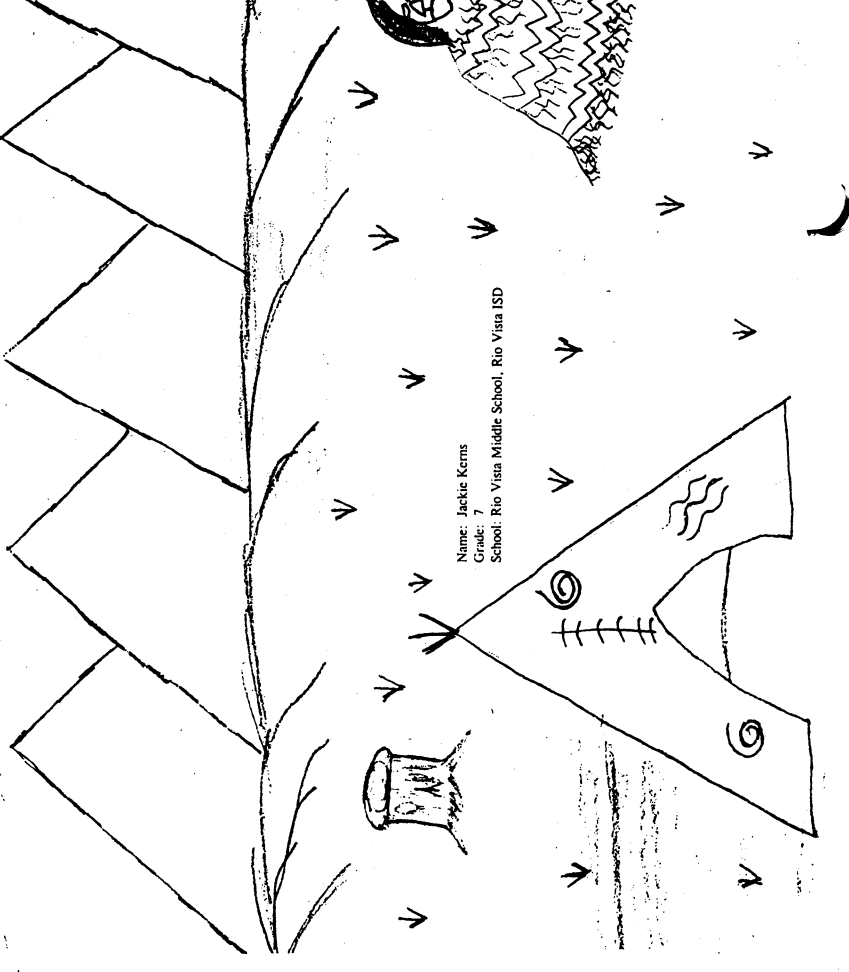
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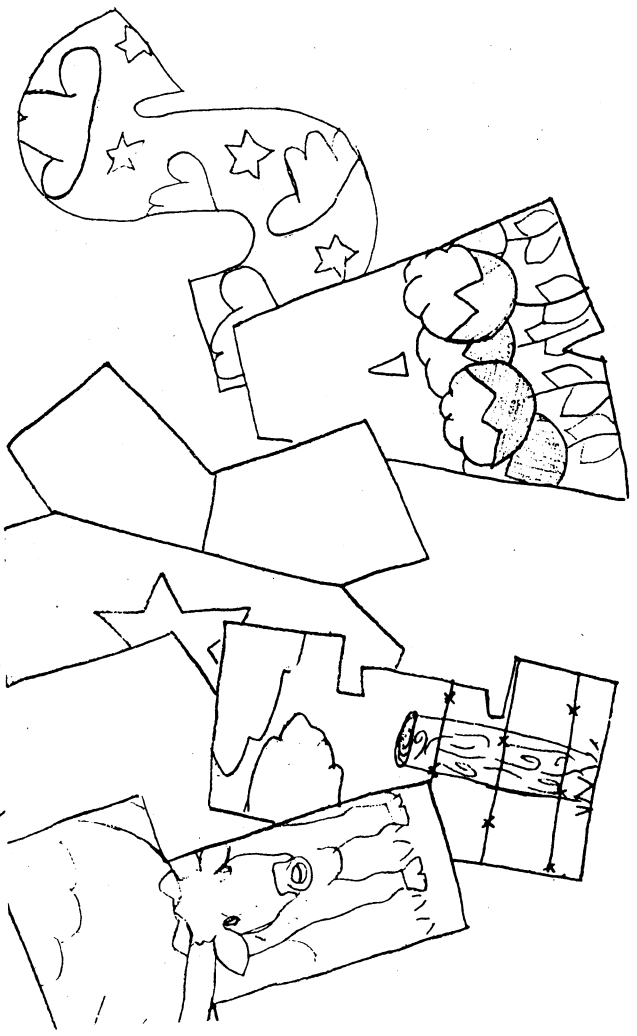
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School: Rio Vista Middle School, Rio Vista ISD



# PROPOSED RULES

Before an agency may permanently adopt a new or amended section or repeal an existing section, a proposal detailing the action must be published in the *Texas Register* at least 30 days before action is taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the section. Also, in the case of substantive action, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

**Symbology in proposed amendments.** New language added to an existing section is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a section.

## TITLE 1. ADMINISTRATION

### Part V. General Services Commission

#### Chapter 111. Executive Administration Division

##### Historically Underutilized Business Certification Program

###### 1 TAC §111.23

The General Services Commission proposes an amendment of §111.23, concerning Graduation Procedures. The amendment is proposed to update Historically Underutilized Business (HUB) graduation procedures because of a change in the Small Business Administration (SBA) industry size standards (13 CFR, Section 201). GSC uses the SBA industry size standards of total gross revenue and number of employees in determining the maximum allowed for a concern (including its affiliates) to be considered a HUB. Since SBA size standards are used as a baseline for GSC HUB size standards, the commission proposes changes to §111.23 Graduation Procedures that encompass the following: Remove specific dollar amounts from industry/category descriptions in §111.23; Require review of SBA size standards each Fiscal Year; and if required, make administrative changes to the HUB size standards effective 1 September of each Fiscal Year.

Darrell W. Pierce, Director, Executive Business Administration, has determined that for the first five-year period the rule is in effect, there is no fiscal impact to the state or local government as a result of enforcing the rule.

Mr. Pierce, Director also has determined that for each year of the first five-year period the rule is in effect there is no economic impact to the public. The anticipated public benefit will be a clarification of how the commission reviews the HUB size standards. The effect to small business is that firms, which have achieved the HUB size standards, will be presumed to have reached a competitive status in overcoming the effects of discrimination.

Comments on the proposal may be submitted to Judy Ponder, General Counsel, General Services Commission, P.O. Box 13047, Austin, Texas 78711-3047. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendment is proposed in accordance with Government Code, Title 10, Subtitle D, Chapter 2161, which authorizes the commission to administer the HUB program.

Government Code, Title 10, Subtitle D, Chapter 2161 is affected by this rule.

###### §111.23. Graduation Procedures.

(a) A HUB shall be graduated from being used to fulfill HUB procurement utilization goals when it has maintained total gross receipts or total employment levels during [for] four consecutive years which exceed 75% of the [following schedule which is extracted from the] U.S. Small Business Administration's size standard for firms within similar primary four-digit Standard Industrial Classification codes as stated in 13 Code of Federal Regulations 121.201 [121.601] for the following categories :

- (1) [for] heavy construction other than building construction[, \$17 million];
- (2) [for] building construction, including general contractors and operative builders [, \$17 million];
- (3) [for] special trade construction[, \$7 million];
- (4) [for] medical, financial and accounting services[, \$3.5 million];
- (5) [for] architectural/engineering and surveying services[, \$3.5 million];
- (6) [for] other services including legal services[, \$3.5 million];
- (7) [for] commodities wholesale[, 100 full-time equivalent employees];
- (8) [for] commodities manufacturers [,500 full-time equivalent employees].

(b)-(c) (No change.)

(d) The General Services Commission shall review U.S. Small Business Administration size standards each Fiscal Year to determine the need to reassess HUB graduation size standards and make changes effective September 1 of each Fiscal Year.

This 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 6, 1996.

TRD-9616121

Judy Ponder

General Counsel

General Services Commission

Earliest possible date of adoption: December 20, 1996

For further information, please call: (512) 463-3466



## Chapter 125. Travel and Transportation Division

### Travel Management Services

1 TAC §§125.1, 125.3, 125.7, 125.9, 125.13, 125.15, 125.17, 125.19, 125.23, 125.25, 125.27

The General Services Commission proposes amendments to §§125.1, 125.3, 125.7, 125.9, 125.13, 125.15, 125.17, 125.19, 125.23, 125.25, and 125.27, regarding the State Travel Management Program. The proposed amendments will delete obsolete language, update definitions, and change statutory citations to conform with recodification under the Texas Government Code. The proposed amendments also will clarify language regarding personal charge card use, group/meeting planning services, and the information required on travel agency applications.

Michael Powers, Director of Support Services, has determined that for the first five-year period the rules are in effect, there will be no associated administrative costs. There are no fiscal implications for state or local government.

Mr. Powers also has determined that there is no anticipated economic impact to the public. The public benefit anticipated as a result of these amendments is a clearer understanding of the services provided by the State Travel Management Program. There will be no effect on small business. There is no anticipated economic cost to persons who are required to comply with the amendments as proposed.

Comments on the proposals may be submitted to Judy Ponder, General Counsel, General Services Commission, P.O. Box 13047, Austin, Texas 78711-3047. Comments must be received no later than thirty days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under Texas Government Code, Title 10, Subtitle D, Chapter 2171, which provides the General Services Commission with authority to promulgate rules consistent with the Code.

The following statute is affected by these rules: Texas Government Code, Title 10, Subtitle D, Chapter 2171.

### §125.1. General.

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

(d) Fees and other revenue from the program will be deposited in the state treasury to the credit of the general revenue fund unless another disposition is required by federal law.]

(d)[(e)] These rules are intended to be consistent with the Travel Allowance Guide published by the Comptroller of Public Accounts.

### §125.3. Definitions.

The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

Competitive bidding—Shall have the same meaning as this term is defined in §111.2 [§113.2] of this title (relating to Definitions).

Group/Meeting Planning Requisition—The method recognized by the commission for state agencies to request Group/Meeting Planning Services.

Rental car—A vehicle not owned by the State of Texas and rented from a rental car vendor.

### §125.7. Travel Agent Services.

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

(d) In accordance with Texas Government Code, Title 10, Chapter 2171.052 [Texas Civil Statutes, Article 601b, §14.02(b)], the commission, at its discretion, may obtain travel and transportation services through sources other than travel agents including obtaining such services via direct negotiation with travel vendors.

(e) Funds returned to the commission through this program are deposited in the state treasury to the credit of the general revenue fund unless federal law requires a different disposition.]

### §125.9. Charge Card Services.

(a) (No change.)

(b) Charge card services are provided under contract established between the commission and the selected charge card company.

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

(3) An employee is not required to accept a state charge card. However, all contract [at a minimum] air fares must be charged on the state's charge card contract. [contract] Use [unless use] of a personal charge card that offers insurance benefits not available from the state's charge card contract [contract.] is permitted only for non-contracted air fares used in accordance with §125.19 of this chapter.

(c)-(e) (No change.)

### §125.13. Meeting Services.

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

(d) Convention and meeting services are provided at no cost by the commission as a result of group/meeting planning [travel service] requisitions received from state agencies. Group/meeting planning [Travel service] requisitions must be submitted on forms prescribed by and approved by the commission. Group/Meeting planning requisitions must be received no later than 30 days prior to the beginning date of the meeting.

(e) (No change.)

*§125.15. Certification of Capability To Provide Services.*

Pursuant to Texas Government Code, Title 10, Section 2171.051 [Civil Statutes, Article 601b, §14.02], prior to services being provided to a state agency under the State Travel Management Program, the director shall certify to the executive director that the program is capable of providing such services. The executive director shall approve the use of services provided by the program to requesting state agencies after receipt of the required certification.

*§125.17. Travel Vendor Selection Process.*

(a) (No change.)

(b) When a competitive process is deemed to be in the best interests of the state, the commission shall solicit competitive bids by issuing an invitation for bids, or competitive proposals by issuing a request for proposals. For competitive bids, the division shall use the procedures required by §113.11 [§113.10] of this title (relating to Delegated Purchases). The following procedures shall be used for competitive proposals.

(1) (No change.)

(2) A [As a minimum, a] request for proposal shall include but not be limited to [contain] :

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

(E) [any minimum] qualifications which prospective travel vendors must meet to be considered for award.

(3)-(8) (No change.)

(9) Based upon the evaluation of the proposals, the director shall determine and recommend to the executive director the offeror(s) [offerors] chosen for contract awards.

(10) Awards shall be made to the offeror(s) [offeror or offerors] whose proposal(s) are most advantageous and are in the best interests of the state considering the evaluation criteria set forth in the request for proposal. The commission may reject all proposals if none of the offers are [is] acceptable or if rejection is in the best interest of the state.

(11)-(12) (No change.)

*§125.19. Participation by State Agencies.*

(a)-(b) (No change.)

(c) To begin participating in the travel agency and charge card contracts, a state agency must send the commission a travel service requisition. [Travel service requisitions are not required to use discount rates.]

(d)-(e) (No change.)

(f) The contracts for travel services must be used as required by §§125.1-125.21 and 125.27 of this title (relating to Travel Management Services) unless the conditions listed below exist. The existence of the condition must be indicated on or with the payment voucher as specified by the comptroller of public accounts. State agencies shall establish procedures to comply with this subsection and submit them to the commission for approval within 90 days after the effective date of this section. Travel agent contracts are not affected by the conditions listed in paragraphs (5)-(12) of this subsection.

(1)-(4) (No change.)

(5) A contract vendor is unable to provide the required services because it is sold-out [or does not offer services in the city being visited].

(6) Alternative rental car or hotel arrangements can be made at a lower total cost than the contract hotels or rental car companies. For rental cars, total costs include the base rate, loss/damage waiver protection, mileage charge, surcharges, and cost for comparable liability insurance protection. To compare total costs for hotels the following shall be considered: the cost of the guest room without taxes, travel time to point of business location, any transportation costs, such as taxi or rental car and/or parking fees. [For hotels, the cost of the guest room net of taxes shall be used to compare total costs.]

(7)-(12) (No change.)

(g)-(j) (No change.)

*§125.23. State Agency Travel Coordinators.*

(a) State agencies in the executive branch of state government shall designate at least one employee of the agency to serve as the travel coordinator for the agency. The designated travel coordinator shall be responsible for the following:

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

(3) reviewing travel data reports for compliance with the contracts and §§125.1 to 125.21 and 125.27 [§§125.1, 125.3, 125.5, 125.7, 125.9, 125.11, 125.13, 125.15, 125.17, 125.19, and 125.21] of this title (relating to Travel Management Services);

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

(b)-(c) (No change.)

*§125.25. Conference Rooms.*

(a) Conference rooms in state owned buildings are for use by state agencies for official purposes only and the private use thereof is prohibited. The commission may require documentation to verify that a conference room request is for official purposes.

(b) The commission will not provide any furniture , [or] equipment , or meeting materials other than the tables and chairs already in the conference rooms. No existing furniture, equipment, heavy tables, large podiums or fixtures may be removed from the conference rooms. Using agencies may rearrange tables and chairs that are movable[,] but must return all furniture to its original configuration at the end of the reservation period. Any special equipment, furniture, or materials brought into a conference room for a meeting must be removed at the end of the reservation period. Tampering with public address systems, recording systems, video equipment, telecommunications or computer wiring in the conference rooms is strictly prohibited. [However, large podiums or fixtures may not be moved.]

(c) Using agencies shall be responsible for costs to repair any damage to the conference rooms [or] , furnishings or equipment that occurs during use.

(d) Conference room reservations and cancellations may be made orally, in writing or by facsimile. [orally.] Oral cancellations must require written or facsimile follow up. A reservation may be canceled only by the agency that made the reservation. Cancellation of reservations is to be made as soon as possible after an agency learns that the room will not be needed.

Written confirmation of reservation or cancellations will be provided to an agency by the commission upon request.

(e) A state agency may use a conference room for more than 20 hours of a standard 40 hour work week only upon approval of a request submitted in writing.

(f) If meetings are scheduled for hours other than 8:00 a.m. to 5:00 p.m. weekdays, the requesting agency must notify the Department of Public Safety Capitol Detail, at 463-3476, to arrange for building access.

(g) Reservations are made on a first come, first serve basis. The commission will not alter the conference room schedule on behalf of any agency.

(h) The conference room schedule is public record, and is subject to disclosure.

§125.27. *Travel Agent Services Contracts.*

(a) (No change.)

(b) An application must include, but is not limited to, the following:

(1) information identifying business organization, including corporate and/or doing business as name, address, telephone and facsimile numbers; principal place(s) of business; federal tax identification number; [Texas Taxpayer Number(s);] Airline Reporting Corporation (ARC) and/or International Airline Travel Agent Network (IATAN) number(s);

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

[(4) verifying documentation that the vendor has a minimum of three (3) full-time equivalent travel employees as defined by the Internal Revenue Service, who can provide the required state travel services;]

(4)[(5)] an affidavit that the vendor meets the requirements identified in subsection (c) and agrees that services to state agencies will be rendered pursuant to the requirements stated herein and set forth in the state's Travel Agent Services Contract.

(c) Vendors seeking to qualify for a Travel Agent Services Contract to provide travel services to state agencies shall:

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

[(3) maintain a minimum of three full-time equivalent travel employees as defined by the Internal Revenue Service who can provide the required state travel services;]

(3)[(4)] make travel arrangements in accordance with the state's travel rules §125.19, and all terms and conditions set forth in the Travel Agent Services Contract;

(4)[(5)] provide reservations, ticketing, reticketing, ticket delivery, and refunds at no additional charge to the state, meaning that the total charges to the state shall not exceed the sum of charges assessed by the airlines, rental car vendors, and hotels;

(5)[(6)] specify minimum volumes for STP, CRS, on-site locations, and terms for ticket delivery in writing to individual state agencies upon request [prior to the selection process];

(6)[(7)] agree that the state shall have the right to review, obtain, and copy all state business travel records pertaining to the services rendered, permit the state access to its premises for an on-site

inspection during normal business hours, and maintain all applicable accounting records relating to state business travel transactions for a minimum period of three years from transaction date for audit purposes;

(7)[(8)] remit 10% of all net airline commissions received from state business travel in accordance with the procedures established by the commission;

(8)[(9)] submit travel data reports as identified in the Travel Agent Services Contract on diskette in ASCII format or other automated or electronic means as the commission may specify;

(9)[(10)] have access to and obtain information from the Internet, as directed by the commission, to disseminate information and facilitate communication in the most cost-efficient means; and

(10)[(11)] require the project manager to attend at least one implementation training session annually and semiannual sessions thereafter if these sessions are established by the commission;

(11)[(12)] commit to servicing the state agency for a minimum of one year from the date of selection;

(12) [(13)] comply with applicable state laws, rules and procedures related to contracting or subcontracting, including but not limited to §§111.11-111.24 of this title which pertains to contracting with Historically Underutilized Businesses.

(d)-(h) (No change.)

(i) Revocation of Travel Agent Services Contract:

(1) A travel agent services contract may be revoked or canceled by the commission:

(A)-(C) (No change.)

(D) for failure to provide accurate reports or revenue sharing payments to the commission or state agencies as prescribed in the contract; or [and]

(E) (No change.)

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

(j) Selection by state agencies:

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

(3) In the selection process, state agencies shall consider participation by as many contractors as possible, with preference given to Texas resident contractors in accordance with §113.8 of this title. State agencies shall consider:

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

(C) [the quality of] performance of previous contracts or services;

(D) (No change.)

(E) [the quality of] references from previous contracts or services.

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

(k)-(l) (No change.)

This 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 6, 1996.

TRD-9616122

Judy Ponder

General Counsel

General Services Commission

Earliest possible date of adoption: December 20, 1996

For further information, please call: (512) 463-3466

◆        ◆        ◆

## TITLE 16. ECONOMIC REGULATION

### Part II. Public Utility Commission of Texas

#### Chapter 22. Practice and Procedure

##### Subchapter E. Pleadings

###### 16 TAC §§22.71, 22.72, 22.74

The Public Utility Commission of Texas proposes amendments to §22.71, regarding Filing of Pleadings and Other Materials, §22.72, regarding Formal Requisites of Pleadings to be Filed With the Commission, and §22.74, regarding Service of Pleadings. The proposed amendments are part of the commission's electronic filing and access project, and will implement the filing of documents with the commission using electronic media.

The electronic filing and access project is part of the Public Utility Commission's comprehensive Agency Information System (AIS). The AIS is a complex of hardware, software, and system components that comprise support for integrated information management at the commission. When fully implemented, the AIS will support case management and case processing needs, track division staff assignments and case timelines, track utility reporting, and enable electronic filing and retrieval of documents filed with the commission's central records. This project is complex and planned for incremental delivery. The first component of the AIS is already serving the data-entry needs of central records and publishing the daily filings log to the Internet.

The commission anticipates adoption of rule amendments over time to reflect the development of the system. The proposed amendments will implement the basic features of the electronic filing and access system. Eventually, the commission plans to accept filings via the Internet and to further reduce the number of copies or documents required to be filed.

Some of the proposed amendments were suggested by the Environmental Defense Fund's (EDF) Petition for Rulemaking Concerning Paper Waste filed August 9, 1996. Specifically, the proposed requirement for two-sided copies, and the proposed elimination of cover letters and service lists were suggested by EDF's petition. EDF's concerns are addressed in this rulemaking because they affect the same sections and because one of the goals of the AIS is to reduce reliance on paper copies of documents.

The commission specifically invites comments on whether the requirement for electronic filing of documents over ten pages is overly burdensome, and whether a good cause exception process would be an appropriate way to address situations

where persons wishing to file documents desire to be excused from the requirement to file electronically.

Paula Mueller, Director of Legal Administration Division, has determined that for each year of the first five-year period the proposed sections are in effect the fiscal implications for state or local government as a result of enforcing or administering the sections will be reduced costs due to a reduction in the amount of paper copies which must be filed in order to participate in commission proceedings. As the electronic filing and access project develops further, additional cost reductions are anticipated.

Ms. Mueller also has determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing the section will be greater and more convenient access to public information. There will be no effect on small businesses as result of enforcing this section. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Ms. Mueller also has determined that for each year of the first five years the proposed sections are in effect there will be no impact on employment in the geographical area affected by implementing the requirements of the section.

Comments on the proposed amendment (16 copies) may be submitted to Paula Mueller, Secretary of the Commission, Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, within 30 days after publication. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the amendments. The commission will consider the costs and benefits in deciding whether to adopt the amendments. All comments should refer to Project Number 16405.

The amendments are proposed under the Public Utility Regulatory Act of 1995, §1.101, Senate Bill 319, 74th Legislature, Regular Session 1995, which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules of practice and procedure.

Cross Index to Statutes: PURA §1.101.

§22.71. *Filing of Pleadings and Other Materials.*

(a) (No change.)

(b) Number of Documents to be Filed. Unless otherwise provided by this chapter or ordered by the presiding officer, the number of copies to be filed, including the original, are as follows:

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

(3) exceptions, replies, interim appeals, requests for oral argument, and other documents addressed to the commissioners: 19 [22] copies;

(4) (No change.)

(5) rate, fuel factor, and fuel reconciliation filing packages: 11 [16] copies;

(6) (No change.)

(7) discovery requests [and responses]: seven copies;  
[and]

(8) **discovery responses: three copies; and**

(9) [(8)] other pleadings and documents: ten copies, except that in contested cases transferred to the State Office of Administrative Hearings, parties must file 12 copies of other pleadings and documents.

(c) **Receipt by the Commission.** Pleadings and any other documents shall be deemed filed when the required [proper] number of [legible] copies including the electronic copy, if required, in conformance with §22.72 of this chapter (relating to Formal Requisites of Pleadings) are [is] presented to the commission filing clerk for filing. [The commission filing clerk shall be required to accept pleadings and documents if the person seeking to make a filing is in the office of the commission filing clerk with the required number of copies by the time the pleading or document is required to be filed.]

(d) (No change.)

(e) **Office Hours of the Commission Filing Clerk.** For the purpose of filing pleadings and other documents, [including proposals for decision,] the office hours of the commission filing clerk are from 9:00 [8:00] a.m. to 3:00 [5:00] p.m., Monday through Friday, on working days.

(f) **Filing a Copy or Facsimile Copy in Lieu of an Original.** Subject to the requirements of subsection (c) of this section and §22.72 of this chapter, a copy of an original document or pleading, including a copy that has been transmitted through a telecopier, may be filed, so long as the party or the attorney filing such copy maintains the original for inspection by the commission or any party to the proceeding.

(g) (No change.)

(h) **Filing Deadlines for Documents Addressed to the Commissioners.**

(1) Except as provided in paragraph (2) of this subsection, all documents addressed to the commissioners relating to any proceeding that has been placed on the agenda of an open [a final order] meeting shall be filed with the commission filing clerk no later than five days prior to the open [final order] meeting at which the proceeding will be considered provided that no party is prejudiced by the timing of the filing of the documents. Documents that are not filed before the deadline and do not meet one of the exceptions in paragraph (2) of this subsection, will be considered untimely filed.

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

§22.72. *Formal Requisites of Pleadings to Be Filed With the Commission.*

(a) **Requirements of Form**

(1) Unless otherwise authorized or required by the presiding officer or this chapter, documents [filings shall be typewritten or printed on paper measuring approximately 8 1/2 by 11 inches;] shall include the style and number of the docket or project in which they are submitted, if available; shall identify by heading the nature of the pleading submitted and the name of the party submitting the same; and shall be signed by the party or the party's representative.

(2) Any log, graph, map, drawing, or chart submitted as part of a filing will be accepted on paper larger than provided in subsection (f) [paragraph (1)] of this section, if it cannot be provided legibly on letter-size paper.

(b) **Format.** Any filing with the commission must:

(1) (No change.)

(2) indent and single-space any quotation which exceeds 50 words; and

[(3) be bound or stapled at the left side only, if the filing exceeds one page;]

(3) [(4)] be printed or formatted in not less than ten-point type.

(c)-(e) (No change.)

(f) **Hard Copy Filing Standards.** Hard copies of each document shall be filed with the commission in accordance with the requirements set forth in paragraphs (1)-(8) of this subsection.

(1) Each document shall be typed or printed on paper measuring 8.5 by 11 inches.

(2) Each document shall have no bindings or staples.

(3) Each document shall be two-hole punched at the top and secured with binder rings or two-pronged clasps.

(4) All figures shall be filed as referenced attachments. No figures shall be embedded in the text of the document.

(5) Oversized documents shall be filed as referenced attachments.

(6) No cover letter shall be attached to any document.

(7) All pages of a document shall be consecutively numbered in the lower right hand corner of each page.

(8) One hard copy of each document shall be printed on only one side of the paper. All other copies shall be printed on both sides of the paper.

[(f) **Transmittal Letters.** Transmittal letters may be attached to pleadings or any other document filed with the commission. If transmittal letters are submitted, they shall be considered part of the record.]

(g) **Electronic filing standards.** Any document may be filed, and all documents containing more than ten pages shall be filed, electronically in accordance with the requirements of paragraphs (1)-(8) of this subsection. Electronic filings are registered by submission of the diskette along with the required number of hard copies to the filing clerk under the provisions of this section and §22.71 regarding Filing of Pleadings and Other materials.

(1) All figures must be filed as referenced attachments. No figures shall be imbedded in the text of the document.

(2) Oversized documents shall not be filed in electronic media, but shall be filed as referenced attachments.

(3) Each document shall have a table of contents that lists the major sections of the document, the page numbers for each major section and the name of the electronic file that contains each major section of the document.

(4) Each document shall contain an affidavit of parity attesting that the contents of the electronic copy and hard copies are identical.

(5) Each document shall have a list of file names that are included in the filing and shall be referenced in an ASCII text file named FILES.TXT.

(6) The table of contents, affidavit of parity and list of file names shall be placed at the beginning of the document.

(7) All pages of a document shall be consecutively numbered in the lower right hand corner of each page.

(8) Each diskette shall be labeled with the control number, the style of the case, the name of the document, and the name of the person submitting the document.

(h) Disk format standards. Each document that is submitted to the filing clerk on diskette shall be submitted as set forth in paragraphs (1)-(3) of this subsection.

(1) 3.5 inch diskette.

(2) 1.4 M double sided, double density storage capacity.

(3) IBM format.

(i) File format standards.

(1) Electronic filings shall be made in accordance with the current list of preferred formats available in the commission's central records office and on the commission's World Wide Web site.

(2) Electronic filings that are submitted in a format other than that required by paragraph (1) of this subsection will not be accepted until after successful conversion of the file to a commission standard.

§22.74. *Service of Pleadings.*

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

(d) Certificate of Service. Every document required to be served on all parties pursuant to subsection (a) of this section shall contain the following or similar certificate of service: "I, (name) (title) certify that a copy of this document was served on all parties of record in this proceeding on (date) in the following manner: (specify method). Signed, (signature)." The certificate of service shall not include a list of the names and addresses of the parties on whom the document was served.

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

Issued in Austin, Texas on November 7, 1996

TRD-9616171

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Earliest possible date of adoption: December 20, 1996

For further information, please call: (512) 458-0100

## TITLE 28. INSURANCE

### Part I. Texas Department of Insurance

#### Chapter 1. General Administration

#### Subchapter C. Maintenance Taxes and Fees

#### 28 TAC §1.414

The Texas Department of Insurance proposes an amendment to §1.414, concerning assessment of maintenance taxes and fees for payment in 1997. The amendment is necessary to adjust the rates of assessment for maintenance taxes and fees for 1997 on the basis of gross premium receipts for calendar year 1996 or on some other designated basis. Section 1.414 set rates of assessment and applies those rates to life, accident, and health insurance; motor vehicle insurance; casualty insurance, and fidelity, guaranty and surety bonds; fire insurance and allied lines, including inland marine; workers' compensation insurance; title insurance; health maintenance organizations; third party administrators; and corporations issuing prepaid legal services contracts.

Carroll Fuchs, director of accounting for the department, has determined that for the first five-year period the proposed section is in effect, the anticipated fiscal impact on state government is estimated income of \$41,744,662 to the state's general revenue fund. There will be no fiscal implications for local government as a result of enforcing or administering the proposed amended section, and there will be no effect on local employment or local economy.

Mr. Fuchs has determined that for each year of the first five years the amended section is in effect, the public benefit anticipated as a result of enforcing the section will be facilitation in the collection of maintenance tax and fee assessments. Based on a cost-per-hour of labor basis, the cost of compliance for small businesses affected by the proposed section should be the same as the cost of compliance for large businesses. Actual reasonable costs for processing and administration may vary among persons required to comply with this proposed section, but should not exceed 5% of the amount assessed.

Comments on the proposal must be submitted in writing within 30 days after publication of the proposed section in the *Texas Register* to Caroline Scott, General Counsel and Chief Clerk, Mail Code #113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comments should be submitted to Carroll Fuchs, Director of Accounting, Mail Code #108-3A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

The amendment is proposed under the Insurance Code, Articles 4.17, 5.12, 5.24, 5.49, 5.68, 9.46, 21.07-6, §§21, 23.08A, 1.03A, and Article 20A.33 (the Texas Health Maintenance Organization Act), which provide authorization for the Texas Department of Insurance to assess maintenance taxes and fees for the lines of insurance and related activities specified in amended §1.414. Article 4.17 establishes a maintenance tax based on insurance premiums for life, accident, and health coverage and the gross considerations for annuity and endowment contracts. Article 5.12 establishes a maintenance tax based on insurance premiums for motor vehicle coverage. Article 5.24 establishes a maintenance tax based on insurance premiums for casualty insurance and fidelity, guaranty and surety bonds coverage. Article 5.49 establishes a maintenance tax based on insurance premiums for fire and allied lines coverage, including inland marine. Article 5.68 establishes a maintenance tax based on insurance premiums for workers' compensation coverage. Article 9.46 establishes a maintenance fee based on

insurance premiums for title coverage. Article 21.07-6, §21 establishes a maintenance tax based on the gross amount of administrative or service fees for third party administrators. Article 23.08A establishes a maintenance tax based on gross revenue of corporations issuing prepaid legal service contracts. The Texas Health Maintenance Organization Act, §33 (codified at the Insurance Code, Article 20A.33), establishes an annual tax based on the gross amounts of revenues collected for the issuance of health maintenance certificates or contracts. Article 1.03A authorizes the commissioner of insurance to adopt rules and regulations for the conduct and execution of the duties and functions of the department as authorized by statute.

The following articles of the Insurance Code are affected by this rule: Articles 4.17, 5.12, 5.24, 5.49, 5.68, 9.46, 21.07-6, §§21, 21.46, 21.54, and 23.08A, and the Texas Health Maintenance Organization Act, §33, (codified at article 20A.33).

§1.414. *Assessment of Maintenance Taxes and Fees, 1997 [1996].*

(a) The following rates for maintenance taxes and fees are assessed on gross premiums of insurers for calendar year 1996 [1995] for the lines of insurance specified in paragraphs (1) - (5) of this subsection:

(1) for motor vehicle insurance, pursuant to the Insurance Code, Article 5.12, the rate is .066 [.055] of 1.0%;

(2) for casualty insurance, and fidelity, guaranty and surety bonds, pursuant to the Insurance Code, Article 5.24, the rate is .251 [.209] of 1.0%;

(3) for fire insurance and allied lines, including inland marine, pursuant to the Insurance Code, Article 5.49, the rate is .418 [.436] of 1.0%;

(4) for workers' compensation insurance, pursuant to the Insurance Code, Article 5.68, the rate is .096 [.093] of 1.0%;

(5) for title insurance, pursuant to the Insurance Code, Article 9.46, the rate is .135 [.110] of 1.0%.

(b) The rate for the maintenance tax to be assessed on gross premiums for calendar year 1996 [1995] for life, health, and accident insurance, pursuant to the Insurance Code, Article 4.17, is .040 of 1.0%.

(c) Rates for maintenance taxes are assessed for calendar year 1996 [1995] for the following entities:

(1) pursuant to the Texas Health Maintenance Organization Act, §33 (codified at the Insurance Code, Article 20A.33), the rate is \$.27 [\$.22] per enrollee for single service health maintenance organizations and \$.80 [\$.68] per enrollee for multi-service health maintenance organizations;

(2) pursuant to the Insurance Code, Article 21.07-6, §21, the rate is .339 [.310] of 1.0% of the correctly reported gross amount of administrative or service fees for third party administrators; and

(3) pursuant to the Insurance Code, Article 23.08, the rate is 1.0% of correctly reported gross revenues for corporations issuing prepaid legal service contracts.

(d) The taxes assessed under subsections (a), (b), and (c) of this section shall be payable and due to the Comptroller of Public Accounts, Austin, Texas 78774-0100 on March 1, 1997 [1996].

This 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 12, 1996.

TRD-9616339

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Earliest possible date of adoption: December 20, 1996

For further information, please call: (512) 463-6327

## 28 TAC §1.415

The Texas Department of Insurance proposes an amendment to §1.415, concerning assessment of a maintenance tax surcharge which will be used to service the bonded indebtedness of the Texas Workers' Compensation Insurance Fund. The amendment is proposed to change the rate of assessment for taxes due in 1997 on the basis of gross premium receipts for calendar year 1996. The Texas Workers' Compensation Commission annually establishes and certifies to the comptroller of public accounts the rate of assessment for the maintenance taxes which are authorized to pay the cost of administering the Texas Workers' Compensation Act. The commissioner of insurance may increase the Texas Workers' Compensation Commission tax rate to a rate sufficient to pay all debt service on the bonds issued on behalf of the Texas Workers' Compensation Insurance Fund, subject to the maximum rate established by the Texas Labor Code, §404.003. The proposed section amends the rate of assessment which applies to workers' compensation insurance companies. Timely and accurate payment of maintenance taxes is necessary for support of regulatory functions.

Carroll Fuchs, director of accounting for the department, has determined that for the first five-year period the proposed section is in effect, the anticipated fiscal impact on state government is estimated income of \$22,340,015 generated from the maintenance tax surcharge which will be used to pay debt service for \$300 million in bonds issued in 1991 by the Texas Public Finance Authority on behalf of the Texas Workers' Compensation Insurance Fund. There will be no fiscal implications for local government as a result of enforcing or administering the section, and there will be no effect on local employment or the local economy.

Mr. Fuchs also has determined that for each year of the first five years the amended section is in effect, the public benefit anticipated as a result of enforcing the section will be the facilitation in the collection of a maintenance tax surcharge assessment for the Texas Workers' Compensation Insurance Fund. Based on a cost-per-hour of labor basis, the cost of compliance for small businesses affected by the proposed section should be the same as the cost of compliance for large businesses. Actual reasonable costs for processing and administration may vary among persons required to comply with this proposed section, but should not exceed 5% of the amount assessed.

Comments on the proposal must be submitted in writing within 30 days after publication of the proposed section in the *Texas Register* to Caroline Scott, General Counsel and Chief Clerk,

Mail Code #113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comments should be submitted to Carroll Fuchs, Director of Accounting, Mail Code #108-3A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

The amendment is proposed under the Insurance Code, Articles 5.76-3, 5.76-5, 5.68 and 1.03A and the Texas Labor Code, §403.002. The Insurance Code, Article 5.76-3 establishes the Texas Workers' Compensation Insurance Fund. Article 5.76-5 establishes the maintenance tax surcharge. Article 5.68 establishes the maintenance tax based on premiums for workers' compensation coverage. Article 1.03A authorizes the Commissioner of Insurance to adopt rules and regulations for the conduct and execution of the duties and functions of the Department as authorized by statute. The Texas Labor Code, §403.002 establishes the maintenance tax for workers' compensation insurance companies.

The following Texas statutes are affected by this rule: Insurance Code, Articles 5.12, 5.55C, 5.68, 5.76-3, 5.76-5, 21.46, and 21.54 and Texas Civil Statutes, Articles 8308-2.22, 8308-2.23, and 8308-11.09.

*§1.415. Maintenance Tax Surcharge for the Texas Workers' Compensation Insurance Fund, 1997 [1996].*

(a) The maintenance tax surcharge is levied against each insurance carrier writing workers' compensation insurance in this state, at the rate of .85% [.59%] of the correctly reported gross workers' compensation insurance premiums for the calendar year 1996 [1995] to cover debt service for bonds issued on behalf of the Texas Workers' Compensation Insurance Fund.

(b) The maintenance tax surcharge shall be payable and due to the Comptroller of Public Accounts, Austin, Texas 78774-0100 on March 1, 1997 [1996].

This 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 12, 1996.

TRD-9616340

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Earliest possible date of adoption: December 20, 1996

For further information, please call: (512) 463-6327



## Chapter 7. Corporate and Financial Regulation

### Subchapter J. Examination Expenses and Assessments

#### 28 TAC §7.1012

The Texas Department of Insurance proposes an amendment to §7.1012, concerning assessments to cover the expenses of examining insurance companies. Assessments will be levied against and collected from each domestic insurance company based on admitted assets and gross premium receipts for the 1996 calendar year, and from each foreign insurance company

examined during the 1997 calendar year based on a percentage of the gross salary paid to an examiner for each month or part of a month during which the examination is made. The assessments made under authority of this proposed amended section will be in addition to, and not in lieu of any other charge which may be made under law, including the Insurance Code, Article 1.16.

Carroll Fuchs, director of accounting for the department, has determined that for the first five-year period the section is in effect, the anticipated fiscal impact on state government is estimated income of \$11,546,384 to the state's general revenue fund. There will be no fiscal implications for local government as a result of enforcing or administering the section, and there will be no effect on local employment or the local economy.

Mr. Fuchs has determined that for each year of the first five years the amended section is in effect, the public benefit anticipated as a result of enforcing the section will be the adoption of assessment rates to defray the expenses of examinations and administration of the laws related to examinations during the 1997 calendar year. Mr. Fuchs has determined that the direct economic cost to individuals who are required to comply with the proposed section will vary, depending on the amount of assessment against each company. In the case of domestic companies, this is dependent on rates applied to 1996 admitted assets and gross premium receipts. In the case of foreign insurers, it will depend on whether the company is examined by Texas examiners, on the salary and expenses of the examiners, and on the time it takes for the examination. There will be no difference in rates of assessments between small and large businesses, except that a minimum charge of \$25 is assessed domestic companies in §7.1012(b)(3). Based on a cost-per-hour of labor basis, the cost of compliance for small businesses affected by the proposed section should be the same as the cost of compliance for large businesses. Actual reasonable cost for processing and administration may vary among persons required to comply with this proposed section, but should not exceed 5% of the amount assessed.

Comments on the proposal must be submitted in writing within 30 days after publication of the proposed section in the *Texas Register* to Caroline Scott, General Counsel and Chief Clerk, Mail Code #113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comments should be submitted to Carroll Fuchs, Director of Accounting, Mail Code #108-3A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

The amendment is proposed under the Insurance Code, Articles 1.16 and 1.03A. The Insurance Code, Article 1.16(a) and (b) authorizes the commissioner of insurance to make assessments necessary to cover the expenses of examining insurance companies and to comply with the provisions of the Insurance Code, Articles 1.16, 1.17, and 1.18, in such amounts as the commissioner certifies to be just and reasonable. In addition, Article 1.16(c) provides that expenses incurred in the examination of foreign insurers by Texas examiners shall be collected by the commissioner by assessment. Article 1.03A authorizes the commissioner of insurance to adopt rules and regulations for the conduct and execution of the duties and functions of the department as authorized by statute.

The following articles of the Insurance Code are affected by this rule: Articles 1.16, 1.17, 1.17A, 1.18, 1.19, 1.28, 4.10 and 4.11.

§7.1012. *Domestic and Foreign Insurance Company Examination Assessments, 1997 [1996].*

(a) Foreign insurance companies examined during the 1997 [1996] calendar year shall pay for examination expenses according to the overhead rate of assessment specified in this subsection in addition to all other payments required by law including, but not limited to, the Insurance Code, Article 1.16. Each foreign insurance company examined shall pay 32% [33%] of the gross salary paid to each examiner for each month or partial month of the examination in order to cover the examiner's longevity pay; state contributions to retirement, social security, and the state paid portion of insurance premiums; and vacation and sick leave accruals. The overhead assessment will be levied with each month's billing.

(b) Domestic insurance companies shall pay according to this subsection and rates of assessment herein for examination expenses as provided in the Insurance Code, Article 1.16.

(1) The actual salaries and expenses of the examiners allocable to such examination shall be paid. The annual salary of each examiner is to be divided by the total number of working days in a year, and the company is to be assessed the part of the annual salary attributable to each working day the examiner examines the company during 1997 [1996]. The expenses assessed shall be those actually incurred by the examiner to the extent permitted by law.

(2) An overhead assessment to cover administrative departmental expenses attributable to examination of companies, which shall be paid and computed as follows:

(A) .00494 [.00485] of 1.0% of the admitted assets of the company as of December 31, 1996 [1995], upon the corporations or associations to be examined taking into consideration the annual admitted assets that are not attributable to 90% of pension plan contracts as defined in §818(a) of the Internal Revenue Code of 1986 (26 United States Code, §818(a)); and

(B) .01095 [.01179] of 1.0% of the gross premium receipts of the company for the year 1996 [1995], upon the corporations or associations to be examined taking into consideration the annual premium receipts that are not attributable to 90% of pension plan contracts as defined in §818(a) of the Internal Revenue Code of 1986 (26 United States Code, §181(a)).

(3)-(5) (No change.)

This 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 12, 1996.

TRD-9616342

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Earliest possible date of adoption: December 20, 1996

For further information, please call: (512) 463-6327



Chapter 25. Insurance Premium Finance

## Subchapter E. Examinations and Annual Reports 28 TAC §25.88

The Texas Department of Insurance proposes an amendment to §25.88, concerning an assessment which will be used to cover the general administrative expense assessment of insurance premium finance companies. The amendment is necessary to adjust the rate of assessment which is sufficient to meet the expenses of performing the department's statutory responsibilities for examining, investigation, and regulating insurance premium finance companies. Under §25.88, the department levies a rate of assessment to cover the 1997 fiscal year's general administrative expense and will collect from each insurance premium finance company on the basis of a percentage of total loan dollar volume for the 1996 calendar year.

Carroll Fuchs, director of accounting for the department, has determined that for the first five-year period the proposed section will be in effect, the anticipated fiscal impact on state government will be income estimated at \$488,534 to the state's general revenue fund. There is no fiscal implication for local government or employment or the local economy as a result of enforcing or administering the proposed amended section.

Mr. Fuchs has determined that for each year of the first five years the amended section is in effect, the public benefit anticipated as a result of enforcing the section will be the facilitation in the collection of an assessment to cover the general administrative expense connected to the regulation of insurance premium finance companies. The cost to persons required to comply with this section is equivalent between small businesses and large businesses on a basis of cost per dollar of loan volume. The minimum cost for compliance based on assessment under the section is \$250.00. Cost of administration or processing of such assessments may vary from company to company, depending on individual procedures, but the reasonable cost of administration and processing should be no greater than 5% of the assessment.

Comments on the proposal to be considered by the commissioner must be submitted in writing within 30 days after publication of the proposed section in the *Texas Register* to Caroline Scott, General Counsel and Chief Clerk, Mail Code #113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comments should be submitted to Carroll Fuchs, Director of Accounting, Mail Code #108-3A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

The amendment is proposed under the Insurance Code, Articles 24.06(c), 24.09, and 1.03A. Article 24.06(c) provides that each insurance premium finance company licensed by the department shall pay an amount assessed by the department to cover the direct and indirect cost of examinations and investigations and a proportionate share of general administrative expense attributable to regulation of insurance premium finance companies. Article 24.09 authorizes the department to adopt and enforce rules necessary to carry out provisions of the Insurance Code concerning the regulation of insurance premium finance companies. Article 1.03A authorizes the commissioner to adopt rules and regulations for the conduct and execution of the duties and functions of the department.

The following articles of the Insurance Code are affected by this section: Articles 24.05, 24.06, 24.08, 24.09, and 24.10.

*§25.88. General Administrative Expense Assessment.*

On or before April 1, 1997 [1996], each insurance premium finance company holding a license issued by the department under the Insurance Code, Chapter 24, shall pay an assessment to cover the general administrative expenses attributable to the regulation of insurance premium finance companies. Payment shall be sent to the Texas Department of Insurance, Examinations Division, Mail Code #305-2E, 333 Guadalupe, P. O. Box 149104, Austin, Texas 78701-9104. The assessment to cover general administrative expenses shall be computed and paid as follows.

(1) The amount of the assessment shall be computed as .01977 [0.1481] of 1.0% of the total loan dollar volume of the company for the calendar year 1996 [1995].

(2) If the amount of the assessment computed under paragraph (1) of this section is less than \$250, the amount of the assessment shall be \$250.

This 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 12, 1996.

TRD-9616341

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Earliest possible date of adoption: December 20, 1996

For further information, please call: (512) 463-6327

## TITLE 30. ENVIRONMENTAL QUALITY

### Part I. Texas Natural Resource Conservation Commission

#### Chapter 101. General Rules

##### 30 TAC §101.1

The commission proposes an amendment to §101.1, concerning Definitions. The commission proposes these revisions to Chapter 101, concerning General Rules, and to the State Implementation Plan in order to make a variety of changes which clarify existing definitions and repeal obsolete definitions.

**EXPLANATION OF PROPOSED RULE.** The proposed changes generalize the definitions of component and leak by deleting references to Chapter 115 rules which are currently referenced in these definitions; replace the definition of delivery vessel/tank-truck tank with a definition of tank-truck tank to ensure the use of consistent terminology in various rules; revise the definition of Synthetic Organic Chemical Manufacturing Industry (SOCMI) batch distillation operation, SOCMI batch process, SOCMI distillation operation, SOCMI distillation unit, and SOCMI reactor process to clarify the applicability of these definitions; delete the definitions of polyester resin materials, polyester resin operation, and utility engines because the rules for which these definitions were developed have been repealed; revise the definition

of volatile organic compound (VOC) for consistency with the recently revised federal definition; and revise the definition of vehicle refinishing (body shops) by deleting the repair and recoating of vehicles at in-house (fleet) vehicle refinishing operations and vehicles by private individuals from the list of operations which are excluded from this definition. This action will clarify that the exclusion was not intended to be generally applicable to all air regulations, only to Chapter 115. In concurrent action, the commission proposes to add an exemption to §115.427, concerning Exemptions, which will exclude the repair and recoating of vehicles at in-house (fleet) vehicle refinishing operations and vehicles by private individuals from the Chapter 115 vehicle refinishing (body shops) emission specifications and control requirements. The proposed changes to the definition of VOC add 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca), 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb), and 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee) to the list of compounds which are not classified as VOCs. The United States Environmental Protection Agency (EPA) has ruled that these compounds have negligible photochemical reactivity, and thus do not appreciably contribute to the formation of urban ozone [final rules at 61 *Federal Register* (FR) 52847].

**FISCAL NOTE.** Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state and local governments as a result of enforcing or administering the proposed amendment.

**PUBLIC BENEFIT.** Mr. Minick has also determined that for each year of the first five years the proposed section is in effect, the public benefit anticipated as a result of implementing the section will be clarification of existing definitions, deletion of obsolete definitions, and use of consistent terminology. There is no anticipated cost to small businesses, persons, or businesses who are required to comply with the rule as proposed.

**TAKINGS IMPACT ASSESSMENT.** The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated, §2007.043. The following is a summary of that assessment. The specific purpose of the rule amendments is to clarify existing definitions, repeal obsolete definitions, and use consistent terminology. Promulgation and enforcement of the rule amendments will not affect private real property which is the subject of the rule because the rule changes do not impose new requirements.

**PUBLIC HEARING.** A public hearing on this proposal will be held in Austin on December 13, 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 35 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 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 Policy and Regulatory Development at (512) 239-4900. Requests should be made as far in advance as possible.



**SUBMITTAL OF COMMENTS.** Written comments may be mailed to Heather Evans, 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 96164-115-AI. Comments must be received by 5:00 p.m., December 19, 1996. For further information, please contact Eddie Mack, Air Policy and Regulations Division, (512) 239-1488.

**STATUTORY AUTHORITY.** The amendment is 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 amendment implements the Health and Safety Code, §382.017.

*§101.1. 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.

**Component** - [(as used in Chapter 115 of this title (relating to Fugitive Emission Control in Petroleum Refineries, §§115.322-115.329; Fugitive Emission Control in Synthetic Organic Chemical, Polymer, Resin and Methyl Tert-Butyl Ether Manufacturing Processes, §§115.332-115.339; and Fugitive Emission Control in Natural Gas/Gasoline Processing Operations, §§115.342-115.349)] A piece of equipment, including, but not limited to, pumps, valves, compressors, and pressure relief valves, which has the potential to leak volatile organic compounds.

**[Delivery vessel/tank-truck tank** - Any tank-truck or trailer that is equipped with a storage tank having a capacity greater than 1,000 gallons.]

**Leak** - [(as used in Chapter 115 of this title (relating to Fugitive Emission Control in Petroleum Refineries, §§115.322-115.329); Fugitive Emission Control in Synthetic Organic Chemical, Polymer, Resin and Methyl Tert-Butyl Ether Manufacturing Processes, §§115.332-115.339; and Fugitive Emission Control in Natural Gas/Gasoline Processing Operations, §§115.342-115.349)] - A volatile organic compound concentration greater than the amount specified by applicable rule [10,000 parts per million by volume] or the dripping or exuding of process fluid based on sight, smell, or sound.

**[Polyester resin materials** - Unsaturated polyester resins, such as isophthalic, orthophthalic, halogenated, bisphenol A, vinyl ester, or furan resins; cross-linking agents; catalysts; gel coats; inhibitors; accelerators; promoters; and any other material containing VOC used in polyester resin operations.]

**[Polyester resin operation** - A facility which fabricates or reworks products by mixing, pouring, hand laying-up, impregnating, injecting, forming, winding, spraying, laminating, molding, curing, resin transfer, and/or pultrusion by using unsaturated polyester resin materials with fiberglass, fillers, or any other reinforcement materials.]

**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.

**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.

**Synthetic Organic Chemical Manufacturing Industry (SOCMI) distillation operation** - A SOCMI [An] 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.

**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 stream jets), and recovery devices (such as adsorbers, carbon absorbers, and condensers) which are capable of, and used for, recovering chemicals for use, reuse, or sale.

**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.

**Tank-truck tank** - Any storage tank having a capacity greater than 1,000 gallons, mounted on a tank truck or trailer.

**[Utility engines** - Small four-stroke and two-stroke, air or liquid cooled, gasoline, diesel, or alternative fuel powered engines under 25 horsepower. They are designed for powering lawn, garden, and turf maintenance implements, timber operations, generating electricity, and pumping fluids.]

**Vehicle refinishing (body shops)** - The repair and recoating of vehicles, including, but not limited to, motorcycles, passenger cars, vans, light-duty trucks, medium-duty trucks, heavy-duty trucks, buses, and other vehicle body parts, bodies, and cabs by a commercial operation other than the original manufacturer. The repair and recoating of trailers[,] and construction equipment[, vehicles at in-house (fleet) vehicle refinishing operations, and vehicles by private individuals] are not included.

**Volatile organic compound** - Any compound of carbon or mixture of carbon compounds excluding methane, ethane, 1,1,1-trichloroethane (methyl chloroform), methylene chloride (dichloromethane), perchloroethylene (tetrachloroethylene), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (HCFC-22), trifluoromethane (HFC-23), 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113), 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115), 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123), 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124), pentafluoroethane (HFC-125), 1,1,2,2-tetrafluoroethane (HFC-134), 1,1,1,2-tetrafluoroethane (HFC-134a), 1,1-dichloro-1-fluoroethane (HCFC-141b), 1-chloro-1,1-difluoroethane (HCFC-142b), 1,1,1-trifluoroethane (HFC-143a), 1,1-difluoroethane (HFC-152a), parachlorobenzotrifluoride (PCBTF),



cyclic, branched, or linear completely methylated siloxanes, acetone, 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca), 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb), 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee), carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, and perfluorocarbon compounds which fall into these classes:

(A)-(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.

Issued in Austin, Texas, on November 8, 1996.

TRD-9616280

Barry S. Irwin

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: February 19, 1997

For further information, please call: (512) 239-1970

## Chapter 115. Control of Air Pollution From Volatile Organic Compounds

The commission proposes amendments to §115.10, concerning Definitions; §§115.112, 115.114- 115.116, and 115.119, concerning Storage of Volatile Organic Compounds (VOC); §§115.132, 115.136, and 115.137, concerning Water Separation; §§115.146, 115.147, and 115.149, concerning Industrial Wastewater; §§115.153, 115.156, and 115.159, concerning Municipal Solid Waste Landfills; §§115.211, 115.212, 115.214-115.217, and 115.219, concerning Loading and Unloading of VOC; §§115.221-115.223, and 115.226, concerning Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities; §115.253 and §115.256, concerning Control of Reid Vapor Pressure of Gasoline; §§115.421, 115.422, 115.424, 115.426, and 115.427, concerning Surface Coating Processes; §§115.442, 115.446, and 115.449, concerning Offset Lithographic Printing; §§115.532, 115.533, 115.536, 115.537, and 115.539, concerning Pharmaceutical Manufacturing Facilities; and §§115.552, 115.553 and 115.559, concerning Petroleum Dry Cleaning Systems.

**EXPLANATION OF PROPOSED RULE.** The commission proposes these revisions to Chapter 115, concerning Control of Air Pollution from VOC, and to the State Implementation Plan (SIP) in order to make a variety of changes which correct and update rule references, correct references to federal test methods, clarify control requirements, update terminology for consistency throughout Chapter 115, add exemptions to the VOC water separation rules to complete previous rulemaking, delete definitions which are no longer needed, delete the attainment date from the contingency rules to provide future flexibility, and delete language made obsolete by the passing of compliance dates.

The proposed changes to §115.10, concerning Definitions, replace the definition of delivery vessel/tank-truck tank with a definition of tank-truck tank to ensure the use of consistent terminology in various rules; revise the definition of fugitive

emission for consistency with the corresponding definition in §101.1, concerning Definitions; update the definition of leak to be consistent with the requirements of §115.352, regarding Control Requirements; revise the definition of Synthetic Organic Chemical Manufacturing Industry (SOCMI) batch distillation operation, SOCMI batch process, SOCMI distillation operation, SOCMI distillation unit, and SOCMI reactor process to clarify the applicability of these definitions; delete the definitions of polyester resin materials, polyester resin operation, and utility engines because these terms are no longer used within Chapter 115; revise the definition of VOC for consistency with the recently revised federal definition; and revise the definition of vehicle refinishing (body shops) by deleting the repair and recoating of vehicles at in-house (fleet) vehicle refinishing operations and vehicles by private individuals from the list of operations which are excluded from this definition. In concurrent action, the commission proposes to add an exemption to §115.427, concerning Exemptions, which will exclude the repair and recoating of vehicles at in-house (fleet) vehicle refinishing operations and vehicles by private individuals from the Chapter 115 vehicle refinishing (body shops) emission specifications and control requirements. The proposed changes to the definition of VOC add 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca), 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb), and 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee) to the list of compounds which are not classified as VOCs. The United States Environmental Protection Agency (EPA) has ruled that these compounds have negligible photochemical reactivity, and thus do not appreciably contribute to the formation of urban ozone (final rules at 61 *Federal Register* (FR) 52847).

The proposed changes to §115.112, concerning Control Requirements, clarify that the requirement for rim-mounted secondary seals is applicable to external floating roof storage tanks but not internal floating roof storage tanks. The proposed changes to §115.114, concerning Inspection Requirements, correct a rule reference and revise references to TNRCC and the executive director for consistency with the commission's style guidelines. The proposed changes to §115.115, concerning Approved Test Methods, correct a reference to a federal test method and add the effective dates of referenced federal rules for consistency with the commission's style guidelines. The proposed change to §115.116, concerning Monitoring and Recordkeeping Requirements, revises references to TNRCC and the executive director for consistency with the commission's style guidelines. The proposed revision to §115.119, concerning Counties and Compliance Schedules, more clearly specifies the compliance schedule for a previously adopted requirement to conduct annual visual inspections of internal floating roof storage tanks in ozone nonattainment counties.

The proposed changes to §115.132, concerning Control Requirements, and §115.137, concerning Exemptions, complete a previous rulemaking action which was adopted by the commission on October 25, 1995. The revisions now being proposed could not be adopted at that time due to restrictions specified by the Administrative Procedures Act. The proposed changes to §115.132 specify the conditions under which VOC water separators may vent to the atmosphere without vapor recovery. In addition, the proposed changes to §115.132 and §115.136, concerning Monitoring and Recordkeeping Requirements, replace

"prior to" with "before" and revise references to TNRCC and the executive director for consistency with the commission's style guidelines. The proposed changes to §115.137 add an exemption for VOC water separators in Gregg, Nueces, and Victoria Counties which are designed solely to capture stormwater, spills, or exterior surface cleanup waters.

The proposed changes to §115.146, concerning Monitoring and Recordkeeping Requirements, and §115.147, concerning Exemptions, revise references to TNRCC and the executive director for consistency with the commission's style guidelines. The proposed revision to §115.149, concerning Counties and Compliance Schedules, deletes the attainment date for Beaumont/Port Arthur from the contingency rule. The date currently specified in this rule is no longer accurate because the attainment date has changed as the result of the reclassification of Beaumont/Port Arthur as a moderate ozone nonattainment area, effective June 3, 1996. Elimination of the specific date will not affect the validity of this contingency rule but will provide flexibility in the event that the attainment date is changed again in the future and will eliminate the need for a future rule change in that event.

The proposed changes to §115.153 update a reference to §115.910 to reflect a title change. The proposed change to §115.156, concerning Monitoring and Recordkeeping Requirements, and §115.159, concerning Counties and Compliance Schedules, revises references to TNRCC and the executive director for consistency with the commission's style guidelines. The proposed revision to §115.159 also deletes an inaccurate attainment date for Houston/Galveston from the contingency rule. Elimination of the specific date will not affect the validity of this contingency rule but will provide flexibility in the event that the attainment date is changed in the future and will eliminate the need for a future rule change in that event.

The proposed changes to §§115.211, 115.212, 115.214, 115.216, 115.217, and 115.219, concerning Emission Specifications; Control Requirements; Inspection Requirements; Monitoring and Recordkeeping Requirements; Exemptions; and Counties and Compliance Schedules, delete language which no longer applies after a November 15, 1996, compliance date has passed, renumber other paragraphs within these sections as appropriate, and update rule references which need to be changed due to this renumbering. The proposed changes to §§115.212, 115.216, and 115.217 also replace "prior to" with "before" and revise references to TNRCC and the executive director for consistency with the commission's style guidelines. The proposed changes to §115.214 also update a rule reference due to a title change. The proposed changes to §115.216 also add the effective dates of referenced federal rules for consistency with the commission's style guidelines.

The proposed changes to §115.215, concerning Approved Test Methods, add a second test method for determining marine vessel vapor tightness in order to provide additional flexibility. The proposed changes to §115.217 also clarify the applicability of an existing exemption to marine loading operations and clarify that marine terminals with less than 100 tons per year (TPY) of VOC emissions only include marine loading emissions in the 100 TPY calculation. In addition, the proposed changes to §115.217 make more general the location to which control plans are directed by replacing references to the Office of Air

Quality with a reference to the executive director. Finally, the proposed changes to §115.217 relocate the deadline for submission of 80% overall control plans from subparagraphs which are proposed for deletion.

The proposed changes to §§115.221, 115.222, and 115.226, concerning Emission Specifications; Control Requirements; and Recordkeeping Requirements, replace the term delivery vessel with tank-truck tank for consistency with the terminology elsewhere in Chapter 115. The proposed changes to §115.223, concerning Alternate Control Requirements, update a reference to §115.910 to reflect a title change. The proposed changes to §115.226 also replace certification number with the identification number and the date of the last leak testing for consistency with the requirements and terminology elsewhere in Chapter 115.

The proposed changes to §115.253, concerning Alternate Control Requirements, update a reference to §115.910 to reflect a title change. The proposed change to §115.256, concerning Monitoring and Recordkeeping Requirements, revises references to TNRCC and the executive director for consistency with the commission's style guidelines.

The proposed change to §115.421, concerning Emission Specifications, removes a date which is unnecessary because it is already given in §115.429. The proposed changes to §115.422, concerning Control Requirements, §115.424, concerning Inspection Requirements, §115.426, concerning Monitoring and Recordkeeping Requirements, and §115.427, concerning Exemptions, revise references to TNRCC and the executive director for consistency with the commission's style guidelines. The proposed revisions to §115.422 also replace "prior to" with "before" for consistency with the commission's style guidelines. In addition, the proposed revisions to §115.427 change "automobile refinishing" to "vehicle refinishing (body shops)" for consistency with other references to these types of operations, and add an exemption to exclude the repair and recoating of vehicles at in-house (fleet) vehicle refinishing operations and vehicles by private individuals from the Chapter 115 vehicle refinishing (body shops) emission specifications and control requirements. In concurrent action, the commission proposes to revise the definition of vehicle refinishing (body shops) by deleting the repair and recoating of vehicles at in-house (fleet) vehicle refinishing operations and vehicles by private individuals from the list of operations which are excluded from this definition.

The proposed change to §115.442, concerning Control Requirements, replaces "printing facility" with "printing press" to ensure the use of consistent terminology throughout the offset printing rules. The proposed changes to §115.446, concerning Monitoring and Recordkeeping Requirements, and §115.449, concerning Counties and Compliance Schedules, revise references to TNRCC and the executive director for consistency with the commission's style guidelines. The proposed changes to §115.449 also delete the attainment dates for Dallas/Fort Worth and Houston/Galveston from the contingency rule. Elimination of the specific dates will not affect the validity of this contingency rule but will provide flexibility in the event that the attainment dates are changed in the future and will eliminate the need for a future rule change in that event.

The proposed changes to §115.532, concerning Control Requirements, and §115.536, concerning Monitoring and Record-keeping Requirements, replace "prior to" with "before" and revise references to TNRCC and the executive director for consistency with the commission's style guidelines. The proposed changes to §115.533, concerning Alternate Control Requirements, update a reference to §115.910 to reflect a title change. The proposed changes to §115.537, concerning Exemptions, and §115.539, concerning Counties and Compliance Schedules, delete language which no longer applies because the compliance date has passed.

The proposed changes to §115.552, concerning Control Requirements, replace "prior to" with "before" and revise references to TNRCC and the executive director for consistency with the commission's style guidelines. The proposed changes to §115.553, concerning Alternate Control Requirements, update a reference to §115.910 to reflect a title change. The proposed changes to §115.559, concerning Counties and Compliance Schedules, delete an inaccurate attainment date for El Paso and Houston/Galveston from the contingency rule. Elimination of the specific date will not affect the validity of this contingency rule in El Paso and Houston/Galveston but will provide flexibility in the event that the attainment date is changed in the future and will eliminate the need for a future rule change in that event. The proposed changes to §115.559 also add a separate paragraph for each nonattainment area which identifies more clearly the specific affected ozone nonattainment counties and the specific petroleum dry cleaning rules.

**FISCAL NOTE.** Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state and local governments as a result of enforcing or administering the proposed amendments.

**PUBLIC BENEFIT.** Mr. Minick has also determined that for each year of the first five years the proposed sections are in effect, the public benefit anticipated as a result of implementing the sections will be clarification of existing requirements and deletion of obsolete language. There is no anticipated cost to small businesses, persons, or businesses who are required to comply with the rules as proposed.

**TAKINGS IMPACT ASSESSMENT.** The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated §2007.043. The following is a summary of that assessment. The specific purpose of the rule amendments is to make a variety of changes which correct and update rule references, correct references to federal test methods, clarify control requirements, update terminology for consistency throughout Chapter 115, add exemptions to the VOC water separation rules to complete previous rulemaking, delete definitions which are no longer needed, delete the attainment date from the contingency rules to provide future flexibility, and delete language made obsolete by the passing of compliance dates. Promulgation and enforcement of these rule amendments will not affect private real property which is the subject of the rules because the rule changes do not impose new requirements.

**PUBLIC HEARING.** A public hearing on this proposal will be held in Austin on December 13, 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 35 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 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 Policy and Regulatory Development at (512) 239-4900. Requests should be made as far in advance as possible.

**SUBMITTAL OF COMMENTS.** Written comments may be mailed to Heather Evans, 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 96164-115-A1. Comments must be received by 5:00 p.m., December 19, 1996. For further information, please contact Eddie Mack, Air Policy and Regulations Division, (512) 239-1488.

## Subchapter A. Definitions

### 30 TAC §115.10

**STATUTORY AUTHORITY.** The amendment is 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 amendment implements the Health and Safety Code, §382.017.

#### *§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.

[Delivery vessel/tank-truck tank - Any tank-truck or trailer that is equipped with a storage tank having a capacity greater than 1,000 gallons.]

Fugitive emission - Any volatile organic compound [gaseous or particulate contaminant] entering the atmosphere which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening [without first passing through a vent] designed to direct or control its flow.

Leak - a volatile organic compound concentration greater than the amount specified by applicable rule [10,000 parts per million by volume (ppmv)] or the dripping or exuding of process fluid based on sight, smell, or sound.

[Polyester resin materials - Unsaturated polyester resins, such as isophthalic, orthophthalic, halogenated, bisphenol A, vinyl ester, or furan resins; cross-linking agents; catalysts; gel coats; inhibitors; accelerators; promoters; and any other material containing VOC used in polyester resin operations.]

[Polyester resin operation - A facility which fabricates or reworks products by mixing, pouring, hand laying-up, impregnating, injecting, forming, winding, spraying, laminating, molding, curing, resin transfer, and/or pultrusion by using unsaturated polyester resin materials with fiberglass, fillers, or any other reinforcement materials.]

**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.

**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.

**Synthetic Organic Chemical Manufacturing Industry (SOCMI) distillation operation** - A SOCMI [An] 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.

**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 stream jets), and recovery devices (such as adsorbers, carbon absorbers, and condensers) which are capable of, and used for, recovering chemicals for use, reuse, or sale.

**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.

**Tank-truck tank** - Any tank-truck or trailer that is equipped with a storage tank having a capacity greater than 1,000 gallons.

[Utility engines - Small four-stroke and two-stroke, air or liquid cooled, gasoline, diesel, or alternative fuel powered engines under 25 horsepower. They are designed for powering lawn, garden, and turf maintenance implements, timber operations, generating electricity, and pumping fluids.]

**Vehicle refinishing (body shops)** - The repair and recoating of vehicles, including, but not limited to, motorcycles, passenger cars, vans, light-duty trucks, medium-duty trucks, heavy-duty trucks, buses, and other vehicle body parts, bodies, and cabs by a commercial operation other than the original manufacturer. The repair and recoating of trailers[,] and construction equipment[, vehicles at in-house (fleet) vehicle refinishing operations, and vehicles by private individuals] are not included.

**Volatile organic compound** - Any compound of carbon or mixture of carbon compounds excluding methane, ethane, 1,1,1-trichloroethane (methyl chloroform), methylene chloride (dichloromethane), perchloroethylene (tetrachloroethylene), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (HCFC-22), trifluoromethane (HFC-23),

1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113), 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115), 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123), 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124), pentafluoroethane (HFC-125), 1,1,2,2-tetrafluoroethane (HFC-134), 1,1,1,2-tetrafluoroethane (HFC-134a), 1,1-dichloro-1-fluoroethane (HCFC-141b), 1-chloro-1,1-difluoroethane (HCFC-142b), 1,1,1-trifluoroethane (HFC-143a), 1,1-difluoroethane (HFC-152a), perchlorobenzotrifluoride (PCBTF), cyclic, branched, or linear completely methylated siloxanes, acetone, 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca), 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb), 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee), carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, and perfluorocarbon compounds which fall into these classes:

(A)-(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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## Subchapter B. General Volatile Organic Compound Sources

### Storage of Volatile Organic Compounds

#### 30 TAC §§115.112, 115.114-115.116, 115.119

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.

#### §115.112. Control Requirements.

(a) For all persons 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), the following requirements shall apply.

(1) (No change.)

(2) For floating roof storage tanks subject to the provisions of paragraph (1) of this subsection, the following requirements shall apply.

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

(F) For external floating roof storage tanks, secondary [Secondary] seals shall be the rim-mounted type (the seal shall be continuous from the floating roof to the tank wall). The accumulated area of gaps that exceed 1/8 inch (0.32 cm) in width

between the secondary seal and tank wall shall be no greater than 1.0 in<sup>2</sup> per foot (21 cm<sup>2</sup>/meter) of tank diameter.

(3) (No change.)

(b) For all persons in Gregg, Nueces, and Victoria Counties, the following requirements shall apply:

(1) (No change.)

(2) For floating roof storage tanks subject to the provisions of paragraph (1) of this subsection, the following requirements shall apply.

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

(F) For external floating roof storage tanks, secondary [Secondary] seals shall be the rim-mounted type (the seal shall be continuous from the floating roof to the tank wall). The accumulated area of gaps that exceed 1/8 inch (0.32 centimeter) in width between the secondary seal and tank wall shall be no greater than 1.0 square inch per foot (21 square centimeters/meter) of tank diameter.

(c) (No change.)

*§115.114. 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) For internal floating roof storage tanks, the internal floating roof and the primary seal or the secondary seal (if one is in service) shall be visually inspected through a fixed roof inspection hatch at least once every 12 months. If the internal floating roof is not resting on the surface of the volatile organic compounds (VOC) inside the storage tank and is not resting on the leg supports; or liquid has accumulated on the internal floating roof; or the seal is detached; or there are holes or tears in the seal fabric; or there are visible gaps between the seal and the wall of the storage tank, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank in accordance with §§115.541-115.547 of this title (relating to Degassing or Cleaning of Stationary, Marine, and Transport Vessels). If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate [Texas Natural Resource Conservation Commission (TNRCC)] regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

(2) For external floating roof storage tanks, the secondary seal gap shall be physically measured at least once every 12 months to insure compliance with §115.112(a)(2)(F) of this title (relating to Control Requirements). If the secondary seal gap exceeds the limitations specified by §115.112(a)(2)(F) of this title, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank in accordance with §§115.541-115.547 of this title. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate [TNRCC] regional office. The owner or operator shall submit a copy to any local air pollution

control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

(3) (No change.)

(4) For external floating roof storage tanks, the secondary seal shall be visually inspected at least once every six months to ensure compliance with §115.112(a)(2)(E)-(F) [§115.112(a)(2)(E)-(H)] of this title. If the external floating roof is not resting on the surface of the VOC inside the storage tank and is not resting on the leg supports; or liquid has accumulated on the external floating roof; or the seal is detached; or there are holes or tears in the seal fabric; or there are visible gaps between the seal and the wall of the storage tank, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank in accordance with §§115.541-115.547 of this title. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate [TNRCC] regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

(b) For all persons in Gregg, Nueces, and Victoria Counties, the following inspection requirements shall apply.

(1) If during an inspection of an internal floating roof storage tank, the internal floating roof is not resting on the surface of the VOC inside the storage tank and is not resting on the leg supports; or liquid has accumulated on the internal floating roof; or the seal is detached; or there are holes or tears in the seal fabric; or there are visible gaps between the seal and the wall of the storage tank, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate [TNRCC] regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

(2) For external floating roof storage tanks, the secondary seal gap shall be physically measured at least once every 12 months to insure compliance with §115.112(b)(2)(F) of this title. If the secondary seal gap exceeds the limitations specified by §115.112(b)(2)(F) of this title, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate [TNRCC] regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

(3) (No change.)

(4) For external floating roof storage tanks, the secondary seal shall be visually inspected at least once every 12 months to insure compliance with §115.112(b)(2)(E)-(F) of this title. If the external floating roof is not resting on the surface of the VOC inside the storage tank and is not resting on the leg supports; or liquid has accumulated on the external floating roof; or the seal is detached; or there are holes or tears in the seal fabric; or there are visible gaps between the seal and the wall of the storage tank, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate [TNRCC] regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

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

(1) If during an inspection of an internal floating roof storage tank, the internal floating roof is not resting on the surface of the VOC inside the storage tank and is not resting on the leg supports; or liquid has accumulated on the internal floating roof; or the seal is detached; or there are holes or tears in the seal fabric; or there are visible gaps between the seal and the wall of the storage tank, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate [TNRCC] regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

(2) If during an inspection of an external floating roof storage tank, the external floating roof is not resting on the surface of the VOC inside the storage tank and is not resting on the leg supports; or liquid has accumulated on the external floating roof; or the seal is detached; or there are holes or tears in the seal fabric; or there are visible gaps between the seal and the wall of the storage tank, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate [TNRCC] regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

*§115.115. Approved Test Methods.*

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, compliance with §115.112(a) of this title (concerning Control Requirements) shall be determined by applying the following test methods, as appropriate:

(1)-(5) (No change.)

(6) test method described in 40 CFR 60.113a(a)(1)(ii) (effective April 8, 1987) [60.113(a)(ii)] for measurement of storage tank seal gap;

(7)-(8) (No change.)

(b) For Gregg, Nueces, and Victoria Counties, compliance with §115.112(b) of this title shall be determined by applying the following test methods, as appropriate:

(1)-(5) (No change.)

(6) test method described in 40 CFR 60.113a(a)(1)(ii) (effective April 8, 1987) [60.113(a)(ii)] for measurement of storage tank seal gap;

(7)-(8) (No change.)

*§115.116. Monitoring and Recordkeeping Requirements.*

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

(1)-(4) (No change.)

(5) All records shall be maintained for two years and be made available for review upon request by authorized representatives of the executive director [Texas Natural Resource Conservation Commission (TNRCC)], United States Environmental Protection Agency (EPA), or local air pollution control agencies.

(b) For all persons in Gregg, Nueces, and Victoria Counties, the following recordkeeping requirements shall apply.

(1)-(4) (No change.)

(5) All records shall be maintained for two years and be made available for review upon request by authorized representatives of the executive director [TNRCC], EPA, or local air pollution control agencies.

*§115.119. Counties and Compliance Schedules.*

(a) All persons in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Harris, Hardin, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller Counties affected by the requirement to calculate and report emissions resulting from secondary seal gaps that exceed 1/8 inch (0.32 cm) where the accumulated area of such gaps is greater than 1.0 square inch per foot (21 square centimeters per meter) of tank diameter as specified in §115.116(a)(2) of this title (relating to Monitoring and Recordkeeping Requirements) shall be in compliance with these calculation and emission reporting requirements beginning with the calendar year that starts on January 1, 1996.

(b) All persons in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Harris, Hardin, Jefferson, Liberty, Montgomery, Orange, Tarrant, and Waller Counties affected by the requirement to conduct annual visual inspections of internal floating roof storage tanks as specified in §115.114(a)(1) of this title (relating to Inspection Requirements) shall be in compliance with these inspection requirements as soon as practicable, but no later than March 7, 1997.

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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## Water Separation

### 30 TAC §§115.132, 115.136, 115.137

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.

#### §115.132. Control Requirements.

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, no person shall use any single or multiple compartment volatile organic compound (VOC) water separator which separates materials containing VOC obtained from any equipment which is processing, refining, treating, storing, or handling VOC, unless each compartment is controlled in one of the following ways:

(1) the compartment has all openings sealed and totally encloses the liquid contents. All gauging and sampling devices shall be vapor-tight except during gauging or sampling. Emissions may be vented through a pressure relief valve, without vapor recovery, provided that the pressure relief valve is designed to open only as necessary to allow proper operation, and is set at the maximum possible pressure to minimize unnecessary venting. A pressure/vacuum vent designed to hold at least 0.5 ounce of vacuum and eight ounces of pressure, and operable, based on a visual inspection, is considered compliant. The roof seals, access doors, and other openings shall be well-sealed such that the separator can hold a vacuum or pressure without emissions to the atmosphere, except through the pressure relief valve ;

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

(4) any water separator that becomes subject to the provisions of paragraphs (1), (2), or (3) of this subsection by exceeding provisions of §115.137(a) of this title (relating to Exemptions) will 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 at or below the controlled emissions level existing before [prior to] implementation of the project by which throughput or emission rate was reduced and less than the applicable exemption limits in §115.137(a) of this title; and

(A) (No change.)

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

(b) For Gregg, Nueces, and Victoria Counties, no person shall use any single or multiple compartment VOC water separator which separates materials containing VOC obtained from any equipment which is processing, refining, treating, storing, or handling VOC, unless each compartment is controlled in one of the following ways:

(1) the compartment has all openings sealed and totally encloses the liquid contents. All gauging and sampling devices shall be vapor-tight, except during gauging or sampling. Emissions may be vented through a pressure relief valve, without vapor recovery, provided that the pressure relief valve is designed to open only as necessary to allow proper operation, and is set at the maximum possible pressure to minimize unnecessary venting. A pressure/vacuum vent designed to hold at least 0.5 ounce of vacuum and eight ounces of pressure, and operable, based on a visual inspection, is considered compliant. The roof seals, access doors, and other openings shall be well-sealed such that the separator can hold a vacuum or pressure without emissions to the atmosphere, except through the pressure relief valve ;

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

(c) For Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis Counties, no person shall use any single or multiple compartment VOC water separator which separates materials containing VOC obtained from any equipment which is processing, refining, treating, storing, or handling VOC, unless each compartment is controlled in one of the following ways:

(1) the compartment has all openings sealed and totally encloses the liquid contents. All gauging and sampling devices shall be vapor-tight, except during gauging or sampling. Emissions may be vented through a pressure relief valve, without vapor recovery, provided that the pressure relief valve is designed to open only as necessary to allow proper operation, and is set at the maximum possible pressure to minimize unnecessary venting. A pressure/vacuum vent designed to hold at least 0.5 ounce of vacuum and eight ounces of pressure, and operable, based on a visual inspection, is considered compliant. The roof seals, access doors, and other openings shall be well-sealed such that the separator can hold a vacuum or pressure without emissions to the atmosphere, except through the pressure relief valve ;

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

#### §115.136. Monitoring and Recordkeeping Requirements.

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

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

(4) All records shall be maintained at the affected facility for at least two years and be made available upon request to representatives of the executive director [Texas Natural Resource Conservation Commission (TNRCC)], United States Environmental Protection Agency (EPA), or any local air pollution control agency having jurisdiction in the area.

(b) For Gregg, Nueces, and Victoria Counties, the following recordkeeping requirements shall apply.

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

(4) All records shall be maintained at the affected facility for at least two years and be made available upon request to representatives of the executive director [TNRCC], EPA, or any local air pollution control agency having jurisdiction in the area.

§115.137. Exemptions.

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

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

(3) Any single or multiple compartment VOC water separator which is designed solely to capture stormwater, spills, or exterior surface cleanup waters is exempt from §115.132(a) of this title, provided that the separator is fully covered. These separators are not required to be equipped with pressure/vacuum vents or vapor recovery systems.

(b) For Gregg, Nueces, and Victoria Counties, the following exemptions shall apply:

(1)-(4) (No change.)

(5) Any single or multiple compartment VOC water separator which is designed solely to capture stormwater, spills, or exterior surface cleanup waters is exempt from §115.132(b) of this title, provided that the separator is fully covered. These separators are not required to be equipped with pressure/vacuum vents or vapor recovery systems.

(c) For Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis Counties, the following exemptions shall apply:

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

(4) Any single or multiple compartment VOC water separator which is designed solely to capture stormwater, spills, or exterior surface cleanup waters is exempt from §115.132(c) of this title, provided that the separator is fully covered. These separators are not required to be equipped with pressure/vacuum vents or vapor recovery systems.

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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### Industrial Wastewater

#### 30 TAC §§115.146, 115.147, 115.149

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.

§115.146. Recordkeeping Requirements.

For the Dallas/Fort Worth, El Paso, and Houston/Galveston areas, any person who is the owner or operator of an affected source category within a plant shall comply with the following recordkeeping requirements.

(1)-(4) (No change.)

(5) All records shall be maintained at the plant for at least 2 years and be made available upon request to representatives of the executive director [Texas Natural Resource Conservation Commission], United States Environmental Protection Agency, or any local air pollution control agency having jurisdiction in the area.

§115.147. Exemptions.

For the Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following exemptions shall apply.

(1)-(4) (No change.)

(5) Wastewater components are exempt from the control requirements of §115.142 of this title if the overall control of VOC emissions at the account from wastewater from affected source categories is at least 90% less than the 1990 baseline emissions inventory, and the following requirements are met.

(A) The owner or operator of the wastewater component shall submit a control plan no later than March 15, 1995, to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] Regional Office, and any local air pollution control program with jurisdiction, which demonstrates that the overall control of VOC emissions at the account from wastewater from affected source categories will be at least 90% less than the 1990 baseline emissions inventory by November 15, 1996. At a minimum, the control plan shall include the applicable emission point number (EPN); the facility identification number (FIN); the calendar year 1990 emission rates of wastewater from affected source categories (consistent with the 1990 emissions inventory); a plot plan showing the location, EPN, and FIN associated with a wastewater storage, handling, transfer, or treatment facility; and the projected calendar year 1996 VOC emission rates. The projected 1996 VOC emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

(B) In order to maintain exemption status under this paragraph, the owner or operator shall submit an annual report no later than March 31 of each year, starting in 1997, to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction, which demonstrates that the overall control of VOC emissions at the account from wastewater from affected source categories during the preceding calendar year is at least 90% less than the 1990 baseline emissions inventory. At a minimum, the report shall include the EPN; FIN; the throughput of wastewater from affected source categories; a plot plan showing the location, EPN, and FIN associated with a wastewater storage, handling, transfer, or treatment facility; and the VOC emission rates for the preceding calendar year. The emission rates for the preceding 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 wastewater component submits a revised control plan to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] 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 at the account from wastewater from affected source categories continues to be at least 90% less than the 1990 baseline emissions inventory. The emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

(6) The owner or operator of wastewater components subject to the control requirements of §115.142 of this title may request an exemption determination from the executive director in accordance with §115.910 of this title (relating to Availability of Alternate Means for Control) if the overall control of VOC emissions at the account from wastewater from affected source categories is at least 80% less than the 1990 baseline emissions inventory, and the following requirements are met.

(A) Each request for an exemption determination shall be submitted to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction. Each request shall demonstrate that the overall control of VOC emissions at the account from wastewater from affected source categories will be at least 80% less than the 1990 baseline emissions inventory. The request shall include the applicable EPN; the FIN; the calendar year throughput of wastewater from affected source categories; the VOC emission rates; and a plot plan showing the location, EPN, and FIN associated with a wastewater storage, handling, transfer, or treatment facility. The emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

(B) (No change.)

(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 wastewater component submits a revised control plan to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] 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 at the account from wastewater affected source categories continues to be at least 80% less than the 1990 baseline emissions inventory. The emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

*§115.149. Counties and Compliance Schedules.*

(a) (No change.)

(b) For Hardin, Jefferson, and Orange Counties, any person who is the owner or operator of an affected source category within a plant shall be in compliance with this undesignated head (relating to Industrial Wastewater) as soon as practicable, but no later than three

years, after the commission [Texas Natural Resource Conservation 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 [November 15, 1999] attainment deadline or failure to demonstrate reasonable further progress as set forth in the 1990 Amendments to the Federal Clean Air Act, §172(c)(9).

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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**Municipal Solid Waste Landfills**

**30 TAC §§115.153, 115.156, 115.159**

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.

*§115.153. Alternate Control Requirements.*

For all persons in the Houston/Galveston, El Paso, and Dallas/Fort Worth ozone nonattainment areas, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this section may be approved by the executive director in accordance with §115.910 of this title (relating to Availability of Alternate Means of Control) [§§115.910-115.916 of this title (relating to Alternate Means of Control)] if emission reductions are demonstrated to be substantially equivalent.

*§115.156. Monitoring and Recordkeeping Requirements.*

For the Houston/Galveston, El Paso, and Dallas/Fort Worth ozone nonattainment areas, the following recordkeeping requirements shall apply.

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

(3) Each owner or operator of a MSWLF shall annually submit an emissions inventory report as required by §101.10 of this title (relating to Emissions Inventory Requirements). This report shall include:

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

(E) notification of closure.

(i) For purposes of this subchapter, closure means that waste is no longer being placed in the landfill, and no additional wastes will be placed in the landfill without filing a notification of modification, as prescribed by the commission [TNRCC].

(ii) (No change.)

§115.159. *Counties and Compliance Schedule.*

(a) All affected municipal solid waste landfills (MSWLFs) in Collin, Dallas, Denton, and Tarrant Counties shall be in compliance with this undesignated head (relating to **Municipal Solid Waste Landfills**) as soon as practicable, but no later than May 31, 1996.

(b) All affected MSWLFs in El Paso County shall be in compliance with this undesignated head (relating to **Municipal Solid Waste Landfills**) as soon as practicable, but no later than November 15, 1996.

(c) All affected MSWLFs in Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties shall be in compliance with this undesignated head (relating to **Municipal Solid Waste Landfills**) as soon as practicable, but no later than one year, after the commission [Texas Natural Resource Conservation 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 [November 15, 1996] attainment deadline or failure to demonstrate reasonable further progress as set forth in the 1990 Amendments to the Federal Clean Air Act (FCAA), §172(c)(9).

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

Issued in Austin, Texas, on November 8, 1996.

TRD-9616285

Barry S. Irwin

Director, Legal Division

Texas Natural Resource Conservation Commission

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For further information, please call: (512) 239-1970

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Subchapter . Volatile Organic Compound Transfer Operations

Loading and Unloading of Volatile Organic Compounds

30 TAC §§115.211, 115.212, 115.214-115.217, 115.219

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.

§115.211. *Emission Specifications.*

(a) For all persons 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), the following emission specifications shall apply.

(1) [Emission limitations for gasoline terminals, as defined in §115.10 of this title, are as follows.]

[(A) Volatile organic compound (VOC) emissions from gasoline terminals shall be reduced to a level not to exceed 0.33 pound of VOC from the vapor recovery system vent per 1,000 gallons (40 mg/liter) of gasoline transferred; and]

[(B) After November 15, 1996,] Volatile organic compound (VOC) [VOC] emissions from gasoline terminals shall be reduced to a level not to exceed 0.09 pound of VOC from the vapor recovery system vent per 1,000 gallons (10.8 mg/liter) of gasoline transferred.

(2) (No change.)

(3) [After November 15, 1996 in] In the Houston/Galveston area, VOC emissions from marine terminals, as defined in §115.10 of this title, shall be reduced to a level not to exceed 0.09 pounds of VOC from the vapor recovery system vent per 1,000 gallons (10.8 mg/liter) of VOC loaded into the marine vessel or maintain an overall process control efficiency of at least 90%.

(b) (No change.)

§115.212. *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) Until November 15, 1996 at volatile organic compound (VOC) loading operations other than gasoline terminals, gasoline bulk plants, and marine terminals, no person shall permit the loading of VOC with a true vapor pressure greater than or equal to 1.5 pounds per square inch absolute (psia) under actual storage conditions to transport vessels unless the vapors are processed by a vapor recovery system or are controlled by a vapor balance system, as defined in §115.10 of this title (relating to Definitions). The vapor recovery system shall control the VOC emissions such that the aggregate true vapor pressure of all VOC does not exceed 1.5 psia.]

(1) [(2)] [After November 15, 1996 at] At volatile organic compound (VOC) [VOC] loading operations other than gasoline terminals, gasoline bulk plants, and marine terminals, no person shall permit the loading of VOC with a true vapor pressure greater than or equal to 0.5 psia under actual storage conditions to transport vessels unless the vapors are processed by a vapor recovery system or are controlled by a vapor balance system, as defined in §115.10 of this title (relating to Definitions). The vapor recovery system shall maintain a control efficiency of at least 90%.

[(3) Until November 15, 1996, no person shall permit the unloading of VOC with a true vapor pressure greater than or equal to 1.5 psia under actual storage conditions from any transport vessel unless the transport vessel is kept vapor-tight at all times until the vapors remaining in the transport vessel after unloading are discharged to a vapor recovery system if the transport vessel is refilled, degassed, and/or cleaned in one of the counties in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas.]

(2) [(4)] [After November 15, 1996, no] No person shall permit the unloading of VOC with a true vapor pressure greater than or equal to 0.5 psia under actual storage conditions from any transport vessel unless the transport vessel is kept vapor-tight at all times until the vapors remaining in the transport vessel after unloading are discharged to a vapor recovery system if the transport vessel is refilled, degassed, and/or cleaned in one of the counties in the

Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas.

(3) [(5)] All land-based loading and unloading of VOC shall be conducted such that:

(A) All liquid and vapor lines are:

(i) equipped with fittings which make vapor-tight connections that close automatically when disconnected; or

(ii) equipped to permit residual VOC in the loading line after loading is complete to discharge into a recovery or disposal system which routes all VOC emissions to a vapor recovery system or a vapor balance system.

(B) There are no VOC leaks, as defined in §115.10 of this title, when measured with a hydrocarbon gas analyzer, and no liquid or vapor leaks, as detected by sight, sound, or smell, from any potential leak source in the transport vessel and transfer system (including, but not limited to, liquid lines, vapor lines, hatch covers, pumps, and valves, including pressure relief valves).

(C) All gauging and sampling devices are vapor-tight except for necessary gauging and sampling. Any nonvapor-tight gauging and/or sampling shall:

(i) be limited in duration to the time necessary to practicably gauge and/or sample; and

(ii) not occur while VOC is being transferred.

(D) Any openings in a transport vessel during unloading are limited to minimum openings which are sufficient to prevent collapse of the transport vessel.

(4) [(6)] When loading is effected through the hatches of a transport vessel with a loading arm equipped with a vapor collection adapter, then pneumatic, hydraulic, or other mechanical means shall be provided to force a vapor-tight seal between the adapter and the hatch. A means shall be provided which prevents liquid drainage from the loading device when it is removed from the hatch of any transport vessel, or which routes all VOC emissions to a vapor recovery system.

(5) [(7)] No person shall permit the loading of gasoline to a transport vessel from a gasoline terminal unless the vapors are processed by a vapor recovery system as defined in §115.10 of this title. Vapor recovery systems and loading equipment at gasoline terminals shall be designed and operated such that gauge pressure does not exceed 18 inches of water (4.5 kPa) and vacuum does not exceed six inches of water (1.5 kPa) in the gasoline tank-truck.

(6) [(8)] No person shall permit the transfer of gasoline from a transport vessel into a gasoline bulk plant storage tank, unless the following requirements are met:

(A) a vapor return line is installed from the storage tank to the transport vessel;

(B) the only atmospheric emission during gasoline transfer is through the storage tank's pressure-vacuum relief valve resulting from emergency situations when pressures exceed the specifications in paragraph (7)(C) [(9)(C)] of this section; and

(C) the transport vessel is kept vapor-tight at all times until the vapors remaining in the transport vessel are discharged to a vapor recovery system, if the transport vessel is refilled, degassed,

and/or cleaned in one of the counties in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas.

(7) [(9)] No person shall permit the transfer of gasoline from a gasoline bulk plant into a transport vessel, unless the following requirements are met:

(A) the transport vessel, if equipped for top loading, has a submerged fill pipe;

(B) a vapor return line is installed from the transport vessel to the storage tank;

(C) gauge pressure does not exceed 18 inches of water (4.5 kPa) and vacuum does not exceed six inches of water (1.5 kPa) in the gasoline tank-truck tank; and

(D) the only atmospheric emission during gasoline transfer is through the storage tank pressure-vacuum relief valves resulting from emergency situations when pressures exceed the specification in subparagraph (C) of this paragraph.

(8) [(10)] [After November 15, 1996 for] For marine terminals in the Houston/Galveston area, the following control requirements shall apply.

(A) Control device(s) shall reduce VOC emissions by at least 90% by weight from uncontrolled conditions or to a level not to exceed 0.09 pounds of VOC from the vapor recovery system vent per 1,000 gallons (10.8 mg/liter) of VOC loaded.

(B) Only certified leak-free marine vessels shall be used for loading operations.

(C) All gauging and sampling devices shall be vapor-tight except for necessary gauging and sampling. Any nonvapor-tight gauging and/or sampling shall:

(i) be limited in duration to the time necessary to practicably gauge and/or sample; and

(ii) not occur while VOC is being transferred.

(9) [(11)] [After November 15, 1996 for] For gasoline terminals in the Dallas/Fort Worth, El Paso, and Houston/Galveston areas, each vapor recovery system shall be instrumented in such a way that the pump(s) transferring fuel to the transport vessels will not operate unless the vapor recovery system is properly connected and properly operating. No transport vessel loading shall take place at a loading rack when the vapor recovery system serving that loading rack is out of service or is not operating in accordance with the manufacturer's parameters.

(10) [(12)] Any loading or unloading operation that becomes subject to the provisions of this subsection by exceeding provisions of §115.217(a) of this title (relating to Exemptions) will remain subject to the provision of this subsection, even if throughput or emissions later fall below exemption limits unless and until emissions are reduced to at or below the controlled emissions level existing before [prior to] implementation of the project by which throughput or emission rate was reduced and less than the applicable exemption limits in §115.217(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 standard exemption required by Chapter 116 of this title. If 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 standard exemption; or

(B) if authorization by permit or standard exemption is not required for the project, the owner/operator has given the executive director [Texas Natural Resource Conservation Commission (TNRCC)] 30 days notice of the project in writing.

(b)-(c) (No change.)

**§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] 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, Natural Gas/Gasoline Processing, 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] 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.)

**§115.215. Approved Test Methods.**

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, compliance with §115.211(a) and §115.212(a) of this title (relating to Emission Specifications; and Control Requirements) shall be determined by applying the following test methods, as appropriate:

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

(8) 40 CFR 63.565(c) (effective September 19, 1995) or 40 CFR 61.304(f) (effective April 3, 1990) for determination of marine vessel vapor tightness [cargo tank pressurization];

(9)-(10) (No change.)

(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 (TNRCC)] air quality account number for at least two years and shall make such information available upon request to representatives of the executive director, [TNRCC], United States Environmental Protection Agency (EPA), or any local air pollution control agency having jurisdiction in the area:

(1) A daily record of the total throughput of VOC loaded at the plant as defined by its [TNRCC] air quality account number.

(2)-(5) (No change.)

(6) [After November 15, 1996 for] For marine terminals in the Houston/Galveston area:

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

(7)-(8) (No change.)

(b) For VOC loading or unloading operations in Victoria County, the owner or operator shall maintain the following information at the plant as defined by its [TNRCC] air quality account number for at least two years and shall make such information available upon request to representatives of the executive director [TNRCC], EPA, or any local air pollution control agency having jurisdiction in the area:

(1) A daily record of the total throughput of VOC loaded at the plant as defined by its [TNRCC] air quality account number.

(2)-(5) (No change.)

**§115.217. Exemptions.**

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

[(1) Until November 15, 1996, all loading and unloading of volatile organic compounds (VOC) with a true vapor pressure less than 1.5 pounds per square inch absolute (psia) (10.3 kPa) under actual storage conditions is exempt from the requirements of §115.212(a) of this title (relating to Control Requirements).]

(1) [(2)] [After November 15, 1996, all] All loading and unloading of volatile organic compounds (VOC) [VOC] with a true vapor pressure less than 0.5 psia under actual storage conditions is exempt from the requirements of §115.212(a) of this title (relating to Control Requirements).

[(3) Until November 15, 1996, any plant, as defined by its Texas Natural Resource Conservation Commission (TNRCC) air quality account number, excluding gasoline bulk plants, having less than 20,000 gallons (75,708 liters) of VOC loaded into transport vessels per day (averaged over any consecutive 30-day period) with a true vapor pressure greater than or equal to 1.5 psia under actual storage conditions is exempt from the requirements of §115.212(a) of this title. The owner or operator of any VOC loading operation for which the VOC loading operation was previously exempt under §115.217(a)(2) of this title (as in effect October 16, 1992) from the control requirements of this undesignated head, and which does not otherwise qualify for exemption under this paragraph, shall:]

[(A) submit a plan by September 15, 1994 to achieve compliance with the control requirements of this undesignated head as soon as practicable, but no later than November 15, 1996;]

[(B) qualify for the exemption under paragraph (8) of this section; or]

[(C) apply for the exemption under paragraph (9) of this section no later than September 15, 1994.]

(2) [(4)] [After November 15, 1996, any] Any plant, as defined by its [TNRCC] air quality account number, excluding gasoline bulk plants, having less than 20,000 gallons (75,708 liters) of VOC loaded into transport vessels per day (averaged over any consecutive 30-day period) with a true vapor pressure greater than or equal to 0.5 psia under actual storage conditions is exempt from the requirements of §115.212(a) of this title.

(3) [(5)] All loading and unloading of liquefied petroleum gas only (regulated by the Safety Rules of the Liquefied Petroleum Gas Division of the Texas Railroad Commission) is exempt from the requirements of §115.212(a) of this title.

(4) [(6)] The following are exempt from the requirements of §115.212(a) of this title:

(A) all unloading of marine vessels; and

(B) all loading of marine vessels in ozone nonattainment areas other than the Houston/Galveston area.[:]

[(C) until November 15, 1996 in the Houston/Galveston area, all loading of marine vessels; and]

[(D) until November 15, 1996, all land-based loading and unloading of crude oil and condensate.]

(5) [(7)] Gasoline bulk plants which have a gasoline throughput less than 4,000 gallons (15,142 liters) per day averaged over any consecutive 30-day period are exempt from the provisions of §115.211(a)(2), §115.212(a)(7) [§115.212(a)(9)], and §115.216(a)(4) of this title (relating to Emission Specifications; Control Requirements; and Monitoring and Recordkeeping Requirements).

(6) [(8)] VOC loading operations other than gasoline terminals, gasoline bulk plants, and marine terminals are exempt from the control requirements of §115.212(a)(1) [and (2)] of this title if the overall control of emissions at the account from the loading of VOC (excluding VOC loading into marine vessels and VOC loading at gasoline terminals and gasoline bulk plants) with a true vapor pressure between 0.5 and 11 psia under actual storage conditions is at least 90%, and the following requirements are met.

(A) The owner or operator of the VOC loading operation shall submit a control plan no later than September 15, 1994, to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions will be at least 90% by November 15, 1996. For each loading rack and any associated control device at the account, the control plan shall include the emission point number (EPN), the facility identification number (FIN), the calendar year 1993 throughput of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions, a plot plan showing the location,

EPN, and FIN of each loading rack and any associated control device, and the calendar year 1993 controlled and uncontrolled emission rates.

(B) In order to maintain exemption status under this paragraph, the owner or operator of the VOC loading operation shall submit an annual report no later than March 31 of each year, starting in 1997, to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions during the preceding calendar year is at least 90% after November 15, 1996. For each loading rack and any associated control device at the account, the report shall include the EPN, the FIN, the throughput of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions for the preceding calendar year, a plot plan showing the location, EPN, and FIN of each loading rack and any associated control device, and the controlled and uncontrolled emission rates for the preceding calendar year.

(C) The owner or operator of the VOC loading operation shall submit an updated report no later than 30 days after the installation of an additional loading rack(s) or any change in service of a loading rack(s) from loading VOC with a true vapor pressure less than 0.5 psia to loading VOC with a true vapor pressure greater than or equal to 0.5 psia, or vice versa. The report shall be submitted to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction and shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions continues to be at least 90%.

(D) 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 VOC loading operation submits a revised control plan to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction within 30 days of the change. All control plans and reports shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions continues to be at least 90%. The emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

(7) [(9)] The owner or operator of a VOC loading operation subject to the control requirements of §115.212(a)(1) [or (2)] of this title may request an exemption determination from the executive director in accordance with §115.910 of this title (relating to Availability of Alternate Means of Control) if the overall control of emissions at the account from the loading of VOC (excluding VOC loading into marine vessels and VOC loading at gasoline terminals and gasoline bulk plants) with a true vapor pressure between 0.5 and 11 psia under actual storage conditions is at least 80%, and the following requirements are met.

(A) Each request for an exemption determination shall be submitted no later than September 15, 1994, to the executive director [TNRCC Austin Office (Office of Air Quality)], the appro-

priate [TNRCC] regional office, and any local air pollution control program with jurisdiction. Each such request shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions is at least 80%. For each loading rack and any associated control device at the account, the request shall include the emission point number (EPN), the facility identification number (FIN), the calendar year throughput of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions, the controlled and uncontrolled emission rates, and a plot plan showing the location, EPN, and FIN of each loading rack and any associated control device.

(B) The executive director shall approve the exemption for specific VOC loading operations if it is determined to be economically unreasonable to control the associated emissions subject to these rules, all reasonable controls are applied, and the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions is at least 80%. The executive director may subsequently direct the holder of an exemption under this paragraph to reapply for their exemption if there is good cause to believe that it has become economically reasonable to meet the requirements of the applicable rule(s). Within three months of an executive director request, the holder of an exemption under this paragraph shall reapply for their exemption. If the reapplication for an exemption is denied, the holder of the exemption shall meet the requirements of the applicable rule(s) as soon as practicable, but no later than two years from the date of denial.

(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 VOC loading operation submits a revised control plan to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction within 30 days of the change. All control plans and reports shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions continues to be at least 80%. The emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

(8)[(10)] The following marine loading operations are exempt from the requirements of §115.211(a) and §115.212(a) of this title:

(A) marine terminals with uncontrolled marine loading VOC emissions less than 100 tons per year. Emissions from marine vessel loading operations which were routed to a control device that was installed as of November 15, 1993, are excluded from this calculation. Compliance with this exemption shall be demonstrated through the recordkeeping and reporting requirements of the annual emissions inventory submitted by the owner or operator of the marine terminal;

(B) all throughput of VOC with a vapor pressure less than 0.5 psia loaded into marine vessels;

(C) marine loading operations which use a vapor balance system to control emissions from the marine vessel to fixed

roof storage tank(s). For the purposes of this paragraph, vapor balance system is defined as a closed system that transfers vapor displaced by incoming cargo from the tank of a vessel receiving cargo into a tank of the vessel or facility delivering cargo via an arrangement of piping and hoses used to collect vapor emitted from a vessel's cargo tanks and transport the vapor to a vapor processing unit;

(D) non-dedicated loading lines when commodities with a true vapor pressure less than 0.5 psia are transferred, provided that after transfer of VOC with a true vapor pressure greater than or equal to 0.5 psia these non-dedicated loading lines are cleaned, purged, and the residual vapors controlled of VOC with a true vapor pressure greater than or equal to 0.5 psia; and

(E) all throughput of VOC with a flash point of 150°F or greater loaded into marine vessels.

(9) [(11)] Marine terminals are exempt from the control requirements of §115.211(a)(3) and §115.212(a)(8)(A) [§115.212(a)(10)(A)] of this title if the overall control of emissions at the marine terminal from the loading of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions into marine vessels is at least 90%, and the following requirements are met.

(A) The owner or operator of the marine terminal shall submit a control plan no later than March 31, 1995, to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall control of emissions at the marine terminal from the loading of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions into marine vessels will be at least 90% by November 15, 1996. For each marine loading facility and any associated control device at the marine terminal, the control plan shall include the emission point number (EPN), the facility identification number (FIN), the calendar year 1994 throughput of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions, a plot plan showing the location, EPN, and FIN of each marine loading facility and any associated control device, and the calendar year 1994 controlled and uncontrolled emission rates.

(B) In order to maintain exemption status under this paragraph, the owner or operator of the marine terminal shall submit an annual report no later than March 31 of each year, starting in 1997, to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall control of emissions at the marine terminal from the loading of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions into marine vessels during the preceding calendar year is at least 90% after November 15, 1996. For each marine loading facility and any associated control device at the account, the report shall include the EPN, the FIN, the throughput of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions for the preceding calendar year, a plot plan showing the location, EPN, and FIN of each marine loading facility and any associated control device, and the controlled and uncontrolled emission rates for the preceding calendar year.

(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 marine terminal submits a revised control plan to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction within 30 days of the change. All control plans and reports shall demonstrate that the overall control of emissions at the marine terminal from the loading into marine vessels of VOC with a true vapor pressure between 0.5 and 11 psia under actual storage conditions continues to be at least 90%. The emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

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

(1) (No change.)

(2) Any plant, as defined by its [TNRCC] air quality account number, having less than 20,000 gallons (75,708 liters) of VOC loaded into transport vessels per day (averaged over any consecutive 30-day period) with a true vapor pressure greater than or equal to 1.5 psia under actual storage conditions is exempt from the requirements of §115.212(b) of this title. [The owner or operator of any VOC loading operation for which the VOC loading operation was previously exempt under §115.217(b)(2) of this title (as in effect October 16, 1992) from the control requirements of this undesignated head, and which does not otherwise qualify for exemption under this paragraph, shall:]

[(A) submit a plan by September 15, 1994 to achieve compliance with the control requirements of this undesignated head as soon as practicable, but no later than November 15, 1996;]

[(B) qualify for the exemption under paragraph (4) of this section; or]

[(C) apply for the exemption under paragraph (5) of this section no later than September 15, 1994.]

(3) (No change.)

(4) VOC loading operations other than gasoline terminals, gasoline bulk plants, and marine terminals are exempt from the control requirements of §115.212(b)(1) of this title if the overall control of emissions at the account from the loading of VOC (excluding VOC loading into marine vessels and VOC loading at gasoline terminals and gasoline bulk plants) with a true vapor pressure between 1.5 and 11 psia under actual storage conditions is at least 90%, and the following requirements are met:

(A) The owner or operator of the VOC loading operation shall submit a control plan no later than September 15, 1994, to the [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions will be at least 90% by November 15, 1996. For each loading rack and any associated control device at the account, the control plan shall include the emission point number (EPN), the facility identification number (FIN), the calendar year 1993 throughput of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions, a plot plan showing the location,

EPN, and FIN of each loading rack and any associated control device, and the calendar year 1993 controlled and uncontrolled emission rates.

(B) In order to maintain exemption status under this paragraph, the owner or operator of the VOC loading operation shall submit an annual report no later than March 31 of each year, starting in 1997, to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions during the preceding calendar year is at least 90% after November 15, 1996. For each loading rack and any associated control device at the account, the report shall include the EPN, the FIN, the throughput of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions for the preceding calendar year, a plot plan showing the location, EPN, and FIN of each loading rack and any associated control device, and the controlled and uncontrolled emission rates for the preceding calendar year.

(C) The owner or operator of the VOC loading operation shall submit an updated report no later than 30 days after the installation of an additional loading rack(s) or any change in service of a loading rack(s) from loading VOC with a true vapor pressure less than 1.5 psia to loading VOC with a true vapor pressure greater than or equal to 1.5 psia, or vice versa. The report shall be submitted to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction and shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions continues to be at least 90%.

(D) 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 VOC loading operation submits a revised control plan to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction within 30 days of the change. All control plans and reports shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions continues to be at least 90%. The emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

(5) The owner or operator of a VOC loading operation subject to the control requirements of §115.212(b)(1) of this title may request an exemption determination from the executive director if the overall control of emissions at the account from the loading of VOC (excluding VOC loading into marine vessels and VOC loading at gasoline terminals and gasoline bulk plants) with a true vapor pressure between 1.5 and 11 psia under actual storage conditions is at least 80%, and the following requirements are met:

(A) Each request for an exemption determination shall be submitted no later than September 15, 1994, to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction. Each such request shall demonstrate that

the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions is at least 80%. For each loading rack and any associated control device at the account, the request shall include the emission point number (EPN), the facility identification number (FIN), the calendar year throughput of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions, the controlled and uncontrolled emission rates, and a plot plan showing the location, EPN, and FIN of each loading rack and any associated control device.

(B) (No change.)

(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 VOC loading operation submits a revised control plan to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction within 30 days of the change. All control plans and reports shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions continues to be at least 80%. The emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

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

(1) (No change.)

(2) Any plant, as defined by its [TNRCC] air quality account number, having less than 20,000 gallons (75,708 liters) of VOC loaded into transport vessels per day (averaged over any consecutive 30-day period) with a true vapor pressure greater than or equal to 1.5 psia under actual storage conditions is exempt from the requirements of §115.212(c) of this title. [The owner or operator of any VOC loading operation for which the VOC loading operation was previously exempt under §115.217(c)(2) of this title (as in effect October 16, 1992) from the control requirements of this undesignated head, and which does not otherwise qualify for exemption under this paragraph, shall:]

[(A) submit a plan by September 15, 1994 to achieve compliance with the control requirements of this undesignated as soon as practicable, but no later than November 15, 1996.]

[(B) qualify for the exemption under paragraph (4) of this section; or]

[(C) apply for the exemption under paragraph (5) of this section no later than September 15, 1994.]

(3) (No change.)

(4) VOC loading operations other than gasoline terminals, gasoline bulk plants, and marine terminals are exempt from the control requirements of §115.212(c)(1) of this title if the overall control of emissions at the account from the loading of VOC (excluding VOC loading into marine vessels and VOC loading at gasoline terminals and gasoline bulk plants) with a true vapor pressure between 1.5 and 11 psia under actual storage conditions is at least 90%, and the following requirements are met:

(A) The owner or operator of the VOC loading operation shall submit a control plan no later than September 15, 1994, to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions will be at least 90% by November 15, 1996. For each loading rack and any associated control device at the account, the control plan shall include the emission point number (EPN), the facility identification number (FIN), the calendar year 1993 throughput of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions, a plot plan showing the location, EPN, and FIN of each loading rack and any associated control device, and the calendar year 1993 controlled and uncontrolled emission rates.

(B) In order to maintain exemption status under this paragraph, the owner or operator of the VOC loading operation shall submit an annual report no later than March 31 of each year, starting in 1997, to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction which demonstrates that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions during the preceding calendar year is at least 90% after November 15, 1996. For each loading rack and any associated control device at the account, the report shall include the EPN, the FIN, the throughput of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions for the preceding calendar year, a plot plan showing the location, EPN, and FIN of each loading rack and any associated control device, and the controlled and uncontrolled emission rates for the preceding calendar year.

(C) The owner or operator of the VOC loading operation shall submit an updated report no later than 30 days after the installation of an additional loading rack(s) or any change in service of a loading rack(s) from loading VOC with a true vapor pressure less than 1.5 psia to loading VOC with a true vapor pressure greater than or equal to 1.5 psia, or vice versa. The report shall be submitted to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction and shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions continues to be at least 90%.

(D) 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 VOC loading operation submits a revised control plan to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction within 30 days of the change. All control plans and reports shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions continues to be at least 90%. The emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.



(5) The owner or operator of a VOC loading operation subject to the control requirements of §115.212(c)(1) of this title may request an exemption determination from the Executive Director if the overall control of emissions at the account from the loading of VOC (excluding VOC loading into marine vessels and VOC loading at gasoline terminals and gasoline bulk plants) with a true vapor pressure between 1.5 and 11 psia under actual storage conditions is at least 80%, and the following requirements are met:

(A) Each request for an exemption determination shall be submitted no later than September 15, 1994, to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction. Each such request shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions is at least 80%. For each loading rack and any associated control device at the account, the request shall include the emission point number (EPN), the facility identification number (FIN), the calendar year throughput of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions, the controlled and uncontrolled emission rates, and a plot plan showing the location, EPN, and FIN of each loading rack and any associated control device.

(B) (No change.)

(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 VOC loading operation submits a revised control plan to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] regional office, and any local air pollution control program with jurisdiction within 30 days of the change. All control plans and reports shall demonstrate that the overall control of emissions at the account from the loading of VOC with a true vapor pressure between 1.5 and 11 psia under actual storage conditions continues to be at least 80%. The emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

#### §115.219. Counties and Compliance Schedules.

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 Loading and Unloading of Volatile Organic Compounds) in accordance with the following schedules.

(1) All affected persons shall be in compliance with §115.211(a)(1) [§115.211(a)(1)(B)], §115.212(a)(1) [§115.212(a)(2)] and (2) [(4)], and §115.217(a)(1) [§115.217(a)(2)] and (2) [(4)] of this title (relating to Emission Specifications; Control Requirements; and Exemptions) as soon as practicable, but no later than November 15, 1996.

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

(4) All affected gasoline terminals in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Harris, Liberty, Montgomery, Tarrant, and Waller Counties shall be in compliance with §115.212(a)(11) [§115.211(a)(11)], §115.214(a)(5), and §115.216(a)(7) of this title as soon as practicable, but no later than November 15, 1996.

(5) (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.

Issued in Austin, Texas, on November 8, 1996.

TRD-9616286

Barry S. Irwin

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: February 19, 1997

For further information, please call: (512) 239-1970

## Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities

### 30 TAC §§115.221-115.223, 115.226

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.

#### §115.221. Emission Specifications.

No person 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 transfer, or allow the transfer of, gasoline from any tank-truck tank [delivery vessel] into a stationary storage container which is located at a motor vehicle fuel dispensing facility, unless the displaced vapors from the gasoline storage container are controlled by one of the following:

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

#### §115.222. Control Requirements.

For all affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, a vapor balance system will be assumed to comply with the specified emission limitation of §115.221 of this title (relating to Emission Specifications) if the following conditions are met:

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

(7) the tank-truck tank [delivery vessel] is kept vapor-tight at all times until the captured vapors are discharged to a vapor recovery system, if the tank-truck tank [delivery vessel] is refilled, degassed, and/or cleaned in one of the counties in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas;

(8)-(11) (No change.)

#### §115.223. Alternate Control Requirements.

For all affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this section may be approved by the Executive Director in accordance with §115.910 of this title (relating to Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

*§115.226. Recordkeeping Requirements.*

For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the owner or operator of any motor vehicle fuel dispensing facility subject to the control requirements of this section shall:

(1) maintain a record at the facility site of the dates on which gasoline was delivered to the dispensing facility and the identification [leak test certification] number and date of the last leak testing, required by §115.224(2) of this title (relating to Inspection Requirements), of each tank-truck tank [delivery vessel] from which gasoline was transferred to the facility. The records shall be kept for a period of two years; and

(2) (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.

Issued in Austin, Texas, on November 8, 1996.

TRD-9616287

Barry S. Irwin

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: February 19, 1997

For further information, please call: (512) 239-1970

◆ ◆ ◆  
**Control of Reid Vapor Pressure of Gasoline**

**30 TAC §115.253, §115.256**

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.

*§115.253. Alternate Control Requirements.*

For all affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this section may be approved by the executive director in accordance with §115.910 of this title (relating to Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

*§115.256. Recordkeeping Requirements.*

For the El Paso area, the owner or operator of any gasoline storage vessel, gasoline terminal, or gasoline bulk plant affected by the provisions of §115.252 of this title (relating to Control Requirements) shall maintain records of the Reid vapor pressure of all gasoline stored or transferred during the compliance period. All records shall be maintained for two years and be made available for review by representatives of the executive director [Texas Natural Resource Conservation Commission], the United States Environmental Protection Agency, and local air pollution control agencies.

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

Issued in Austin, Texas, on November 8, 1996.

TRD-9616537

Barry S. Irwin

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: February 19, 1997

For further information, please call: (512) 239-1970

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**Subchapter D. Petroleum Refining, Natural Gas Processing, and Petrochemical Refineries**

The commission proposes amendments to §§115.322-115.327 and 115.329, concerning Fugitive Emission Control in Petroleum Refineries; and §§115.352, 115.353, 115.354, 115.356, and 115.357, concerning Fugitive Emission Control in Petroleum Refining and Petrochemical Processes. The commission also proposes the repeal of §§115.332-115.337 and 115.339, concerning Fugitive Emission Control in Synthetic Organic Chemical, Polymer, Resin, and Methyl Tert-Butyl Ether Manufacturing Processes; and §§115.342-115.347 and 115.349, concerning Fugitive Emission Control in Natural Gas/Gasoline Processing Operations.

**EXPLANATION OF PROPOSED RULE.** The commission proposes these revisions to Chapter 115, concerning Control of Air Pollution from Volatile Organic Compounds (VOC), and to the State Implementation Plan (SIP) in order to make a variety of changes which correct and update rule references, clarify control requirements, delete two work practice requirements (directed maintenance and instrument monitoring of leaks detected by sight/sound/smell) which appear to be less effective than previously thought, and delete rules and language made obsolete by the passing of compliance dates. The commission also proposes to change the title of Subchapter D from Petroleum Refining and Petrochemical Processes to Petroleum Refining, Natural Gas Processing, and Petrochemical Operations to more accurately reflect the content of this subchapter. A second phase of rulemaking is expected in 1997 to address additional issues regarding the fugitive monitoring rules.

The proposed repeal of §§115.332-115.337 and 115.339; §§115.342-115.347 and 115.349; and the proposed amendments to §§115.322-115.327 and 115.329, delete the requirements which apply in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston ozone nonattainment areas. The requirements for these nonattainment areas are being superseded by the requirements of §§115.352-115.357, concerning Fugitive Emission Control in Petroleum Refining, Natural Gas Processing, and Petrochemical Processes, effective November 15, 1996. The new requirements provide emission reductions required by the Federal Clean Air Act in order to reduce urban ozone pollution. Repeal of the old requirements is necessary to prevent duplicative requirements. The requirements of §§115.322-115.327 and 115.329, which apply in Gregg, Nueces, and Victoria Counties, will continue to be in effect.

The proposed changes to §115.322, concerning Control Requirements, also modify the absolute prohibition of a component leak in paragraphs (1)-(2) by revising the leak prohibition of paragraph (1) to specify that component leaks shall not continue for more than 15 days after a leak is found. The proposed changes to §115.322 also replace the requirement (found in §115.324(b)(6), concerning Inspection Requirements) that leaking components be monitored with a hydrocarbon gas analyzer immediately after repair with a requirement to make a first attempt at repair within five calendar days of leak detection, with the component considered repaired when it is monitored after repairs and shown to no longer have a leak. Federal rules and guidance have been unclear as to whether follow-up monitoring is required within the fifteen-day period to confirm that a repair has occurred. The proposal reduces the potential for inadvertent noncompliance, and is consistent with the proposed federal rulemaking clarification of August 26, 1996. In addition, the proposed changes to §115.323, concerning Alternate Control Requirements, §115.324, concerning Inspection Requirements, §115.326, concerning Recordkeeping Requirements, and §115.327, concerning Exemptions, update rule references which must be changed due to the deletion of the requirements of §§115.322-115.327 which currently apply in the ozone nonattainment areas. The proposed changes to §115.323 also update a reference to §115.910 to reflect a title change. The proposed changes to §115.324 also clarify that alternate monitoring schedules apply to valve monitoring. In addition, the proposed change to §115.325 also add the effective date of a referenced federal test method for consistency with the commission's style guidelines. In addition, the proposed changes to §115.329, concerning Counties and Compliance Schedules, delete language made obsolete by the passing of a July 31, 1993, compliance date. Finally, the proposed changes to §§115.323, 115.324, 115.326, and 115.327 revise references to TNRCC and the executive director for consistency with the commission's style guidelines.

The proposed change to §115.352(1), concerning Control Requirements, clarifies that paragraph (2) contains an exception to the requirement to repair all component leaks within 15 days after the leak is found. The proposed changes to §115.352 and §115.354, concerning Inspection Requirements, also delete the requirement that the repair of valves be accompanied by the simultaneous use of an organic vapor analyzer (OVA). This type of repair is commonly known as "directed maintenance" and is proposed for deletion due to a variety of difficulties reported concerning implementation of directed maintenance. The VOC emission reduction credit for the SIP will not change because the emission reductions were based upon the more stringent leak definition (500 parts per million by volume (ppmv), except for pump seals and compressor seals), and not upon the directed maintenance requirement. Directed maintenance is proposed to be replaced with a requirement to make a first attempt at repair within five calendar days of leak detection, with the component considered repaired when it is monitored after repairs and shown to no longer have a leak. Federal rules and guidance have been unclear as to whether follow-up monitoring is required within the fifteen-day period to confirm that a repair has occurred. The proposal reduces the potential for inadvertent noncompliance, and is consistent with the proposed federal rulemaking clarification of August 26, 1996. A staff issue paper

on directed maintenance is available and may be obtained by contacting the agency staff member identified at the end of this notice.

The proposed change to §115.353, concerning Alternate Control Requirements, updates a reference to §115.910 to reflect a title change. The proposed changes to §115.354 delete the requirement for monitoring (with an OVA) all components found to be leaking via sight/sound/smell, because these components must be repaired or placed on the shutdown list regardless of the concentration. Also, the proposed changes to the leak skip provisions of §115.354(7) clarify that valves in ethylene, propane, or propylene service which have been classified under §115.357(8), concerning Exemptions, as non-repairable beyond the second attempt to repair at 500 ppmv will continue to count against the 2.0% leaking valves limit. In addition, the proposed changes to §115.354 clarify that alternate monitoring schedules apply to valve monitoring and allow alternate monitoring schedules previously approved under the sections proposed for repeal (§§115.324(a)(8)(A), 115.334(3)(A), and 115.344(3)(A), concerning Inspection Requirements) to continue to be approved monitoring schedules under §115.354.

The proposed changes to §115.356, concerning Recordkeeping Requirements, clarify that "the test method used" refers to the test method used to determine a component leak: either United States Environmental Protection Agency Test Method 21, or sight/sound/smell. The proposed changes to §115.357 clarify that pressure relief valves equipped with a rupture disk are exempt under §115.357(2) provided they meet the requirements of §115.352(9), and correct a typographical error. In addition, the proposed changes to §115.354 and §115.356 revise references to TNRCC and the executive director for consistency with the commission's style guidelines. Finally, the commission proposes to change the title of the undesignated head to Fugitive Emission Control in Petroleum Refining, Natural Gas/Gasoline Processing, and Petrochemical Processes to more accurately reflect the content of this subchapter.

**FISCAL NOTE.** Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state and local governments as a result of enforcing or administering the proposed amendments and repeals.

**PUBLIC BENEFIT.** Mr. Minick also has determined that for each year of the first five years the proposed sections are in effect, the public benefit anticipated as a result of implementing the sections will be a more understandable, enforceable, and cost-effective regulation. There is no anticipated cost to small businesses, persons, or businesses who are required to comply with the rules as proposed.

**TAKINGS IMPACT ASSESSMENT.** 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 make a variety of changes which correct and update rule references, clarify control requirements, delete ineffective requirements, and delete rules and language made obsolete by the passing of compliance dates. Promulgation and enforcement of these rule amendments will not affect

private real property which is the subject of the rule because the rule changes do not impose new requirements.

**PUBLIC HEARING.** A public hearing on this proposal will be held in Austin on December 13, 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 35 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 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 Policy and Regulatory Development at (512) 239-4900. Requests should be made as far in advance as possible.

**SUBMITTAL OF COMMENTS.** Written comments may be mailed to Heather Evans, 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 96165-115-A1. Comments must be received by 5:00 p.m., December 19, 1996. Copies of a staff issue paper on directed maintenance may be obtained from Heather Evans, (512) 239-1970. For further information, please contact Eddie Mack, Air Policy and Regulations Division, (512) 239-1488.

### Fugitive Emission Control in Petroleum Refineries 30 TAC §§115.322-115.327, 115.329

**STATUTORY AUTHORITY.** 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.

#### §115.322. *Control Requirements.*

[(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas as defined in §115.10 of this title (relating to Definitions), no person shall operate a petroleum refinery, as defined in §115.10 of this title, without complying with the following requirements:]

[(1) No component shall be allowed to have a volatile organic compound (VOC) leak as defined in §115.10 of this title (relating to Definitions).]

[(2) All technically feasible repairs to a leaking component, as specified in paragraph (1) of this subsection, shall be made within 15 days after the leak is found. If the repair of a component would require a unit shutdown which would create more emissions than the repair would eliminate, the repair may be delayed until the next scheduled shutdown.]

[(3) All leaking components, as defined in paragraph (1) of this subsection, which cannot be repaired until the unit is shut down for turnaround shall be identified for such repair by tagging. The executive director at his discretion may require early unit turnaround

or other appropriate action based on the number and severity of tagged leaks awaiting turnaround.]

[(4) Except for safety pressure relief valves, no valves shall be installed or operated at the end of a pipe or line containing VOC unless the pipe or line is sealed with a second valve, a blind flange, a plug, or a cap. The sealing device may be removed only while a sample is being taken or during maintenance operations, and when closing the line, the upstream valve shall be closed first.]

[(5) Pipeline valves and pressure relief valves in gaseous VOC service shall be marked in some manner that will be readily obvious to monitoring personnel.]

[(b)] For Gregg, Nueces, and Victoria Counties, no person shall operate a petroleum refinery without complying with the following requirements:

(1) No component shall be allowed to have a volatile organic compound (VOC) [VOC] leak as defined in §115.10 of this title (relating to Definitions) for more than 15 calendar days after the leak is found, except as provided in paragraph (2) of this section.

(2) A first attempt at repair shall be made no later than five calendar days after the leak is found, and the component [All technically feasible repairs to a leaking component, as specified in paragraph (1) of this subsection], shall be repaired [made] no later than [within] 15 calendar days after the leak is found, unless the repair of a component would require a unit shutdown which would create more emissions than the repair would eliminate. A component in gas/vapor or light liquid service is considered to be repaired when it is monitored with an instrument using Test Method 21 and shown to no longer have a leak after adjustments or alterations to the component. A component in heavy liquid service is considered to be repaired when it is monitored by audio, visual, and olfactory means and shown to no longer have a leak after adjustments or alterations to the component. If the repair of a component would require a unit shutdown which would create more emissions than the repair would eliminate, the repair may be delayed until the next scheduled shutdown.

(3) All leaking components, as defined in paragraph (1) of this section [subsection], which cannot be repaired until the unit is shut down for turnaround shall be identified for such repair by tagging. The executive director at his discretion may require early unit turnaround or other appropriate action based on the number and severity of tagged leaks awaiting turnaround.

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

#### §115.323. *Alternate Control Requirements.*

[(a) For all affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following alternate control techniques may apply:]

[(1) Any alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this section may be approved by the executive director in accordance with §115.910 of this title (relating to Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.]

[(2) The executive director of the Texas Natural Resource Conservation Commission (TNRCC) may approve an alternate monitoring method if the refinery operator can demonstrate that the alter-

nate monitoring method satisfies the conditions of §115.324(a)(8) of this title (relating to Inspection Requirements). Any request for an alternate monitoring method must be made in writing to the executive director.]

[(b)] For all affected persons in Gregg, Nueces, and Victoria Counties, the following alternate control techniques may apply:

(1) Any alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this section may be approved by the executive director in accordance with §115.910 of this title (relating to **Availability of Alternate Means of Control**) if emission reductions are demonstrated to be substantially equivalent.

(2) The executive director [of the TNRCC] may approve an alternate monitoring method if the refinery operator can demonstrate that the alternate monitoring method satisfies the conditions of §115.324(7) [§115.324(b)(8)] of this title (**relating to Inspection Requirements**). Any request for an alternate monitoring method must be made in writing to the executive director.

§115.324. *Inspection Requirements.*

[(a)] For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the owner or operator of a petroleum refinery shall conduct a monitoring program consistent with the following provisions.]

[(1)] Measure yearly (with a hydrocarbon gas analyzer) the emissions from all:]

[(A)] process drains; and]

[(B)] all valves elevated more than two meters above any permanent structure.]

[(2)] Measure quarterly (with a hydrocarbon gas analyzer) the emissions from all:]

[(A)] compressor seals;]

[(B)] pump seals;]

[(C)] pipeline valves in liquid service;]

[(D)] pipeline valves in gaseous service; and]

[(E)] pressure relief valves in gaseous service.]

[(3)] Visually inspect, weekly, all pump seals.]

[(4)] Measure (with a hydrocarbon gas analyzer) the emissions from any component, except those exempted by §115.327(a)(1)-(2) of this title (relating to Exemptions), whenever a potential leak is detected by sight, sound, or smell.]

[(5)] Measure (with a hydrocarbon gas analyzer) emissions from any relief valve which has vented to the atmosphere within 24 hours.]

[(6)] Measure (with a hydrocarbon gas analyzer) immediately after repair, the emissions from any component that was found leaking.]

[(7)] Upon the detection of a leaking component, shall affix to the leaking component a weatherproof and readily visible tag, bearing an identification number and the date the leak was located. This tag shall remain in place until the leaking component is repaired.]

[(8)] The monitoring schedule of paragraphs (1)-(3) of this subsection may be modified as follows.]

[(A)] After completion of the required annual and quarterly inspections for a period of at least two years, the operator of a refinery may request in writing to the Texas Natural Resource Conservation Commission (TNRCC) that the monitoring schedule be revised based on the percent of valves leaking. The percent of valves leaking shall be determined by dividing the sum of valves leaking during current monitoring and valves for which repair has been delayed by the total number of valves subject to the requirements. This request shall include all data that have been developed to justify the following modifications in the monitoring schedule.]

[(i)] after two consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0%, an owner or operator may begin to skip one of the quarterly leak detection periods for the valves in gas/vapor and light liquid service;]

[(ii)] after five consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0%, an owner or operator may begin to skip three of the quarterly leak detection periods for the valves in gas/vapor and light liquid service.]

[(iii)] Leak detection skip period requirements for any New Source Performance Standard or National Emission Standard for Hazardous Air Pollutants may be substituted for clauses (i) and (ii) of this subparagraph.]

[(B)] If the executive director of the TNRCC determines that there is an excessive number of leaks in any given process area, he may require an increase in the frequency of monitoring for that process area of the refinery.]

[(b)] For Gregg, Nueces, and Victoria Counties, the owner or operator of a petroleum refinery shall conduct a monitoring program consistent with the following provisions:

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

(4) Measure (with a hydrocarbon gas analyzer) the emissions from any component, except those exempted by §115.327(2)-(3) [§115.327(b)(2)-(3)] of this title (**relating to Exemptions**), whenever a potential leak is detected by sight, sound, or smell.

(5) (No change.)

[(6)] Measure (with a hydrocarbon gas analyzer) immediately after repair, the emissions from any component that was found leaking.]

(6) [(7)] Upon the detection of a leaking component, shall affix to the leaking component a weatherproof and readily visible tag, bearing an identification number and the date the leak was located. This tag shall remain in place until the leaking component is repaired.

(7) [(8)] The monitoring schedule of paragraphs (1)-(3) of this section [subsection] may be modified as follows:

(A) After completion of the required [annual and] quarterly valve monitoring [inspections] for a period of at least two years, the operator of a refinery may request in writing to the executive director [TNRCC] that the valve monitoring schedule be revised based on the percent of valves leaking. The percent of valves leaking shall be determined by dividing the sum of valves leaking during current monitoring and valves for which repair has been delayed by the total number of valves subject to the requirements.

This request shall include all data that have been developed to justify the following modifications in the monitoring schedule:

(i) after two consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0%, an owner or operator may begin to skip one of the quarterly leak detection periods for the valves in gas/vapor and light liquid service;

(ii) after five consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0%, an owner or operator may begin to skip three of the quarterly leak detection periods for the valves in gas/vapor and light liquid service.

(iii) Leak detection skip period requirements for any New Source Performance Standard or National Emission Standard for Hazardous Air Pollutants may be substituted for clauses (i) and (ii) of this subparagraph.

(B) If the executive director [of the TNRCC] determines that there is an excessive number of leaks in any given process area, he may require an increase in the frequency of monitoring for that process area of the refinery.

*§115.325. Testing Requirements.*

(a) For all affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, compliance with this undesignated head (relating to Fugitive Emission Control in Petroleum Refineries) shall be determined by applying the following test methods, as appropriate:]

(1) Test Method 21 (40 CFR 60, Appendix A) for determining volatile organic compound leaks. The leak detection equipment can be calibrated with methane, propane, or hexane, but the meter readout must be as parts per million by volume (ppmv) hexane;]

(2) determination of true vapor pressure using ASTM Test Method D323-82 for the measurement of Reid vapor pressure, adjusted for 68 degrees Fahrenheit (20 degrees Centigrade) in accordance with API Publication 2517, Third Edition, 1989; or]

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

[(b)] For all affected persons in Gregg, Nueces, and Victoria Counties, compliance with this undesignated head (relating to Fugitive Emission Control in Petroleum Refineries) shall be determined by applying the following test methods, as appropriate:

(1) Test Method 21 (40 CFR 60, Appendix A, effective 6/22/90) for determining volatile organic compound (VOC) [VOC] leaks. The leak detection equipment can be calibrated with methane, propane, or hexane, but the meter readout must be as parts per million by volume (ppmv) hexane;

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

*§115.326. Recordkeeping Requirements.*

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the owner or operator of a petroleum refinery shall have the following recordkeeping requirements:]

(1) Submit to the executive director a monitoring program plan. This plan shall contain, at a minimum, a list of the refinery units and the quarter in which they will be monitored, a copy of the log book format, and the make and model of the monitoring equipment to be used.]

[(2) Maintain a leaking-components monitoring log for all leaks of more than 10,000 ppmv of volatile organic compound (VOC) detected by the monitoring program required by §115.324(a) of this title (relating to Inspection Requirements). This log shall contain, at a minimum, the following data:]

[(A) the name of the process unit where the component is located;]

[(B) the type of component (e.g., valve or seal);]

[(C) the tag number of the component;]

[(D) the date on which a leaking component is discovered;]

[(E) the date on which a leaking component is repaired;]

[(F) the date and instrument reading of the recheck procedure after a leaking component is repaired;]

[(G) a record of the calibration of the monitoring instrument;]

[(H) those leaks that cannot be repaired until turnaround; and]

[(I) the total number of components checked and the total number of components found leaking.]

(3) Retain copies of the monitoring log for a minimum of two years after the date on which the record was made or the report prepared.]

(4) Maintain all monitoring records for at least two years and make them available for review upon request by authorized representatives of the Texas Natural Resource Conservation Commission (TNRCC), United States Environmental Protection Agency (EPA), or local air pollution control agencies.]

[(b)] For Gregg, Nueces, and Victoria Counties, the owner or operator of a petroleum refinery shall have the following recordkeeping requirements:

(1) (No change.)

(2) Maintain a leaking-components monitoring log for all leaks of more than 10,000 ppmv of volatile organic compound (VOC) [VOC] detected by the monitoring program required by §115.324 [§115.324(b)] of this title (relating to Inspection Requirements). This log shall contain, at a minimum, the following data:

(A)-(I) (No change.)

(3) Retain copies of the monitoring log for a minimum of two years after the date on which the record was made or the report prepared.

(4) Maintain all monitoring records for at least two years and make them available for review upon request by authorized representatives of the executive director [TNRCC], EPA, or local air pollution control agencies.

*§115.327. Exemptions.*

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

[(1) Components which contact a process fluid that contains less than 10% volatile organic compounds (VOC) by weight are exempt from the requirements of this undesignated head (relating to Fugitive Emission Control in Petroleum Refineries).]

[(2) Components which contact a process liquid containing VOC having a true vapor pressure equal to or less than 0.044 psia (0.3 kPa) at 68 degrees Fahrenheit (20 degrees Centigrade) are exempt from the requirements of §115.324(a) of this title (relating to Inspection Requirements) if the components are inspected visually according to the inspection schedules specified within this same section.]

[(3) Petroleum refineries or individual process units in a temporary nonoperating status shall submit a plan for compliance with the provisions of this undesignated head (relating to Fugitive Emission Control in Petroleum Refineries), as soon as practicable, but no later than one month before the process unit is scheduled for start-up and be in compliance as soon as practicable, but no later than three months after start-up. All petroleum refineries affected by this subsection shall notify the Texas Natural Resource Conservation Commission (TNRCC) of any nonoperating refineries or individual process units when they are shut down and dates of any start-ups as they occur.]

[(4) Pressure relief devices connected to an operating flare header, components in continuous vacuum service, storage tank valves, and valves that are not externally regulated (such as in-line check valves) are exempt from the monitoring requirement of §115.324(a) of this title (relating to Inspection Requirements).]

[(5) Compressors in hydrogen service are exempt from the requirements of §115.324(a) of this title (relating to Inspection Requirements) if the owner or operator demonstrates that the percent hydrogen content can be reasonably expected to always exceed 50% by volume.]

[(b)] For all affected persons in Gregg, Nueces, and Victoria Counties, the following exemptions shall apply:

(1) Valves with a nominal size of two inches (5 cm) or less are exempt from the requirements of this undesignated head (relating to Fugitive Emission Control in Petroleum Refineries), provided allowable emissions at any refinery from sources affected by these sections after controls are applied with exemptions will not exceed by more than 5.0% such allowable emissions with no exemptions. Any person claiming an exemption for valves two inches (5 cm) nominal size or smaller under this section [subsection] shall, at the time he provides his control plan, also provide the following information:

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

(C) an estimate of the total volatile organic compound (VOC) [VOC] emissions within the refinery from sources affected by §115.322 [§115.322(b)] of this title (relating to Control Requirements), §115.324 [§115.324(b)] of this title (relating to Inspection Requirements), and §115.326 [§115.326(b)] of this title (relating to Recordkeeping Requirements) after controls are applied and assuming no exemptions for small valves, plus an explanation of how the estimate was derived.

(2) Components which contact a process fluid that contains less than 10% VOC by weight are exempt from the requirements

of this undesignated head (relating to Fugitive Emission Control in Petroleum Refineries).

(3) Components which contact a process liquid containing a VOC having a true vapor pressure equal to or less than 0.147 psia (1.013 kPa) at 68 degrees Fahrenheit (20 degrees Centigrade) are exempt from the requirements of §115.324 [§115.324(b)] of this title (relating to Inspection Requirements) if the components are inspected visually according to the inspection schedules specified within this same section.

(4) Petroleum refineries or individual process units in a temporary nonoperating status shall submit a plan for compliance with the provisions of this undesignated head (relating to Fugitive Emission Control in Petroleum Refineries), as soon as practicable, but no later than one month before the process unit is scheduled for start-up and be in compliance as soon as practicable, but no later than three months after start-up. All petroleum refineries affected by this section [subsection] shall notify the executive director [TNRCC] of any nonoperating refineries or individual process units when they are shut down and dates of any start-ups as they occur.

(5) Pressure relief devices connected to an operating flare header, components in continuous vacuum service, storage tank valves, and valves that are not externally regulated (such as in-line check valves) are exempt from the monitoring requirement of §115.324 [§115.324(b)] of this title (relating to Inspection Requirements).

(6) Compressors in hydrogen service are exempt from the requirements of §115.324 [§115.324(b)] of this title (relating to Inspection Requirements) if the owner or operator demonstrates that the percent hydrogen content can be reasonably expected to always exceed 50% by volume.

*§115.329. Counties and Compliance Schedules.*

All affected persons in Gregg, Nueces, and Victoria Counties shall continue to comply with this undesignated head (relating to Fugitive Emission Control in Petroleum Refineries) as required by §115.930 of this title (relating to Compliance Dates). [All affected persons in Chambers, Collin, Denton, Fort Bend, Hardin, Liberty, Montgomery, and Waller Counties shall be in compliance with §115.322(a) of this title (relating to Control Requirements), §115.323(a) of this title (relating to Alternate Control Requirements), §115.324(a) of this title (relating to Inspection Requirements), §115.325(a) of this title (relating to Testing Requirements), §115.326(a) of this title (relating to Recordkeeping Requirements), and §115.327(a) of this title (relating to Exemptions) as soon as practicable, but no later than July 31, 1993.]

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

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Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

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## Fugitive Emission Control in Synthetic Organic Chemical, Polymer, Resin, and Methyl Tert-Butyl Ether Manufacturing Processes

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Natural Resource Conservation Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

### §§115.332-115.337, 115.339

The repeals 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 repeals implement the Health and Safety Code, §382.017.

§115.332. *Control Requirements.*

§115.333. *Alternate Control Requirements.*

§115.334. *Inspection Requirements.*

§115.335. *Testing Requirements.*

§115.336. *Recordkeeping Requirements.*

§115.337. *Exemptions.*

§115.339. *Counties and Compliance Schedules.*

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

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## Fugitive Emission Control in Petroleum Refining, Natural Gas/Gasoline Processing, and Petrochemical Processes

### 30 TAC §§115.352-115.354, 115.356, 115.357

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.

§115.352. *Control Requirements.*

For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas as defined in §115.10 of this title (relating to Definitions), no person shall operate a petroleum refinery; a synthetic organic chemical, polymer, resin, or methyl tert-butyl ether

manufacturing process; or a natural gas/gasoline processing operation as defined in §115.10 of this title, without complying with the following requirements.

(1) Except as provided in paragraph (2) of this section, no [No] component shall be allowed to have a volatile organic compound (VOC) leak for more than 15 calendar days after the leak is found which exceeds the following:

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

(2) A first attempt at repair shall be made no later than five calendar days after the leak is found and the component [All technically feasible repairs to a leaking component, as specified in paragraph (1) of this section,] shall be repaired [made] no later than [within] 15 calendar days after the leak is found, unless the repair of the component would require a unit shutdown which would create more emissions than the repair would eliminate. A component in gas/vapor or light liquid service is considered to be repaired when it is monitored with an instrument using Test Method 21 and shown to no longer have a leak after adjustments or alterations to the component. A component in heavy liquid service is considered to be repaired when it is monitored by audio, visual, and olfactory means and shown to no longer have a leak after adjustments or alterations to the component. If the repair of a component would require a unit shutdown which would create more emissions than the repair would eliminate, the repair may be delayed until the next shutdown. [Repairs to all accessible valves found leaking shall consist of the repair and maintenance of components assisted simultaneously by the use of an approved gas analyzer such that a minimum concentration of leaking VOC is obtained for each component being maintained.]

(3)-(8) (No change.)

(9) For valves equipped with rupture discs, a pressure gauge or an equivalent device or system shall be installed between the relief valve and rupture disc to monitor disc integrity. All leaking discs shall be replaced at the earliest opportunity, but no later than the next process shutdown. Equivalent devices or systems shall be identified in a list to be made available upon request and must have been approved by the methods required by §115.353 of this title (relating to Alternate Control Requirements).

§115.353. *Alternate Control Requirements.*

For all affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, any alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this section, may be approved by the executive director in accordance with §115.910 of this title (relating to Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

§115.354. *Inspection Requirements.*

All affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, shall conduct a monitoring program consistent with the following provisions.

(1) Measure yearly (with a hydrocarbon gas analyzer) the emissions from all:

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

(C) unsafe to monitor valves. An unsafe to monitor valve is a valve that the owner or operator determines is unsafe



to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with paragraph (2) of this section [subsection]. Valves which are unsafe to monitor shall be identified in a list made available upon request. If an unsafe to monitor valve is not considered safe to monitor within a calendar year, then it shall be monitored as soon as possible during safe to monitor times.

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

[(4) Measure (with a hydrocarbon gas analyzer) the emissions from any component within five days after a potential leak is detected by sight, sound, or smell.]

(4) [(5)] Measure (with a hydrocarbon gas analyzer) emissions from any relief valve which has vented to the atmosphere within 24 hours.

[(6) Measure (with a hydrocarbon gas analyzer) the emissions from any component that was found leaking. The repair and maintenance of accessible valves shall include the simultaneous use of a hydrocarbon gas analyzer such that a minimum concentration of leaking VOC is obtained for each component being repaired or maintained.]

(5) [(7)] Upon the detection of a leaking component, affix to the leaking component a weatherproof and readily visible tag, bearing an identification number and the date the leak was detected. This tag shall remain in place until the leaking component is repaired.

(6) [(8)] The monitoring schedule of paragraphs (1)-(3) of this section may be modified to require an increase in the frequency of monitoring in a given process area if the executive director [of the Texas Natural Resource Conservation Commission (TNRCC)] determines that there is an excessive number of leaks in that process area.

(7) [(9)] After completion of the required [annual and] quarterly valve monitoring [inspections] for a period of at least two years, the operator of a petroleum refinery; synthetic organic chemical, polymer, resin, or methyl-tert-butyl ether manufacturing process; or a natural gas/gasoline processing operation may request in writing to the executive director [TNRCC] that the valve monitoring schedule be revised based on the percent of valves leaking. The percent of valves leaking shall be determined by dividing the sum of valves leaking during current monitoring and valves for which repair has been delayed (including valves which have been classified as non-repairable under §115.357(8) of this title (relating to Exemptions)) by the total number of valves subject to the requirements. This request shall include all data that have been developed to justify the following modifications in the monitoring schedule.

(A) After two consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0%, an owner or operator may begin to skip one of the quarterly leak detection periods for the valves in gas/vapor and light liquid service.

(B) After five consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0%, an owner or operator may begin to skip three of the quarterly leak detection periods for the valves in gas/vapor and light liquid service.

(8) Alternate monitoring schedules approved before November 15, 1996, under §§115.324(a)(8)(A), 115.334(3)(A), and 115.344(3)(A) of this title (relating to Inspection Requirements),

as in effect December 3, 1993, are approved monitoring schedules for the purposes of paragraph (7) of this section.

§115.356. *Monitoring and Recordkeeping Requirements.*

All affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, shall have the following recordkeeping requirements:

(1) Maintain a components monitoring log which shall contain, at a minimum, the following data:

(A)-(H) (No change.)

(I) the test method used (Test Method 21, or sight/sound/smell).

(2) (No change.)

(3) Maintain all monitoring records for at least two years and make them available for review upon request by authorized representatives of the executive director [TNRCC], United States Environmental Protection Agency, or local air pollution control agencies.

§115.357. *Exemptions.*

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

(1) (No change.)

(2) Storage tank valves, pressure relief valves equipped with a rupture disc or venting to a control device, components in continuous vacuum service, and valves that are not externally regulated (such as in-line check valves) are exempt from all the requirements of this undesignated head, except that each pressure relief valve equipped with a rupture disk shall comply with §115.352(9) of this title (relating to Control Requirements).

(3)-(7) (No change.)

(8) Components in ethylene, propane, or propylene service, not to exceed 5.0% of the total components, may be classified as non-repairable beyond the second repair attempt at 500 ppmv. These components will remain in the fugitive monitoring program and be repaired when the concentration of VOC is greater than 10,000 ppmv for more than 15 days after the leak is found. For the purposes of this undesignated head, components which contact a process fluid with greater than [that] 85% ethylene, propane, or propylene by weight are considered in ethylene, propane, or propylene service, respectively.

(9) (No change.)

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

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## Fugitive Emission Control in Natural Gas/Gasoline Processing Operations

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Natural Resource Conservation Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

### 30 TAC §§115.342-115.347, 115.349

The repeals 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 repeals implement the Health and Safety Code, §382.017.

§115.342. Control Requirements.

§115.343. Alternate Control Requirements.

§115.344. Inspection Requirements.

§115.345. Testing Requirements.

§115.346. Recordkeeping Requirements.

§115.347. Exemptions.

§115.349. Counties and Compliance Schedules.

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

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## Subchapter E. Solvent-Using Processes

### Surface Coating Processes

#### 30 TAC §§115.421, 115.422, 115.424, 115.426, 115.427

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.

§115.421. Emission Specifications.

(a) No person 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) may cause, suffer, allow, or permit volatile organic compound (VOC) emissions from the surface coating processes as defined in §115.10 of this title affected by paragraphs (1)-(13) of this subsection to exceed the specified emission limits. These limitations are based on the daily weighted average of all coatings

delivered to each coating line, except for those in paragraph (10) of this subsection which are based on paneling surface area and those in paragraph (11) of this subsection which are based on the VOC content of architectural coatings sold or offered for sale. For the purposes of this undesignated head (relating to Surface Coating Processes), daily weighted average means the total weight of VOC emissions from all coatings, divided by the total volume of all coatings (minus water and exempt solvent) applied each day.

(1)-(12) (No change.)

(13) Surface coating of wood parts and products.

(A) [After November 15, 1996 in] In the Dallas/Fort Worth, El Paso, and Houston/Galveston areas, VOC emissions from the coating of wood parts and products shall not exceed the following limits for each surface coating type:

(i)-(x) (No change.)

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

(b) (No change.)

§115.422.

For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following control requirements shall apply.

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

(3) Any surface coating operation that becomes subject to the provisions of §115.421(a) of this title (relating to Emission Specifications) by exceeding the provisions of §115.427(a) of this title (relating to Exemptions) shall remain subject to the provisions in §115.421(a) of this title, even if throughput or emissions later fall below exemption limits unless and until emissions are reduced to at or below the controlled emissions level existing before [prior to] implementation of the project by which throughput or emission rate was reduced and less than the applicable exemption limits in §115.427(a) of this title, and:

(A) (No change.)

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

§115.424. Inspection Requirements.

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

(1) All surface coating processes or operations affected by §115.421(a) of this title (relating to Emissions Specifications) must provide samples, without charge, upon request by representatives of the executive director [Texas Natural Resource Conservation Commission (TNRCC)], United States Environmental Protection Agency (EPA), or local air pollution control agency.

(2) All wholesalers and retailers affected by §115.421(a) of this title must provide samples, without charge, upon request by representatives of the executive director [TNRCC], EPA, or local air pollution control agency.

(3) (No change.)

(b) For Gregg, Nueces, and Victoria Counties, the following inspection requirements shall apply:

(1) All surface coating processes or operations affected by §115.421(b) of this title must provide samples, without charge, upon request by representatives of the executive director [TNRCC], EPA, or local air pollution control agency.

(2) (No change.)

§115.426. *Monitoring and Recordkeeping Requirements.*

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

(1) Any person affected by §115.421(a) of this title (relating to Emission Specifications) shall satisfy the following recordkeeping requirements.

(A)-(C) (No change.)

(D) Records required by subparagraphs (A)-(C) of this paragraph shall be maintained for at least two years and shall be made available upon request by representatives of the executive director [Texas Natural Resource Conservation Commission (TNRCC)], United States Environmental Protection Agency (EPA), or any local air pollution control agency.

(2) The owner or operator of any surface coating facility which utilizes a vapor recovery system approved by the executive director in accordance with §115.423(a)(3) of this title (relating to Alternate Control Requirements) shall:

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

(C) maintain all records at the affected facility for at least two years and make such records available to representatives of the executive director [TNRCC], EPA, or any local air pollution control agency, upon request.

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

(b) For Gregg, Nueces, and Victoria Counties, the following recordkeeping requirements shall apply:

(1) Any person affected by §115.421(b) of this title shall satisfy the following recordkeeping requirements:

(A)-(C) (No change.)

(D) Records required by subparagraphs (A)-(C) of this paragraph shall be maintained for at least two years and shall be made available upon request by representatives of the executive director [TNRCC], EPA, or local air pollution control agency.

(2) The owner or operator of any surface coating facility which utilizes a vapor recovery system approved by the executive director in accordance with §115.423(b)(3) of this title shall:

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

(C) maintain all records at the affected facility for at least two years and make such records available to representatives of the executive director [TNRCC], EPA, or local air pollution control agency, upon request.

(3) (No change.)

§115.427. *Exemptions.*

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following exemptions shall apply:

(1)-(4) (No change.)

(5) **Vehicle refinishing (body shops)** [Automobile refinishing facilities] in Hardin, Jefferson, and Orange Counties are exempt from the requirements of §115.421(a)(8)(B) [of this title] and §115.422(1) and (2) of this title (relating to **Emission Specifications; and Control Requirements**).

(6) **The repair and recoating of vehicles at in-house (fleet) vehicle refinishing operations and the repair and recoating of vehicles by private individuals** are exempt from the requirements of §115.421(a)(8)(B) and §115.422(1) and (2) of this title.

(b) (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.

Issued in Austin, Texas, on November 8, 1996.

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Barry S. Irwin

Director, Legal Division

Texas Natural Resource Conservation Commission

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For further information, please call: (512) 239-1970

◆ ◆ ◆  
Offset Lithographic Printing

30 TAC §§115.442, 115.446, 115.449

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.

§115.442. *Control Requirements.*

For the Dallas/Fort Worth, El Paso, and Houston/Galveston areas as defined in §115.10 of this title (relating to Definitions), the following control requirements shall apply:

(1) No person shall operate or allow the operation of an offset lithographic printing line that uses solvent-containing ink, unless volatile organic compound (VOC) emissions are limited by the following:

(A) (No change.)

(B) Any person who owns or operates a nonheatset web offset lithographic printing press [facility] which prints newspaper and that use alcohol in the fountain solution shall eliminate the use of alcohol in the fountain solution. Alternatively, non-alcohol additives or alcohol substitutes can be used to accomplish the total elimination of alcohol use.

(C) Any person who owns or operates a nonheatset web offset lithographic printing press [facility] which does not print newspaper and that use alcohol in the fountain solution shall maintain

the use of alcohol at 5.0% or less (by volume). Alternatively, a standard of 10.0% or less (by volume) alcohol may be used if the fountain solution is refrigerated to less than 60°F.

(D) Any person who owns or operates a sheetfed offset lithographic printing press [facility] shall maintain the use of alcohol at 10.0% or less (by volume). Alternatively, a standard of 12.0% or less (by volume) alcohol may be used if the fountain solution is refrigerated to less than 60°F.

(E) - (F) (No change.)

(2) (No change.)

§115.446. *Monitoring and Recordkeeping Requirements.*

For the Dallas/Fort Worth, El Paso, and Houston/Galveston areas as defined in §115.10 of this title (relating to Definitions), the following monitoring and recordkeeping requirements shall apply.

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

(8) The owner or operator of any offset lithographic printing press shall maintain all records at the affected facility for at least two years and make such records available upon request to representatives of the executive director [Texas Natural Resource Conservation Commission], the United States Environmental Protection Agency, or the local air pollution agency having jurisdiction in the area.

§115.449. *Counties and Compliance Schedules.*

(a) All affected persons in El Paso County shall be in compliance with §115.442 [of this title (relating to Control Requirements)], §115.443 [of this title (relating to Alternate Control Requirements)], §115.445 [of this title (relating to Testing Requirements)], and §115.446 of this title (relating to Control Requirements; Alternate Control Requirements; Testing Requirements; and Monitoring and Recordkeeping Requirements) as soon as practicable, but no later than November 15, 1996.

(b) All affected persons in Collin, Dallas, Denton, and Tarrant Counties 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 [Texas Natural Resource Conservation Commission (TNRCC)] 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 [November 15, 1996] attainment deadline or failure to demonstrate reasonable further progress as set forth in the 1990 Amendments to the Federal Clean Air Act (FCAA), §172(c)(9).

(c) All affected persons in Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties 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 [TNRCC] 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 [November 15, 1996] attainment deadline or failure to demonstrate reasonable further progress as set forth in the 1990 Amendments to the FCAA, §172(c)(9).

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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Subchapter F. Miscellaneous Industrial Sources

Pharmaceutical Manufacturing Facilities

30 TAC §§115.532, 115.533, 115.536, 115.537, 115.539

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.

§115.532. *Control Requirements.*

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the owner or operator of a synthesized pharmaceutical manufacturing facility shall provide the following specified controls.

(1)-(4) (No change.)

(5) Pharmaceutical manufacturing facility. Any pharmaceutical manufacturing facility that becomes subject to the provisions of paragraphs (1)-(4) of this subsection by exceeding provisions of §115.537(a) of this title (relating to Exemptions) will remain subject to the provisions of this subsection, even if throughput or emissions later fall below exemption limits unless and until emissions are reduced to at or below the controlled emissions level existing before [prior to] implementation of the project by which throughput or emission rate was reduced and less than the applicable exemption limits in §115.537(a) of this title and:

(A) (No change.)

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

(b) (No change.)

§115.533. *Alternate Control Requirements.*

(a) For all affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this section may be approved by the Executive Director in accordance with §115.910 of this title (relating to Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

(b) For all affected persons in Gregg, Nueces, and Victoria Counties, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or

exemption criteria in this section may be approved by the Executive Director in accordance with §115.910 of this title (relating to Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

*§115.536. Monitoring and Recordkeeping Requirements.*

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

(1)-(4) (No change.)

(5) The owner or operator of any affected pharmaceutical manufacturing facility shall maintain all records at the affected facility for at least two years and make such records available upon request to representatives of the executive director [Texas Natural Resource Conservation Commission], United States Environmental Protection Agency (EPA), or local air pollution control agency.

(b) For Gregg, Nueces, and Victoria Counties, the following recordkeeping requirements shall apply.

(1)-(4) (No change.)

(5) The owner or operator of any affected pharmaceutical manufacturing facility shall maintain all records at the affected facility for at least two years and make such records available upon request to representatives of the executive director [TNRCC], EPA, or local air pollution control agency.

*§115.537. Exemptions.*

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following exemptions shall apply:

(1)-(4) (No change.)

(5) Until July 31, 1993 in Brazoria, Galveston, Jefferson, and Orange Counties, any facility which, when uncontrolled, will emit a combined weight of VOC less than 550 pounds (249.5 kg) in any continuous 24-hour period is exempt from the provisions of §115.531(a) of this title (relating to Emission Specifications) and §115.532(a) of this title (relating to Control Requirements).

(6) In Dallas, El Paso, Harris, and Tarrant Counties, any individual unit which, when uncontrolled, will emit a combined weight of VOC less than 15 pounds (6.8 kg) in any continuous 24-hour period is exempt from the provisions of §115.531(a) of this title and §115.532(a) of this title.

(7) [After July 31, 1993 in counties other than Dallas, El Paso, Harris, and Tarrant, any] Any individual unit which, when uncontrolled, will emit a combined weight of VOC less than 15 lbs. (6.8 kg) in any continuous 24-hour period is exempt from the provisions of §115.531(a) [of this title] and §115.532(a) of this title.

(b) (No change.)

*§115.539. Counties and Compliance Schedules.*

All affected persons in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Gregg, Hardin, Harris, Jefferson, Liberty, Montgomery, Nueces, Orange, Tarrant, Victoria, and Waller Counties shall continue to comply with this undesignated head (relating to Pharmaceutical Manufacturing Facilities) as required by §115.930 of this title (relating to Compliance Dates).

[(a) All affected persons in Chambers, Collin, Denton, Fort Bend, Hardin, Liberty, Montgomery, and Waller Counties shall be in compliance with §115.531(a) of this title (relating to Emission Specifications), §115.532(a) of this title (relating to Control Requirements), §115.533(a) of this title (relating to Alternate Control Requirements), §115.534(a) of this title (relating to Inspection Requirements), §115.535(a) of this title (relating to Testing Requirements), §115.536(a) of this title (relating to Monitoring and Recordkeeping Requirements), and §115.537(a) of this title (relating to Exemptions) as soon as practicable, but no later than July 31, 1993.

[(b) All persons in Brazoria, Galveston, Jefferson, and Orange Counties affected by the provisions of §115.537(a)(7) of this title shall be in compliance with this section as soon as practicable, but no later than July 31, 1993.

[(c) All affected persons in Victoria County shall be in compliance with §115.536(b)(2)(A)(iii) of this title as soon as practicable, but no later than July 31, 1993.]

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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For further information, please call: (512) 239-1970

◆ ◆ ◆  
**Petroleum Dry Cleaning Systems**

**30 TAC §§115.552, 115.553, 115.559**

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.

*§115.552. Control Requirements.*

(a) (No change.)

(b) Any petroleum solvent dry cleaning facility that becomes or is currently subject to the control requirements of subsection (a) of this section by exceeding the exemption limit of §115.157 of this title (relating to Exemptions) shall remain subject to the provisions of this section, even if its consumption of petroleum solvent later falls below the exemption level unless and until its uncontrolled solvent consumption is reduced to at or below its solvent consumption level before [prior to] lifting controls, and

(1) (No change.)

(2) if authorization by permit or standard exemption is not required for the project, the owner/operator has given the executive director [Texas Natural Resource Conservation Commission] 30 days notice of the project in writing.

*§115.553. Alternate Control Requirements.*

For all affected persons in the Dallas/Fort Worth, El Paso, and Houston/Galveston areas as defined in §115.10 of this title (relating to Definitions), alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this section may be approved by the Executive Director in accordance with §115.910 of this title (relating to Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

*§115.559. Counties and Compliance Schedules.*

(a) All affected petroleum solvent dry cleaning facilities in Collin, Dallas, Denton, and Tarrant Counties [the Dallas/Fort Worth, Houston/Galveston, and El Paso areas, as defined in §115.10 of this title,] shall be in compliance with §§115.552, 115.553, and 115.555-115.557 of this title (relating to Control Requirements; Alternate Control Requirements; Testing Methods and Procedures; Recordkeeping Requirements; and Exemptions) [this undesignated head] as soon as practicable, but no later than one year, after the Texas Natural Resource Conservation Commission (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 [November 15, 1996] attainment deadline or failure to demonstrate reasonable further progress as set forth in the 1990 Amendments to the Federal Clean Air Act, §172(c)(9).

(b) All affected petroleum solvent dry cleaning facilities in El Paso County shall be in compliance with §§115.552, 115.553, and 115.555-115.557 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 Federal Clean Air Act, §172(c)(9).

(c) All affected petroleum solvent dry cleaning facilities in Brazoria, Chambers, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, and Waller Counties shall be in compliance with §§115.552, 115.553, and 115.555-115.557 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 Federal Clean Air Act, §172(c)(9).

(d) [(b)] Any petroleum solvent dry cleaning facility that becomes subject to the control requirements of §115.552(a)(1) of this title [(relating to Control Requirements)] by exceeding the exemption threshold as identified in §115.557 of this title [(relating to Exemptions)] shall be in compliance as soon as practicable, but no later than two years from the time the exemption level was exceeded.

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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Barry S. Irwin

Director, Legal Division

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For further information, please call: (512) 239-1970

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Subchapter B. General Volatile Organic Compound Sources

The commission proposes amendments to §§115.121-115.123, 115.126, 115.127 and 115.129, concerning Vent Gas Control; and §§115.311-115.313, and 115.319, concerning Process Unit Turn-around and Vacuum-Producing Systems in Petroleum Refineries. The commission proposes these revisions to Chapter 115, concerning Control of Air Pollution from Volatile Organic Compounds (VOC), and to the State Implementation Plan (SIP) in order to make a variety of changes which clarify and add flexibility to existing requirements, correct errors, extend an existing exemption for pulp and paper vent gas streams, and delete language made obsolete by the passing of compliance dates.

EXPLANATION OF PROPOSED RULE. The proposed changes to §115.121, concerning Emission Specifications, and §115.122, concerning Control Requirements, substitute the term "control" for "burn" and modify the existing requirement in §115.122 to burn vent gas streams in a flare or direct-flame incinerator by adding an option to control the emissions with a vapor recovery system meeting a specified control efficiency. This option is currently located in §115.123, concerning Alternate Control Requirements. These changes which consolidate control options and requirements into one section, make the rule more logical and eliminate confusing wording. As §115.122 is currently written, it is unclear whether a 1300°F temperature requirement applies to smokeless flares, and whether the combustion destruction efficiency applies only to direct-flame incinerators. The logical construction is that the temperature requirement applies to incinerators. Also, properly operated incinerators which achieve a temperature of at least 1300°F and flares which are smokeless will generally achieve significantly better than 90% control efficiency, so the 90% requirement does not need to be specified for flares and direct-flame incinerators. The intent of the proposed revisions, which do not associate a particular control efficiency with these common methods of control, is to prevent reductions which were required, but not quantified in early State Implementation Plans (SIP), from being used to satisfy future emission control requirements under a trading program. The proposed changes to §115.121(a) also consolidate existing paragraphs (2) and (3) for improved readability. The proposed changes to §115.122 also update rule references due to the consolidation of §115.121(a)(2) and (3) and replace "prior to" with "before" and revise references to TNRCC and the executive director for consistency with the commission's style guidelines. The proposed changes to §115.123 correct a rule reference and eliminate language which is no longer necessary due to the revisions to §115.121 and §115.122.

The proposed revisions to §115.126, concerning Monitoring and Recordkeeping Requirements, clarify that §115.126(a)(3) and §115.126(b)(3) are alternatives to the requirements of §115.126(a)(2) and §115.126(b)(2), respectively. The proposed

revisions to §115.126 also clarify that §115.126(a)(3) and §115.126(b)(3) may be used if the vent gas stream qualifies for either the VOC emission rate exemption or the VOC concentration exemption, rather than having to meet both criteria, for consistency with §115.127, concerning Exemptions. The proposed revisions to §115.126(a)(3) and §115.126(b)(3) would also simplify the recordkeeping requirements for exempt process vents which remain below 50% of an applicable exemption. In addition, the proposed changes to §115.126 revise references to TNRCC and the executive director for consistency with the commission's style guidelines.

The proposed revisions to §115.127 update rule references and extend an existing exemption for pulp and paper vent gas streams from November 15, 1998, until November 15, 1999, due to the United States Environmental Protection Agency's (EPA) delay in promulgating the pulp and paper industry Maximum Achievable Control Technology rules. The delay will not result in loss of SIP emission reduction credits because the reductions will still be achieved by the November 15, 1999, SIP deadline. In addition, the proposed revisions to §115.127 clarify that while synthetic organic chemical manufacturing industry (SOCMI) batch processes are exempt from the SOCMI reactor/distillation vent gas stream control requirements, these SOCMI batch process vent gas streams continue to be subject to the general vent gas stream control requirements. This corrects an error in the rule cross-references of §115.127(a)(2)(E) that inadvertently occurred in the February 14, 1996, adoption of revisions to the vent gas rules. For improved readability, the proposed revisions to §115.127(c) also consolidate paragraphs (1) and (2)(A)-(B), and revise the wording of the exemption in paragraph (2)(C) and relocates it to §115.127(c)(2). In addition, the proposed changes to §115.127 add the effective dates of referenced federal rules for consistency with the commission's style guidelines. The proposed revisions to §115.129, concerning Counties and Compliance Schedules, update rule references, and revise references to TNRCC and the executive director for consistency with the commission's style guidelines.

The proposed changes to §115.311, concerning Emission Specifications, and §115.312, concerning Control Requirements, modify the existing requirement to burn VOCs in a flare or direct-flame incinerator by adding an option to control the emissions with a vapor recovery system meeting a specified control efficiency. This eliminates confusing wording in the existing rule while providing companies more flexibility in choosing the most cost-effective type of control.

The proposed change to §115.313, concerning Alternate Control Requirements, updates a reference to §115.910 to reflect a title change. The proposed change to §115.319, concerning Counties and Compliance Schedules, deletes language made obsolete by the passing of compliance dates. The commission also proposes to change the title of Subchapter D from Petroleum Refining and Petrochemical Processes to Petroleum Refining, Natural Gas Processing, and Petrochemical Processes to more accurately reflect the content of this subchapter.

**FISCAL NOTE.** Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the sections are in effect there will be no fiscal implications

for state and local governments as a result of enforcing or administering the proposed amendments.

**PUBLIC BENEFIT.** Mr. Minick has also determined that for each year of the first five years the proposed sections are in effect, the public benefit anticipated as a result of implementing the sections will be clarification and simplification of existing rules. There is no anticipated cost to small businesses, persons, or businesses who are required to comply with the rules as proposed.

**TAKINGS IMPACT ASSESSMENT.** The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated, §2007.043. The following is a summary of that assessment. The specific purpose of the rule amendments is to clarify and simplify existing rules. Promulgation and enforcement of the rule amendments will not affect private real property which is the subject of the rules because the rule changes do not impose new requirements.

**PUBLIC HEARING.** A public hearing on this proposal will be held in Austin on December 13, 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 35 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 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 Policy and Regulatory Development at (512) 239-4900. Requests should be made as far in advance as possible.

**SUBMITTAL OF COMMENTS.** Written comments may be mailed to Heather Evans, 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 96162-115-A1. Comments must be received by 5:00 p.m., December 19, 1996. For further information, please contact Randy Hamilton, Air Policy and Regulations Division, (512) 239-1512.

### Vent Gas Control

### 30 TAC §§115.121-115.123, 115.126, 115.127, 115.129

**STATUTORY AUTHORITY.** 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.

#### *§115.121. Emission Specifications.*

(a) For all persons 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), the following emission specifications shall apply.

(1) No person may allow a vent gas stream containing VOC to be emitted from any process vent, unless the vent gas stream



is **controlled** [burned] properly in accordance with §115.122(a)(1) of this title (relating to Control Requirements).

(2) No person may allow a vent gas stream to be emitted from the following processes [any air oxidation synthetic organic chemical manufacturing process, any liquid phase polypropylene manufacturing process, any liquid phase slurry high-density polyethylene manufacturing process, or any continuous polystyrene manufacturing process,] unless the vent gas stream is controlled [to a VOC emission rate of no more than 20 parts per million by volume (ppmv) (on a dry basis corrected to 3.0% oxygen), or is burned] properly in accordance with §115.122(a)(2) of this title: [.]

(A) any synthetic organic chemical manufacturing industry reactor process or distillation operation;

(B) any air oxidation synthetic organic chemical manufacturing process;

(C) any liquid phase polypropylene manufacturing process;

(D) any liquid phase slurry high-density polyethylene manufacturing process; or

(E) any continuous polystyrene manufacturing process.

[(3) After November 15, 1996, no person may allow a vent gas stream to be emitted from any synthetic organic chemical manufacturing industry reactor process or distillation operation, as defined in §115.10 of this title, unless the vent gas stream is controlled to a VOC emission rate of no more than 20 ppmv (on a dry basis corrected to 3.0% oxygen), or is burned properly in accordance with §115.122(a)(2) of this title.]

(3) [(4)] In the Dallas/Fort Worth, El Paso, and Houston/Galveston areas, VOC emissions from bakery ovens, as defined in §115.10 of this title, shall be controlled properly in accordance with §115.122(a)(3) of this title.

(b) In Nueces and Victoria Counties, no person may allow a vent gas stream to be emitted from any process vent containing one or more of the following VOC or classes of VOC, unless the vent gas stream is **controlled** [burned] properly in accordance with §115.122(b) of this title:

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

(c) For persons in Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis Counties, the following emission specifications shall apply:

(1) No person may allow a vent gas stream to be emitted from any process vent containing one or more of the following VOC or classes of VOC, unless the vent gas stream is **controlled** [burned] properly in accordance with §115.122(c)(1) of this title:

(A)-(C) (No change.)

(2) No person may allow a vent gas stream to be emitted from any catalyst regeneration of a petroleum or chemical process system, basic oxygen furnace, or fluid coking unit into the atmosphere, unless the vent gas stream is properly **controlled** [burned] in accordance with §115.122(c)(2) of this title.

(3) No person may allow a vent gas stream to be emitted from any iron cupola into the atmosphere, unless the vent gas stream

is properly **controlled** [burned] in accordance with §115.122(c)(3) of this title.

(4) Vent gas streams from blast furnaces shall be **controlled** [burned] properly in accordance with §115.122(c)(4) of this title.

*§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** [burned] properly:

(A) in a direct-flame incinerator at a temperature equal to or greater than 1,300°F (704°C);

(B) in a smokeless flare [or a direct-flame incinerator]; or

(C) by any vapor recovery system, as defined in §115.10 of this title (relating to Definitions), with a control [destruction] efficiency of at least 90%.

(2) Any vent gas streams affected by §115.121(a)(2) [and (3)] of this title must be controlled [to a volatile organic compound (VOC) emission rate of no more than 20 parts per million by volume (on a dry basis corrected to 3.0% oxygen), or burned] properly:

(A) in a smokeless flare [or a direct-flame incinerator] which has a destruction efficiency of at least 98%. The owner or operator of an affected facility that uses a flare 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) in a direct-flame incinerator which has a destruction efficiency of at least 98%; or

(C) by any vapor recovery system, as defined in §115.10 of this title, which has:

(i) a control efficiency of at least 98%; or

(ii) a volatile organic compound (VOC) emission rate of no more than 20 parts per million by volume (on a dry basis corrected to 3% oxygen).

(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) [§115.121(a)(4)] of this title shall be reduced as follows.

(A)-(D) (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 at or below the controlled emissions level existing before [prior to] implementation of the project by which throughput or emission rate was reduced and less than the applicable exemption limits in §115.127(a) of this title; and:

(A) (No change.)

(B) if authorization by permit or standard exemption is not required for the project, the owner/operator has given the executive director [Texas Natural Resource Conservation Commission (TNRCC)] 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 [burned] properly:

(1) in a direct-flame incinerator at a temperature equal to or greater than 1,300°F (704°C);

(2) in a smokeless flare [or a direct-flame incinerator];  
or

(3) by any vapor recovery system, as defined in §115.10 of this title, with a control [destruction] efficiency of at least 90%.

(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 [burned] properly:

(A) in a direct-flame incinerator at a temperature equal to or greater than 1,300°F (704°C);

(B) in a smokeless flare [or a direct-flame incinerator];  
or

(C) by any vapor recovery system, as defined in §115.10 of this title, with a control efficiency of at least 90%.

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

(A) in a direct-flame incinerator or boiler at a temperature equal to or greater than 1,300°F (704°C) [in a direct-flame incinerator or boiler]; or

(B) by any vapor recovery system, as defined in §115.10 of this title, with a control efficiency of at least 90%.

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

(A) at a temperature equal to or greater than 1,300°F (704°C) in an afterburner having a retention time of at least one-fourth (1/4) of a second, and having a steady flame that is not affected by the cupola charge and relights automatically if extinguished; or

(B) by any vapor recovery system, as defined in §115.10 of this title, with a control efficiency of at least 90%.

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

(A) in a smokeless flare or in a combustion device used in a heating process associated with the operation of a blast furnace; or

(B) by any vapor recovery system, as defined in §115.10 of this title, with a control efficiency of at least 90%.

#### §115.123. Alternate Control Requirements.

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

(1) Alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this undesignated head (relating to Vent Gas Control) [section] may be approved by the executive director in accordance with §115.910 of this title (relating to Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent. [Direct-flame incineration specified for vent gas control in this undesignated head (relating to Vent Gas Control) is not intended as an exclusive emission control method for volatile organic compounds (VOC). In no event shall a vent gas stream be direct-flame incinerated without heat recovery if the incineration will have no practical effect in reducing the emission of air contaminants or will result in an actual degradation of air quality. Alternate vapor recovery systems which achieve the percent reduction efficiencies equivalent to direct-flame incinerators, as stated in §115.122(a) of this title (relating to Control Requirements), do not require executive director approval.]

(2) (No change.)

(b) For all persons in Nueces and Victoria Counties, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this undesignated head (relating to Vent Gas Control) [section] may be approved by the executive director in accordance with §115.910 of this title if emission reductions are demonstrated to be substantially equivalent. [Direct-flame incineration specified for vent gas control in this undesignated head (relating to Vent Gas Control) is not intended as an exclusive emission control method for VOC. In no event shall a vent gas stream be direct-flame incinerated without heat recovery if the incineration will have no practical effect in reducing the emission of air contaminants or will result in an actual degradation of air quality. Alternate vapor recovery systems which achieve the percent reduction efficiencies equivalent to direct-flame incinerators, as stated in §115.122(b) of this title, do not require executive director approval.]

(c) For all persons in Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis Counties, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this undesignated head (relating to Vent Gas Control) [section] may be approved by the executive director in accordance with §115.910 of this title if emission reductions are demonstrated to be substantially equivalent. [Direct-flame incineration specified for vent gas control in this undesignated head (relating to Vent Gas Control) is not intended as an exclusive emission control method for VOC. In no event shall a vent gas stream be direct-flame incinerated without heat recovery if the incineration will have no practical effect in reducing the emission of air contaminants or will result in an actual degradation of air quality. Alternate vapor recovery systems which achieve the percent reduction efficiencies equivalent to direct-flame incinerators, as stated in §115.122(c) of this title, do not require executive director approval.]

#### §115.126. Monitoring and Recordkeeping Requirements.

(a) 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 shall maintain records at the facility for at least two years and shall make such records available to representatives of the executive director [Texas Natural Resource Conservation Commission (TNRCC)], United States Environmental Protection Agency (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)-(2) (No change.)

(3) **As an alternative to the requirements of paragraph (2) of this subsection, records [Records]** for each vent exempted from control requirements in accordance with §115.127(a) of this title and having a VOC emission rate or [and] 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 [** including]:

[(A) ] 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. [; and]

[(B) daily operating parameters which may affect VOC emission from the vent sufficient to demonstrate that the maximum actual operating conditions represented for the affected facility have not been exceeded.]

(4) For bakeries 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 shall submit an initial control plan no later than May 31, 1995, to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] 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% by May 31, 1996. 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 1996 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, starting in 1997, to the executive director [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] 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% after May 31, 1996. 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 [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] 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.

(5) For bakeries 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 [TNRCC] publishes notification in the *Texas Register* as specified in §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 [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] 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 [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] 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 [TNRCC Austin Office (Office of Air Quality)], the appropriate [TNRCC] 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.

(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 [TNRCC], 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)-(2) (No change.)

(3) As an alternative to the requirements of paragraph (2) of this subsection, records [Records] for each vent exempted from control requirements in accordance with §115.127(b) of this title and having a VOC emission rate or [and] 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 [including]:

[(A) ] 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. [; and]

[(B) daily operating parameters which may affect VOC emission from the vent sufficient to demonstrate that the maximum actual operating conditions represented for the affected facility have not been exceeded.]

§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)-(B) (No change.)

(C) until November 15, 1999, [1998] 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 0.44 psia true partial pressure (30,000 ppm);

(D) a vent gas stream which is subject to §115.121(a)(2) or (3) [, (3), or (4)] of this title; and

(E) a vent gas stream which qualifies for exemption under paragraphs (3), (4)(B), (4)(C), (4)(D), (4)(E) [(4)], or (5) of this subsection.

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

(A)-(C) (No change.)

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

(A) Any reactor process or distillation operation that is designed and operated in a batch mode is exempt from the requirements of §115.121(a)(2)(A) [§115.121(a)(3)] of this title. For the purposes of this subparagraph, batch mode means any noncontinuous reactor process or distillation operation which is not characterized by steady-state conditions, and in which the addition of reactants does not occur simultaneously with the removal of products.

(B) Any reactor process or distillation operation operating in a process unit with a total design capacity of less than 1,100 tons per year, for all chemicals produced within that unit, is exempt from the requirements of §115.121(a)(2)(A) [§115.121(a)(3)] of this title.

(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 parts per million by volume is exempt from the requirements of §115.121(a)(2)(A) [§115.121(a)(3)] of this title.

(D) Any distillation operation vent gas stream which meets the requirements of 40 Code of Federal Regulations (CFR) 60.660(c)(4) or 60.662(c) (concerning Subpart NNN - Standards of Performance for VOC Emissions From SOCMI Distillation Operations, effective June 29, 1990 ) is exempt from the requirements of §115.121(a)(2)(A) [§115.121(a)(3)] of this title.

(E) Any reactor process vent gas stream which meets the requirements of 40 CFR 60.700(c)(2) or 60.702(c) (concerning Subpart RRR - Standards of Performance for VOC Emissions From SOCMI Reactor Processes, effective November 27, 1995) is exempt from the requirements of §115.121(a)(2)(A) [§115.121(a)(3)] of this title.

(5) Bakeries are exempt from the requirements of §115.121(a)(3) [§115.121(a)(4) ] and §115.122(a)(3) of this title (relating to Emission Specifications and Control Requirements) if the total weight of VOC emitted from all bakery ovens on the property, when uncontrolled, is less than 25 tons per calendar year.

(6)-(7) (No change.)

(b) (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) A vent gas stream from a low-density polyethylene plant [is exempt from the requirements of §115.121(c)(1) of this title if] provided that no more than 1.1 pounds of ethylene per 1,000 pounds (1.1 kg/1000 kg) of product are emitted from all the vent gas streams associated with the formation, handling, and storage of solidified product ;[.]

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

(B) [(A)] a vent gas stream having a combined weight of the VOC or classes of compounds specified in §115.121(c)(1)(B)-(C) of this title equal to or less than 100 pounds (45.4 kg) in any continuous 24-hour period; and

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

[(C) a vent gas stream from any process referenced in §115.121(c)(2) of this title emitting less than or equal to 5 tons (4,536 kg) of total uncontrolled VOC in any one calendar year.]

(2) A vent gas stream specified in §115.121(c)(2) of this title which emits less than or equal to 5 tons (4,536 kg) of

total uncontrolled VOC in any one calendar year is exempt from the requirements of §115.121(c)(2) of this title.

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

§115.129. *Counties and Compliance Schedules.*

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) [§115.121(a)(3)] of this title (relating to Emission Specifications) as soon as practicable, but no later than November 15, 1996.

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

(3) All bakeries in Collin, Dallas, Denton, and Tarrant Counties affected by §115.122(a)(3)(B) of this title shall be in compliance with §§115.121(a)(3) [§§115.121(a)(4)], 115.122(a)(3), 115.126(a)(4), and 115.127(a)(5) of this title as soon as practicable, but no later than May 31, 1996.

(4) All bakeries in Collin, Dallas, Denton, and Tarrant Counties affected by §115.122(a)(3)(C) of this title shall be in compliance with §§115.121(a)(3) [§§115.121(a)(4)], 115.122(a)(3)(C), 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 [Texas Natural Resource Conservation Commission (TNRCC)] 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 1990 Amendments to the Federal Clean Air Act (FCAA), §172(c)(9).

(5) All bakeries in El Paso County affected by §115.122(a)(3)(D) of this title shall be in compliance with §§115.121(a)(3) [§§115.121(a)(4)], 115.122(a)(3)(D), 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 [TNRCC] 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).

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

Issued in Austin, Texas, on November 8, 1996.

TRD-9616292

Barry S. Irwin

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: February 19, 1997

For further information, please call: (512) 239-1970

Subchapter D. Petroleum Refining, Natural Gas Processing, And Petrochemical Processes

Process Unit Turnaround And Vacuum-Producing Systems in Petroleum Refineries

30 TAC §§115.311-115.313, 115.319

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.

§115.311. *Emission Specifications.*

(a) For all affected persons 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), the following emission specifications on vacuum-producing systems shall apply:

(1) No person may be allowed to emit any volatile organic compound (VOC) from a steam ejector or mechanical vacuum pump in a petroleum refinery unless the vent stream is controlled [burned] properly in accordance with §115.312(a) of this title (relating to Control Requirements).

(2) No person may be allowed to emit any VOC from a hotwell with a contact condenser unless the hotwell is covered and the vapors from the hotwell are controlled [burned] properly in accordance with §115.312(a) of this title.

(b) For all affected persons in Gregg, Nueces, and Victoria Counties, the following emission specifications on vacuum-producing systems shall apply:

(1) No person may be allowed to emit any VOC from a steam ejector or mechanical vacuum pump in a petroleum refinery, unless the vent stream is controlled [burned] properly in accordance with §115.312(b)(2) of this title.

(2) No person may be allowed to emit any VOC from a hotwell with a contact condenser, unless the hotwell is covered and the vapors from the hotwell are controlled [burned] properly in accordance with §115.312(b)(2) of this title.

§115.312. *Control Requirements.*

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

(1) (No change.)

(2) Vent gas streams affected by §115.311(a) of this title (relating to Emission Specifications) must be controlled [burned] properly:

(A) in a direct-flame incinerator at a temperature equal to or greater than 1,300°F (704°C);

(B) in a smokeless flare [or a direct-flame incinerator];  
or

(C) by any vapor recovery system, as defined in §115.10 of this title (relating to Definitions), with a control [destruction] efficiency of at least 90%.

(b) For all affected persons in Gregg, Nueces, and Victoria Counties, the following control requirements shall apply:

(1) (No change.)

(2) Vent gas streams affected by §115.311(b) of this title must be controlled [burned] properly:

(A) in a direct-flame incinerator at a temperature equal to or greater than 1,300°F (704°C);

(B) in a smokeless flare [or a direct-flame incinerator];  
or

(C) by any vapor recovery system, as defined in §115.10 of this title, with a control [destruction] efficiency of at least 90%.

*§115.313. Alternate Control Requirements.*

(a) For all affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements in this section may be approved by the executive director in accordance with §115.910 of this title (relating to Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

(b) For all affected persons in Gregg, Nueces, and Victoria Counties, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements in this section may be approved by the executive director in accordance with §115.910 of this title (relating to Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

*§115.319. Counties and Compliance Schedules.*

All affected persons in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Gregg, Hardin, Harris, Jefferson, Liberty, Montgomery, Nueces, Orange, Tarrant, Victoria, and Waller Counties shall continue to comply with this undesignated head (relating to Process Unit Turnaround and Vacuum-Producing Systems in Petroleum Refineries) as required by §115.930 of this title (relating to Compliance Dates).

[(a) 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 Process Unit around and Vacuum-Producing Systems in Petroleum Refineries) in accordance with the following schedules:

[(1) All affected persons in Chambers, Collin, Denton, Fort Bend, Hardin, Liberty, Montgomery, and Waller Counties shall be in compliance with §115.311(a) of this title (relating to Emission Specifications), §115.312(a) of this title (relating to Control Requirements), §115.313(a) of this title (relating to Alternate Control Requirements), §115.315(a) of this title (relating to Testing Requirements), and §115.316(a) of this title (relating to Monitoring and Recordkeeping Requirements), as soon as practicable, but no later than July 31, 1993.

[(2) All persons in Dallas, Jefferson, Orange, and Tarrant Counties affected by the provisions of §115.316(a) of this title shall be in compliance with this section as soon as practicable, but no later than July 31, 1993.

[(b) All affected persons in Victoria County shall be in compliance with §115.316(b) of this title as soon as practicable, but no later than July 31, 1993.]

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

Issued in Austin, Texas, on November 8, 1996.

TRD-9616293

Barry S. Irwin

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: February 19, 1997

For further information, please call: (512) 239-1970

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Chapter 312. Sludge Use, Disposal and Transportation

Subchapter G. Transporters and Temporary Storage Provisions

30 TAC §312.143

The Texas Natural Resource Conservation Commission (commission) proposes an amendment to §312.143, concerning Transporters and Temporary Storage Provisions.

**EXPLANATION OF PROPOSED RULE.** The proposed changes are in response to a need resulting from a federal mandate of Subtitle D of the Resource Conservation and Recovery Act (RCRA) which bans liquid waste from being disposed of at landfills. Title 40 Code of Federal Regulations Parts 257 and 258, as amended, implement certain requirements of RCRA Subtitle D and generally prohibit bulk liquid waste disposal at municipal solid waste landfills. Since the ban of liquid waste receipt at landfills became effective on the dates of October 9, 1993, and April 9, 1994, a lack of disposal service for these liquid wastes is being observed in some regions of the state. The commission is concerned that much of the liquid wastes banned from landfilling by Subtitle D are being improperly handled causing a real and potential threat to the health and environment of the people of the state. Consequently, a need exists to adopt these amendments and a new sections.

The commission is promulgating this rule in order to encourage the establishment of full pump out of grease traps due to a reported and observed incomplete handling of liquid wastes from interceptors.

The proposed amendment to §312.143 relating to transporter delivery requirements, adds new language which states that each trap pumped shall be evacuated 100%.

**FISCAL NOTE.** Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five years this

section is in effect there will be fiscal implications as a result of administration and enforcement of the section.

**PUBLIC BENEFIT.** Mr. Minick has also determined that for the first five years the section as proposed is in effect, the public benefit anticipated as a result of enforcement of and compliance with the section will be improvements in the management and control of liquid waste. There are no known costs to individuals required to comply with the section as promulgated.

**TAKINGS IMPACT ASSESSMENT.** The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated, §2007.043. The following is a summary of that Assessment. The specific purpose of the proposed rules is to regulate mobile and fixed location liquid waste processing facilities. The rules will provide the authorization method as well as specific operational and design standards for commercial and publicly owned liquid waste processing units. Unless otherwise provided under existing regulation, any owner or operator who seeks a registration for a new activity specified under these new sections, must comply with all technical and administrative standards stipulated by the new regulations. These proposed sections of Chapter 330 will not involve a physical invasion, dedication, or exaction of real property, does not restrict or limit a property right that would otherwise exist, and does not eliminate any economic uses of private real property. The proposed rules will significantly contribute to an alleviation of any threat to human health and environment by establishing standards for mobile and fixed location liquid waste processing units. The proposed rules are necessary to advance the agency's mission of providing the public with protective and adequate health and safety relative to facilities wishing to engage in the management of liquid waste. These regulations are required to implement the agency's stated authority to establish such regulations and to protect human health and the environment. The proposed regulations do not impose a greater burden than is necessary to achieve the stated health and safety purpose.

**PUBLIC HEARING.** A public hearing on the proposal will be held on November 26, 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 35 Technology Center, 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 the hearing and answer questions before and after the hearing.

**SUBMITTAL OF COMMENTS.** Comments on the proposal should be submitted to Heather Evans, Texas Natural Resources Conversation Commission, Office of Policy and Regulatory Development, MC-205, P.O. Box 13087, Austin, Texas 78711-3087 and should reference Rule Log Number 95112-330-WS. Comments must be received by 5:00 p.m., 30 days from the date of publication of this proposal in the *Texas Register*. For further information or questions concerning this proposal, please contact Wayne Lee, Waste Policy and Regulations Division, at (512) 239-6815.

**STATUTORY AUTHORITY.** The amendment is proposed under the Texas Water Code, §5.103, which provides the commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state.

This section implements the Texas Health and Safety Code, §361.011(c) and §361.024(a).

§312.143. *Transporters - Delivery Requirement and Full Pump-out Requirement.*

Transporters shall deposit wastes at a facility designated by or acceptable to the generator where the owner or operator of the facility agrees to receive the wastes and the (Texas) facility has written authorization by permit or registration issued by the executive director to receive wastes. In this regard, "authorization by the executive director" means the executive director or commission has given its approval by rule, permit, letter, or other document that identifies the individual facility or class of facilities to receive that specific waste or class of waste. **Each grit trap and grease trap pumped shall be fully evacuated unless the trap volume is greater than the tank capacity on the vacuum truck.**

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

Issued in Austin, Texas, on November 12, 1996.

TRD-9616334

Barry S. Irwin

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: February 5, 1997

For further information, please call: (512) 239-1970

## Chapter 330. Municipal Solid Waste

The Texas Natural Resource Conservation Commission (commission) proposes an amendment to §330.4 and new §§330.71-330.73, concerning municipal solid waste management.

**EXPLANATION OF PROPOSED RULE.** The proposed changes are in response to a need resulting from a federal mandate of Subtitle D of the Resource Conservation and Recovery Act (RCRA) which bans liquid waste from being disposed of at landfills. Title 40 Code of Federal Regulations, Parts 257 and 258 as amended, implement certain requirements of RCRA Subtitle D and generally prohibit bulk liquid waste disposal at municipal solid waste landfills. Since the ban on liquid waste receipt at landfills became effective on the dates of October 9, 1993, and April 9, 1994, a lack of disposal service for these liquid wastes is being observed in some regions of the state. The commission is concerned that much of the liquid wastes banned from landfilling by Subtitle D are being improperly handled, causing a real and potential threat to the health and environment of the people of the state. Consequently, a need exists to adopt these amendments and new sections. The commission is promulgating this rule in order to encourage the establishment of processing facilities that handle liquid waste. An applicant wishing to operate a Type V municipal solid waste processing facility that processes grease trap waste, grit trap waste, or septage or a combination of these wastes may be



eligible for a registration in lieu of a permit, upon compliance with certain requirements. In particular, the facility must comply with design and operational requirements, and a public meeting must be held in the area where the facility is to be located.

An emerging technology related to mobile processing of liquid waste is being observed as a result of the ban of disposal of liquid waste at landfills. Mobile liquid waste processes have not as yet been regulated by the commission, and these rules will establish operating and design requirements for mobile processing units that handle liquid waste. An applicant wishing to operate a mobile municipal solid waste processing unit that processes grease trap waste, grit trap waste, or septage or a combination of these wastes must obtain a registration and comply with certain design and operational requirements.

Also, this proposed rule will encourage the establishment of new methods for processing and handling liquid wastes such as grease trap waste, grit trap waste, and septage. An applicant wishing to operate a Type VI municipal solid waste processing facility to demonstrate a new process of managing grease trap waste, grit trap waste, or septage or a combination of these wastes may be eligible for a registration in lieu of a permit upon compliance with certain requirements. In particular, the facility must comply with design and operational requirements, and a public meeting must be held in the area where the facility is to be located.

Proposed §330.4(s) relating to permit requirement adds new language which states that a permit is not required for a Type V municipal solid waste management facility that processes grease trap waste, grit trap waste or septage, or a combination of these liquid wastes if the facility meets certain operational criteria, design criteria, and if certain recovery of materials is attained, or if the new facility is located at an existing permitted facility.

Proposed §330.4(t) relating to permit requirement adds new language which states that a registration is required for a mobile municipal solid waste management facility that processes grease trap waste, grit trap waste or septage, or a combination of these liquid wastes.

Proposed §330.4(u) relating to permit requirements adds new language stating that a permit is not required for a Type VI municipal solid waste management demonstration facility demonstrating a new process for handling grease trap waste, grit trap waste or septage, or a combination of these liquid wastes, if the facility meets certain operational and design criteria.

Proposed new §330.71 relating to requirements for an application for registration of municipal solid waste facilities (Type V) that process grease trap waste, grit trap waste, or septage or a combination is added which delineates operational standards, and design criteria which must be met by liquid waste processing facilities exempted from permit requirements under §330.4(s). The commission will register those facilities which the executive director determines have met the operation and design requirements in §330.71.

Proposed new §330.72 relating to requirements for an application for registration of mobile liquid waste processing units that process grease trap waste, grit trap waste, or septage,

or a combination is added which delineates operational standards and design criteria which must be met by mobile liquid waste processing facilities exempted from permit requirements under §330.4(t). The commission will register those mobile units which the executive director determines have met the operation and design requirements in §330.72.

Proposed new §330.73 relating to requirements for an application for registration of municipal solid waste facilities (Type VI) that demonstrate new handling or processing methods for grease trap waste, grit trap waste, or septage is being added to delineate operational standards and design criteria which must be met by liquid waste processing facilities exempted from permit requirements under §330.4(u) in order to be registered.

**FISCAL NOTE.** Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five years these sections as proposed are in effect there will be fiscal implications as a result of administration and enforcement of the sections. The effects on state government will be both a reduction in certain costs of permit processing and an increase in other costs related to the approval of registrations. Costs to the state for processing permit applications and amendments for those municipal solid waste management facilities eligible for exemption from permitting requirements will be substantially reduced. These savings will be mitigated partially by the requirement to review and approve registrations filed by those facilities seeking to operate under an exempt status. In addition, the proposed requirement to register mobile liquid waste processing facilities will increase costs to the state. The net effects of these changes in costs are prospective and cannot be determined in advance of facilities electing to operate under the proposed provisions. Although it is anticipated that the net effect will be a reduction in cost, the actual savings are not anticipated to represent a significant reduction in budgeted expenses of the agency.

**PUBLIC BENEFIT.** Mr. Minick has also determined that for each year of the first five years the sections as proposed are in effect, the public benefit anticipated as a result of enforcement of and compliance with the sections will be improvements in the management and control of liquid waste and more cost-effective regulation of municipal solid waste processing and recovery. The effects on operators subject to these sections will be potential reduction in costs for qualified facilities electing to operate as exempt facilities. The cost savings from the exemption from the requirement to obtain a permit will vary on a case by case basis and cannot be estimated. For larger facilities proposing to operate in some locations, the costs avoided could be significant. The costs for mobile processors subject to new registration requirements is not anticipated to be substantial. Many entities affected by these sections, particularly mobile processors, are small businesses. The effects on small businesses will be similar to those for any concern affected by these sections and will vary with the size of the operation, its location, and the ability to operate under specific provision of these rules. There are no known economic costs to individuals required to comply with the sections as proposed that are not already identified.

**TAKINGS IMPACT ASSESSMENT.** The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated, §2007.043. The follow-

ing is a summary of that Assessment. The specific purpose of the proposed rules is to regulate mobile and fixed location liquid waste processing facilities. The rules will provide the authorization method as well as specific operational and design standards for commercial and publicly owned liquid waste processing units. Unless otherwise provided under existing regulation, any owner or operator who seeks a registration for a new activity specified under these new sections, must comply with all technical and administrative standards stipulated by the new regulations. These proposed sections of Chapter 330 will not involve a physical invasion, dedication, or exaction of real property, does not restrict or limit a property right that would otherwise exist, and does not eliminate any economic uses of private real property. The proposed rules will significantly contribute to an alleviation of any threat to human health and environment by establishing standards for mobile and fixed location liquid waste processing units. The proposed rules are necessary to advance the agency's mission of providing the public with protective and adequate health and safety relative to facilities wishing to engage in the management of liquid waste. These regulations are required to implement the agency's stated authority to establish such regulations and to protect human health and the environment. The proposed regulations do not impose a greater burden than is necessary to achieve the stated health and safety purpose.

**PUBLIC HEARING.** A public hearing on the proposal will be held on November 26, 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 35 Technology Center, 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 the hearing and answer questions before and after the hearing.

**SUBMITTAL OF COMMENTS.** Comments on the proposal may be submitted to Heather Evans, Texas Natural Resource Conservation Commission, Office of Policy and Regulatory Development, MC-205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808, and should reference Rule Log Number 95112-330-WS. Comments must be received by 5:00 p.m., 30 days from the date of publication of this proposal in the *Texas Register*. For further information or questions concerning this proposal, please contact Wayne Lee, Waste Policy and Regulations Division, at (512) 239-6815.

#### Subchapter A. General Information

##### 30 TAC §330.4

**STATUTORY AUTHORITY.** The amendment is proposed under the authority of the Texas Water Code, §5.103, which provides the commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state. Additionally, they are proposed pursuant to the Texas Solid Waste Disposal Act, §361.024, Texas Health and Safety Code, which provides the commission with the authority to regulate municipal solid waste and adopt rules as necessary to regulate the operation, management and control of solid waste under its jurisdiction.

The amendment and new sections implement the Texas Health and Safety Code, §361.011(c) and §361.024(a).

##### §330.4. Permit Required.

(a)-(r) (No change.)

(s) A permit is not required for a municipal solid waste Type V processing facility that processes only grease trap waste, grit trap waste, or septage or a combination of these three liquid wastes if:

(1) the facility can attain a 10% recovery of material for beneficial use from the incoming waste. Recovery of material for beneficial use is considered to be the recovery of fats, oils, greases and the recovery of food solids for composting, but does not include the recovery of water.

(2) the Type V processing facility is located within the permit boundaries of a commission permitted Type I landfill, or

(3) the Type V processing facility is located at a manned treatment facility permitted under the Texas Water Code, Chapter 26 and which is permitted to discharge at least 1,000,000 gallons per day and which is owned by and operated for the benefit of a political subdivision of this state. Facilities meeting any of these exemptions must obtain a registration by meeting the operational criteria and design criteria established in §330.71 of this title (relating to Registration for Municipal Solid Waste Facilities that Process Grease Trap Waste, Grit Trap Waste, or Septage).

(t) A registration is required for a mobile liquid waste processing facility that processes grease trap waste, grit trap waste, or septage or a combination of these three liquid wastes. Mobile liquid waste processing facilities must obtain a registration by meeting the operational criteria and design criteria established in §330.72 of this title (relating to Registration of Mobile Liquid Waste Processing Units).

(u) A permit is not required for a municipal solid waste Type VI facility that demonstrates new management methods for processing or handling grease trap waste, grit trap waste, or septage or a combination of these three liquid wastes. Those facilities meeting this exemption must obtain a registration by meeting the operational criteria and design criteria established in §330.73 of this title (relating to Registration of Demonstration Projects for Liquid Waste Processing Facilities).

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

Issued in Austin, Texas, on November 12, 1996.

TRD-9616335

Barry S. Irwin

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: February 5, 1997

For further information, please call: (512) 239-1970

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Subchapter E. Permit Procedures and Design  
Criteria

### 30 TAC §§330.71-330.73

The new sections are proposed under §5.103 of the Texas Water Code, which provides the Texas Natural Resource Conservation Commission (commission) with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of this state. Additionally, they are proposed pursuant to §361.024 of the Texas Solid Waste Disposal Act, (the Act), Texas Health and Safety Code, which provides the commission with the authority to regulate municipal solid waste and adopt rules as necessary to regulate the operation, management and control of solid waste under its jurisdiction.

These sections implement the Texas Health and Safety Code, §361.011(c) and §361.024(a).

§330.71. *Registration for Municipal Solid Waste Facilities that Process Grease Trap Waste, Grit Trap Waste, or Septage.*

#### (a) Applicability.

(1) This section shall apply to new municipal solid waste Type V processing facilities that process only grease trap waste, grit trap waste or septage or any combination of these three liquid wastes, and are seeking a registration to authorize such activities in accordance with §330.4(s) of this title (relating to Permit Required). For the purposes of this subsection, grit trap waste means only grit trap waste from commercial car washes and excludes grit trap waste from other generators. A Type V processing facility which processes the liquid wastes specified in this section is eligible for a registration if the facility attains a material recovery rate of 10% from the incoming waste for beneficial use or if the facility is located within the boundaries of a commission permitted disposal facility, subject to delineated limitations. Type V facilities not meeting the exemption criteria may apply for a regular permit under §330.51 of this title (relating to Permit Application for Municipal Solid Waste Facilities).

(2) Facilities under this subsection that have been in operation prior to October 9, 1993, and are operating at a treatment facility permitted under the Texas Water Code, Chapter 26 and have not been permitted, may be authorized by notification. Notification shall consist of completion of a commission application form, submittal of process data, submittal of location information, submittal of an operating plan, submittal of a demonstration of the ability to meet applicable effluent standards, and submittal of evidence of compliance with the trip ticket system. Upon completion of the requirements for notification, the facility will be issued a registration number.

(3) Facilities that have received a permit and wish to add capacity may apply for a registration in lieu of a permit amendment if they meet the permit exemptions established in §330.4(s) of this title.

(b) General prohibitions. A person may not cause, suffer, allow, or permit the collection, storage, transportation, processing, or disposal of liquid waste or solid waste, or the use or operation of a liquid waste processing unit to store, process, or dispose of liquid waste or solid waste, in violation of the Texas Solid Waste Disposal Act, or any regulations, rules, permit, license, registration, or order of the commission or in such a manner so as to cause:

(1) the discharge or imminent threat of discharge of liquid waste or solid waste to the waters of the state without obtaining specific authorization for such discharge from the commission;

(2) the creation and maintenance of a nuisance;

(3) the endangerment of the human health and welfare or the environment.

(c) General facility design requirements.

(1) A statement justifying the facility's exemption from permit requirements as established under §330.4(s) of this title must be included in the registration application.

(2) Waste solids produced by the processing facility must be disposed of in an authorized solid waste disposal facility.

(3) If liquid wastes produced by the processing facility are discharged to a treatment facility permitted under the Texas Water Code, Chapter 26 the discharge shall not:

(A) interfere with or pass-through the treatment facility;

(B) interfere with or pass-through its treatment processes or operations;

(C) interfere with or pass-through its sludge processes, use or disposal; or

(D) otherwise be inconsistent with the prohibited discharge standards including 40 Code of Federal Regulations (40 CFR) Part 403 "General Pretreatment Regulations for Existing and New Source Pollution."

(4) Discharge to a septic system is prohibited.

(d) General registration, construction, and operation requirements.

(1) Prior to beginning construction, a registration application must be submitted containing all information required by this section to demonstrate compliance with these regulations.

(2) Prior to beginning construction, the applicant together with the executive director, shall conduct a public meeting in the local area to describe the proposed action to the general public. A public meeting under this section is not a contested case hearing under the Administrative Procedure Act, Texas Government Code, Chapter 2001. Notice of the public meeting shall be given as prescribed by §305.107(c) of this title (relating to Public Meeting and Notice Requirements).

(3) The operation of the facility shall not begin until a pre-opening inspection has been conducted and written authorization to accept waste has been given by the executive director.

(4) Owners and operators must comply with all applicable requirements of this section.

(5) Owners and operators shall remain responsible for making corrections or changes that are necessary to meet requirements prior to operating the facility.

(6) If a registered facility does not begin construction within two years of obtaining its registration, the registration shall terminate and shall no longer be effective under §330.4(s) of this title.

(7) Any change in the site operating plan must be approved prior to implementation.

(e) Registration application. The registration application shall be a completed Part A Application Form and an engineering report prepared and sealed by a professional engineer as required by the Texas Engineering Practice Act. The engineering report shall consist of all applicable information required in §330.52 of this title (relating to Technical Requirements of Part I of the application). Information required by §330.52 of this title includes but is not limited to maps, legal description, property owner affidavit, legal authority, evidence of competency, and evidence of financial assurance. Additional requirements of the contents of the engineering report are outlined as follows.

(1) Number of Copies. Applicants for registration shall submit four copies of the completed application for registration.

(2) Land use narrative.

(A) A land use narrative shall be included in the engineering report with a description of the surrounding land use within one-half (½) mile of the site and generalized indications of land use shall be shown on a topographic map or recent aerial photograph (scale not over 1:12,000).

(B) The applicant shall include documentation of local government review, approval, or acceptance of the site location, e.g., conformity with local zoning restrictions, building permit, license, nonconforming use authorization, etc. These regulations do not grant authorization for development/operation of the facility in noncompliance with local government ordinances and regulations.

(C) Maps shall be supplied that comply with the requirements §281.5 of this title (relating to Application for Wastewater Discharge, Underground Injection, Municipal Solid Waste, Hazardous Waste, and Industrial Solid Waste Management Permits) by locating the property owned by adjacent and potentially affected landowners. The maps should show all property ownership within 500 feet of the site.

(D) The Adjacent and Potentially Affected Landowners List shall be keyed to the Land Ownership Maps and shall give each property owner's name and mailing address. The list shall comply with the requirements of §281.5 of this title (relating to Application for Wastewater Discharge, Underground Injection, Municipal Solid Waste, Hazardous Waste, and Industrial Solid Waste Management Permits). The list shall include all property owners within 500 feet of the site.

(3) Site plan. A site plan shall be included in the engineering report showing the general design criteria incorporated in a set of general plans and specifications. A site layout plan, signed and sealed by the registered professional engineer preparing the plans shall be provided.

(4) Waste information.

(A) Waste identification. Design information shall be submitted identifying the sources and characteristics of waste proposed to be received for processing. An analysis of each general type of waste to be processed by the facility shall be submitted to include constituent concentrations and characteristics, including, but not limited to: pH; oil and grease concentration; total suspended solids; biochemical oxygen demand; biological oxygen demand; and

other constituents that may impact the design or operation of the facility.

(B) Waste data. Waste data shall include: the types and an estimate of the amount of each liquid waste to be received daily; the maximum amount of waste to be stored at any one point in time; the maximum and average lengths of time that waste is to remain on the site the maximum and average waste processing times; and the intended destination of the solids and liquids generated by this facility. Additionally, if applicable, a descriptive narrative must be included that describes how 10% of the incoming waste will be recovered and its intended use.

(C) Processed wastes. The specifications for the general characteristics and constituent concentrations of all wastes leaving the facility shall be submitted. Written documentation shall be included in the registration application for assurance that all processed waste (liquid and solid) leaving the facility will be adequately handled by other facilities, which are licensed, permitted, registered or otherwise authorized by the appropriate agencies to receive the solid and liquid wastes generated at the facility at the volumes and concentrations estimated in the facility design. An estimate shall be given for the amount and planned method for testing and final disposal of wastes resulting from the process. An estimate of the volume of process water and the planned method of treatment of such process water shall be provided.

(5) Process design. A process design shall be included to show the general design of the overall processing facility. At a minimum, the following data shall be included:

(A) flow diagrams indicating the processing sequences proposed for the various types of wastes received;

(B) schematic view drawings showing the various phases of collection, separation, treatment, and disposal, as applicable, for the types of wastes received for processing;

(C) proposed odor control measures for each storage, separation, and processing unit;

(D) generalized construction details of all treatment and storage components (i.e., tanks, sumps, etc.) with regard to approximate dimensions and capacities, construction materials, vents, covers, enclosures, protective coatings of exposed surfaces, etc. Vendor performance data sheets on all units shall be provided if available and where applicable;

(E) generalized construction details of slab and sub-surface supports of all treatment and storage components;

(F) locations and engineering design details, including supporting calculations, of all spill containment dikes or walls (with indicated freeboard) proposed to enclose all treatment, processing, and storage components and all loading and unloading areas;

(G) plans for the on-site storage of grease, oil, and sludge, including maximum periods of time all recovered materials will remain on-site and the ultimate disposition of such materials off-site; and

(H) proposed disposition of effluent and sludge resulting from all treatment and processing operations.

(6) Site operating plan. The operating plan must consider applicable requirements of Subchapter G of this chapter (relating to

Operational Standards For Solid Waste Processing and Experimental Sites). Where applicable, the site operating plan shall include:

(A) provisions for the control of accidental spillage at the facility;

(B) provisions for periodic cleaning of storage, treatment, and processing units;

(C) maximum allowable period of time unprocessed and processed waste are to remain on-site;

(D) contingency plans for facility breakdown, catastrophic vessel failure, and accidental discharges;

(E) quality control plans to ensure that hazardous waste and other unauthorized wastes will not be unloaded or processed at the facility;

(F) plans indicating how wash waters will be collected and disposed of in an authorized manner;

(G) a description of the facility operation;

(H) operational characteristics of the equipment;

(I) facility maintenance;

(J) emergency procedures;

(K) operating hours;

(L) vector control procedures;

(M) alternate processing procedures in the event the processing facility becomes inoperable for longer than 24 hours;

(N) inspection of incoming loads;

(O) record retention provisions for results of incoming load inspections;

(P) training of personnel to recognize hazardous waste;

(Q) handling procedures for hazardous waste suspected or discovered on-site;

(R) record retention provisions for trip tickets as required by §312.145 of this title (relating to Transporters - Record Keeping);

(S) record keeping provisions to justify, on a quarterly basis, that 10% or more of the incoming waste is processed to recover recycled products for applicable facilities (failure to achieve the 10% recycling rate over four consecutive quarters will cause the registration to terminate and require the facility to obtain a permit); and

(T) odor control provisions.

(7) Legal description. A legal description of the property, including the book and page number of the county deed records, and the name and address of the current property owner shall be submitted. The legal description shall be a metes and bounds description of the site signed and sealed by a registered professional land surveyor. A drawing of the description, signed and sealed by the surveyor, shall also be submitted. If the property is platted, the book and page number of the final plat record and a copy of the final plat shall be submitted;

(8) Evidence of competency.

(A) The applicant shall submit a list of all solid waste facilities which the applicant has owned or operated within the past ten years. The facility name, permit or registration number, location, and dates of operation shall also be submitted.

(B) The names of the principals and supervisors of the applicant's organization shall be provided, together with previous affiliations with other organizations engaged in solid waste activities in Texas.

(9) Evidence of financial assurance. Evidence of financial assurance shall be provided in accordance with §§330.9, 330.282, 330.285, and 330.286 of this title (relating to Financial Assurance Required, Financial Assurance for Closure of Process Facilities, Financial Assurance Mechanisms, and Wording of the Instruments). A cost estimate of the cost to close the facility shall be submitted as part of the application.

(10) Statement of applicant. The following document shall be signed, notarized, and submitted with the application:

(A) Statement of applicant:  
Figure 1: 30 TAC §330.71(e)(10)(A)

(B) Statement of applicant:  
Figure 2: 30 TAC §330.71(e)(10)(B)

(f) Design criteria. The engineering report for the registration application shall consider the following criteria.

(1) Site access. The site access road from a publicly-owned roadway shall be at least a two lane paved road, designed for the expected traffic flow. The access road design shall include adequate turning radii according to the vehicles that will utilize the site and shall avoid disruption of normal traffic patterns. A positive means to control dust and mud shall be provided.

(2) Access control. Access to the site shall be controlled by a perimeter fence, four or six foot barbed wire or chain-link, with lockable gates. An attendant shall be on-site during operating hours. A sign shall be provided that gives the site name, registrant name, registration number, and operating hours.

(3) Miscellaneous design details. The facility shall be designed in accordance with all local building code and land development code requirements.

(4) Water pollution control. Provisions for the treatment of wastewaters from the facility shall be provided. The applicant shall obtain any permit or other approval required by state or local code for the system installed. A statement from the treatment facility permitted under the Texas Water Code, Chapter 26 indicating the compatibility of the facility with the treatment facility shall be attached to the application with requirements set by the treatment facility for discharge. The daily effluent design standard for oil and grease concentration leaving the facility and entering a public sewer system shall not exceed 200 mg/liter or the concentration established in the wastewater discharge permit pretreatment limit or the concentration established by the treatment facility permitted under the Texas Water Code, Chapter 26. In general, the following effluent standards should be used for design considerations:  
Figure 3: 30 TAC §330.71(f)(4)

(5) Air pollution and ventilation.

(A) The facility shall be designed to prevent nuisance odors from leaving the property boundary of the permitted facility.

The facility shall be designed to allow a minimal time of exposure of liquid waste to the air. All facilities and air pollution abatement devices constructed pursuant to this registration must obtain authorization, pursuant to Chapter 116 of this title (relating to Control of Air Pollution By Permits for New Construction or Modifications), from the Office of Air Quality prior to the start of construction.

(B) Ventilation of structures designed in accordance with applicable codes shall be provided.

(C) An air scrubber unit or equivalent technology for odor control shall be provided for any facility structure that houses a portion of the facility process that handles unprocessed liquid waste or final product that is in open contact with the air.

(D) Suitable deodorants such as biological deodorants, shall be made available to control odors from spills of untreated liquid waste. Openings to processing buildings shall be controlled to prevent release of nuisance odors to the atmosphere.

(E) All air pollution emission capture and abatement equipment or equivalent technology shall be properly maintained and operated during the facility operation. Cleaning and maintenance of the abatement equipment shall be performed as recommended by the manufacturer and as necessary so that the equipment efficiency can be adequately maintained.

(F) A design must be provided showing the unloading of liquid waste into the facility will be in a manner that minimizes waste contact with air.

(G) Air emissions from this facility must not cause or contribute to a condition of air pollution as defined in the Texas Clean Air Act.

(H) Consideration should be given to additional buffer zones within the facility property boundary for odor control.

(I) All liquid waste and solid waste shall be stored in odor retaining containers and vessels.

(J) If nuisance odors are found to be passing the facility boundary, the facility owner or operator may be required to suspend operations until the nuisance is abated.

(K) Notification for upsets and maintenance shall be made in accordance with §101.6 and §101.7 of this title (relating to Notification Requirements for Major Upset and Notification Requirements for Maintenance).

(6) Storage requirements.

(A) On-site storage of recyclable materials should be provided and this area should be separate from the process area. Control of odors and vectors from the recyclable material storage area shall be maintained.

(B) Storage of unprocessed waste and recycled materials shall be in an enclosed building, vessel, or container.

(7) Fire protection. A fire protection plan shall be prepared. This fire protection plan shall describe the source of fire protection (a local fire department, fire hydrants, fire extinguishers, water tanks, water well, etc.), procedures for using the fire protection source, and employee training and safety procedures. The fire protection plan shall comply with local fire codes.

(8) Noise pollution and screening. Screening or other measures to minimize noise pollution and adverse visual impacts shall be provided.

(9) Site drainage. Drainage provisions for controlling surface water on or near the facility shall be provided. Drainage calculations for the site shall be provided such as those established by standards in §330.55 of this title (relating to Site Development Plan).

(10) Site facilities. The site shall provide facilities for potable water, sanitary purposes, office, maintenance, and recyclable materials storage. Concrete pads with raised curbs around the perimeter of the storage and processing areas or asphalt paved areas with beams shall be utilized to control spills and contaminated water. The applicant must demonstrate that the spill containment structures are adequate to contain a spill resulting from the catastrophic failure of the largest storage or processing vessel. The storage and process areas shall have secondary containment structures to prevent releases to the waters of the state and to control spills.

(11) The operating plan must consider applicable requirements of Subchapter G of this chapter (relating to Operational Standards For Solid Waste Processing and Experimental Sites). Where applicable, the site operating plan shall include: At a minimum, analyses shall be made for benzene, lead, and total petroleum hydrocarbons (TPH). Sludges that are disposed of at a municipal solid waste landfill must be analyzed annually for benzene, lead, and TPH. At a minimum, effluent from the facility must be analyzed annually for fats, oils, greases and pH. Records of each analysis shall be maintained at the facility for a minimum of three years. All sampling and analysis shall be done according to EPA approved methods.

(12) Sludge control. The facility shall be designed and operated in a manner that sludges produced pass the Paint Filter Liquids Test, (EPA method 9095) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication Number SW-846). The facility shall be designed and operated to produce a sludge that is accepted at municipal landfills and does not exceed the following standards:  
Figure 4: 30 TAC §330.71(f)(12)

(13) Storage limits. The maximum time allowed for storage of unprocessed waste is 72 hours.

(14) Hazardous waste. The facility may not receive hazardous waste.

(15) 100-Year flood. The facility shall not be located in a 100-year floodplain.

(g) Enforceability. The regulations under this section are enforceable by local governments of Texas.

(h) Fees. The liquid waste processing facility shall pay a quarterly fee to the commission based on requirements of §§330.601, 330.602, and 330.603 of this title (relating to Purpose and Applicability, Fees, and Reporting).

(i) Fee reports. Fee reports shall be submitted to the commission as required by applicable portions of §330.601(b)(3) and §330.603 of this title.

(j) Motion for Reconsideration. In regard to motions for reconsideration, notwithstanding §50.31(c)(8) of this title (relating to Purpose and Applicability), applications for registration under this

subchapter are governed by §50.31(b)-(f) of this title (relating to Motion for Reconsideration). The rights of the public regarding motion for reconsideration shall be explained in public notices given under this section. Notice of issuance of registration shall be mailed to adjacent and potentially affected landowners as shown on the land ownership map and landowners list under subsection (e)(2)(C) and (D) of this section, and to any other person requesting notice. The applicant or a person affected may file with the chief clerk a motion for reconsideration, under §50.39(b)-(f) of this title (relating to Motion for Reconsideration), of the executive director's final approval of an application. Notice of issuance of registration shall be published once in the same manner as prescribed by §305.107(c) of this title.

**§330.72. Registration for Mobile Liquid Waste Processing Units.**

**(a) Applicability.**

(1) This section shall apply to mobile liquid waste processing units that process grease trap waste, grit trap waste or septage or any combination of these three liquid wastes, and are seeking a registration to authorize such activities in accordance with §330.4(t) of this title (relating to Permit Required). For the purposes of this section liquid waste shall mean grease trap waste, grit trap waste, or septage. For purposes of this section, grit trap waste means grit trap waste from commercial car washes, and excludes grit trap waste from other generators. For purposes of this section, mobile liquid waste processing shall be limited to the processing of liquid waste while at a generator's trap or in transit to or from such a trap.

(2) This section is applicable if liquid waste is discharged to a trap, interceptor, or a treatment facility permitted under the Texas Water Code, Chapter 26 by a mobile liquid waste processor.

(3) This section is not applicable for liquid waste transporters who only transport to an approved disposal site such as a Type I landfill or a Type V processing facility without processing the waste.

(4) The mobile liquid waste processing units regulated under this section include truck mounted processes that are also known as separator trucks, and any other liquid waste processes that are not considered to be fixed to a specific location.

(5) This section is not meant to supplant rules or ordinances of local governments where stricter standards are in effect.

(6) Existing mobile liquid waste processing units must comply with applicable requirements of this section and must notify the executive director of their operation within 30 days of the effective date of these regulations to receive a schedule for registration application and engineering plan submittal. Full compliance must be achieved by operators of mobile processing units no later than 180 days following the effective date of those regulations.

(7) This section is not applicable to septage if waste has received only a pH adjustment prior to or during transportation for disposal at a treatment facility permitted under the Texas Water Code, Chapter 26 or other authorized facility.

(b) Registration application. The registration application shall consist of three parts. The first part shall be a completed application form supplied by the agency. The second part of the application shall be an engineering report submitted to the agency including, but not limited to: documentation of incoming waste rates; a process description; a waste monitoring plan; a waste sampling and analysis plan; an indication of expected waste discharge points;

evidence of financial assurance; and an accidental spill response plan. The third part of the application is a demonstration of viability conducted at a commission region or central office or demonstrated to a local government.

**(c) Mobile processing unit design.**

(1) The mobile liquid waste unit should be designed and operated to meet the effluent limits imposed by its treatment facility permitted under the Texas Water Code, Chapter 26 or National Pollutant Discharge Elimination System (NPDES) permit or the following liquid effluent limits if the discharge points do not require compliance with locally set limits:

Figure 1: 30 TAC §330.72(c)(1)

(2) Waste solids (sludges) produced by the mobile processing unit must be disposed of in a solid waste disposal facility regulated by the State of Texas or other location approved by the executive director. Solids should be dewatered to the point that they pass the United States Environmental Protection Agency (EPA) paint filter test, EPA test method 9095, or they should be taken to an authorized facility to be dewatered prior to landfilling.

(3) If effluent produced by the mobile processing unit is discharged to a treatment facility permitted under the Texas Water Code, Chapter 26, the discharge shall not:

(A) interfere with or pass-through the treatment facility;

(B) interfere with or pass-through its treatment processes or operations;

(C) interfere with or pass-through its sludge processes, use or disposal; or

(D) otherwise be inconsistent with the discharge standards including 40 Code of Federal Regulations Part 403 "General Pretreatment Regulations for Existing and New Sources of Pollution".

(4) Written approval from the receiving treatment facility permitted under the Texas Water Code, Chapter 26 must be submitted as a part of the application.

**(d) Unit operation.**

(1) A registration application must be submitted with all information required by this section to demonstrate compliance with these regulations.

(2) Operation of each mobile unit shall not be initiated until a pre-operation inspection of each mobile unit has been conducted and written authorization to accept waste has been given by the executive director. The pre-operation inspection shall consist of a series of tests to ascertain the quality of effluent delivered to a treatment facility permitted under the Texas Water Code, Chapter 26.

(3) Owners and operators shall comply with all applicable requirements of this section.

(4) Owners and operators shall remain responsible for making corrections or changes that are necessary to meet requirements prior to operating the mobile unit.

(5) If a registered mobile unit does not begin operation within two years of obtaining its registration, the registration shall terminate and shall no longer be effective under §330.4(t) of this title.



(e) Demonstration of viability. The applicant shall demonstrate under field conditions that the process works. The demonstration shall be conducted under the supervision of experienced executive director staff or local government staff. The viability demonstration shall be made by processing three traps in a single day. The traps shall not have been serviced for at least 30 days prior to the demonstration. The volume of material to be processed before unloading shall be consistent with manufacturer's performance specifications and the operating plan, particularly as to the expected ratios between gross volumes processed and amounts discharged following processing. Multiple grab samples of effluent to be discharged shall be tested for fats, oils, greases, and pH and shall meet specified limits.

(f) Registration application. The registration application shall be a completed Part A Application Form and an engineering report prepared and sealed by a professional engineer as required by the Texas Engineering Practice Act. Requirements of the contents of the engineering report are outlined as follows.

(1) Number of copies. Applicants for registration shall submit three copies of the completed application for registration.

(2) Local government approval. The applicant shall include documentation of affirmative local government approval or acceptance of the mobile unit operation, including conformity with local ordinances, local rules, or requirements set forth by the treatment facility for the discharge, including local limits, zoning restrictions, permits, licenses, authorizations, etc. These regulations do not grant authorization for operation of mobile liquid waste processing units in noncompliance with local government ordinances and regulations or without the express approval of the local wastewater authority. Discharge from a mobile liquid waste processing units is allowed only at selected disposal points selected by the local treatment facility permitted under the Texas Water Code, Chapter 26 so that they can be monitored by the local treatment facility.

(3) Mobile processing unit plans. A plan shall be included in the engineering report showing the general unit design criteria incorporated in a set of general plans and specifications. The plans shall be signed and sealed by the registered professional engineer preparing the plans.

(4) Waste information.

(A) Waste identification. For purposes of the process design, information shall be submitted identifying the sources and characteristics of waste proposed to be received for processing. An analysis of each general type of waste to be processed by the unit shall be submitted to include constituent concentrations and characteristics such as: pH; fats; oil; and grease concentration, total suspended solids; biological oxygen demand (BOD); and other constituents that may impact the design or operation of the unit.

(B) Solid waste data. The solid waste data shall include: the types and an estimate of the amount of each liquid waste to be processed daily; the maximum amount of liquid and solid waste to be stored at any one point in time; the maximum and average lengths of time that solid waste is to remain in the mobile unit; the maximum and average waste processing times; and the intended destination of all solid and liquid wastes generated by the mobile liquid waste processing unit.

(C) Processed wastes. The specifications for the general characteristics and constituent concentrations of all wastes

(liquid and solid) and beneficial use products leaving the mobile unit shall be submitted. Written documentation shall be included in the registration application for assurance that all processed waste (liquid and solid) leaving the unit will be adequately handled by other facilities, which are licensed, permitted, registered or otherwise authorized by the appropriate agencies to receive the solid and liquid wastes generated by the unit at the volumes and concentrations estimated in the unit's design. An estimate shall be given for the amount and planned method for testing and final disposal of wastes resulting from the process. An estimate of the volume of process water and the planned method of treatment of such process water shall be provided.

(5) Process design. A process design shall be included to show the general design of the mobile processing unit. At a minimum, the following data shall be included:

(A) flow diagrams indicating the processing sequences proposed for the various types of wastes received;

(B) schematic view drawings showing the various phases of collection, separation, treatment, and disposal, as applicable, for the types of wastes received for processing;

(C) proposed odor control measures for each storage, separation, and processing unit;

(D) generalized construction details of all treatment and storage components with regard to approximate dimensions and capacities, construction materials, vents, covers, enclosures, protective coatings of exposed surfaces, etc. (Vendor performance data sheets on all units shall be provided if available and where applicable);

(E) generalized details of the method of maintaining records for quantities of liquids and quantities of solids disposed of;

(F) a spill control plan;

(G) plans for monitoring effluent; and

(H) proposed disposition of effluent and sludge resulting from all mobile treatment and processing operations.

(6) Unit operating plan. The operating plan must consider the requirements of §§330.152, 330.156, and 330.156 of this title (relating to Sanitation, Safety, and Fire Protection). The unit operating plan shall include:

(A) provisions for handling accidental spillage at the mobile unit;

(B) provisions for periodic cleaning of mobile storage, treatment, and processing units;

(C) maximum allowable period of time unprocessed and processed waste are to remain in the mobile unit;

(D) contingency plans for unit breakdown;

(E) quality control plans to ensure that hazardous waste and other unauthorized wastes will not be processed by the mobile unit;

(F) a description of how the mobile liquid waste processing unit will conform to the trip ticket system as required by §312.145 of this title, (relating to Transporters - Recording Keeping) including provisions to monitor quantities of discharge of processed water and waste materials;

- (G) a description of the unit's operation;
- (H) operational characteristics of the equipment;
- (I) maintenance of the unit;
- (J) catastrophic spill control procedures;
- (K) a description of how sampling and analysis records will be maintained;
- (L) vector control procedures;
- (M) alternate processing procedures in the event the processing unit becomes inoperable;
- (N) generalized indication of the expected waste discharge locations;
- (O) record retention for processed wastes;
- (P) training of personnel to recognize hazardous waste; and
- (Q) handling procedures for hazardous waste suspected or discovered.

(7) Sampling and analysis plan. A plan shall be submitted to show the method of sampling and analysis for the effluent discharged to a trap, interceptor, or treatment facility permitted under the Texas Water Code, Chapter 26. At a minimum the method of sampling, the frequency of sampling, and the tests to be made shall be part of the sampling and analysis plan. All sampling and analysis shall be done according to approved EPA methods. Records shall be maintained for a three year period.

(8) Evidence of competency.

(A) The applicant shall submit a list of all solid waste, liquid waste, or mobile waste units which the applicant has owned or operated within the past ten years. The applicant shall submit a list of any felony convictions dealing with improper handling of solid or liquid waste within the last ten years.

(B) The names of the principals and supervisors of the applicant's organization shall be provided, together with previous affiliations with other organizations engaged in solid or liquid waste activities in Texas.

(9) Evidence of financial assurance. Evidence of financial assurance shall be provided in accordance with §§330.9, 330.282, 330.285, and 330.286 of this title, (relating to Financial Assurance Required, Financial Assurance for Closure of Process Facilities, Financial Assurance Mechanisms, and Wording of the Instruments). A cost estimate of the cost to dispose of the contents of the unit, if abandoned or rendered unusable, shall be submitted prior to operation.

(10) Statement of applicant. The following document shall be signed, notarized, and submitted with the application:

(A) Statement of Applicant:  
Figure 2: 30 TAC §330.72(f)(10)(A)

(B) Statement of Applicant:  
Figure 3: 30 TAC §330.72(f)(10)(B)

(11) Design criteria. The engineering report for the registration application shall consider the following criteria.

- (A) Operating hours.

(B) Miscellaneous design details. The unit shall be designed in accordance with all local ordinances, codes, and requirements.

(C) Water pollution control. Provisions for the treatment of wastewaters leaving the mobile unit shall be provided. A connection into a public sewer system is acceptable if approved in writing by the local treatment facility permitted under the Texas Water Code, Chapter 26. The applicant shall obtain any permit or other approval required by state or local code for the system operation. The effluent design standard for oil and grease concentration leaving the mobile unit and entering a public sewer system shall not exceed 200 mg/liter total or the concentration established in the local wastewater discharge permit pretreatment limit. Discharge to a septic system is prohibited.

(D) Air pollution.

(i) Suitable deodorants such as biological deodorants, shall be made available to control odors from spills of treated or untreated liquid waste.

(ii) Mobile processing units shall be designed to prevent release of nuisance odors to the atmosphere.

(iii) Cleaning and maintenance of mobile waste processing unit equipment shall be performed each day of operation to reduce odors.

(iv) Loading of liquid waste into the mobile unit will be in a manner that minimizes waste contact with air.

(v) Air emissions from this mobile unit must not cause or contribute to a condition of air pollution as defined in the Texas Clean Air Act.

(vi) All units and air pollution abatement devices constructed pursuant to this registration must obtain authorization, pursuant to Chapter 116 of this title (relating to Control of Air Pollution By Permits for New Construction or Modifications), from the Office of Air Quality prior to the start of construction.

(vii) Notification for upsets and maintenance shall be made in accordance with §101.6 and §101.7 of this title (relating to Notification Requirements for Major Upset and Notification Requirements for Maintenance).

(E) Storage requirements. Control of odors and vectors from the storage of waste shall be maintained. Storage of processed or unprocessed waste shall be in an enclosed vessel or container.

(F) Fire protection. A fire protection plan shall be prepared. The fire protection plan shall comply with local fire codes.

(G) Waste analysis. After a registration is issued by the executive director, the registrant shall provide the executive director an analysis of a representative sample of each type of waste received quarterly. At a minimum analyses shall be made for fats, oil, and greases, pH, benzene, lead, and total petroleum hydrocarbons (TPH). Solids or sludge that are disposed of at a municipal solid waste landfill must be analyzed quarterly for benzene, lead, and TPH. Effluent from the mobile unit must be analyzed quarterly for TPH, fats, oil, and grease and pH. If grit trap waste is processed, BOD, total suspended solids (TSS), benzene, TPH, and lead shall be analyzed quarterly. All effluent results shall be provided to the receiving treatment facility permitted under Texas Water Code Chapter 26.

Records of each analysis shall be maintained at the mobile unit's headquarters for a minimum of three years.

(H) Sludge control. The unit should be designed and operated in a manner that sludges produced for landfilling are dewatered to a point that they pass the Paint Filter Liquids Test, (EPA method 9095) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication Number SW-846). The unit shall be designed and operated to produce a sludge that does not exceed the following standards:

Figure 4: 30 TAC §330.72(f)(11)(H)

(I) Storage limits. The maximum time allowed for storage of unprocessed waste is four days.

(J) Hazardous waste. The mobile processing unit may not receive hazardous waste.

(g) Fees and fee reports.

(1) The mobile liquid waste processing unit shall pay a quarterly fee to the commission based on requirements of §330.601, 330.602, and 330.603 of this title (relating to Purpose and Applicability, Fees, and Reporting).

(2) Fee reports shall be submitted to the commission as required by applicable portions of §330.601(b)(3) and §330.603 of this title.

(h) General prohibitions. A person may not cause, suffer, allow, or permit the collection, storage, transportation, processing, or disposal of liquid waste or solid waste, or the use or operation of a mobile liquid waste processing unit to store, process, or dispose of liquid waste or solid waste, in violation of the Texas Solid Waste Disposal Act, or any regulations, rules, permit, license, registration, or order of the commission or in such a manner so as to cause:

(1) the discharge or imminent threat of discharge of liquid waste or solid waste to the waters of the state without obtaining specific authorization for such discharge from the commission;

(2) the creation and maintenance of a nuisance;

(3) the endangerment of the human health and welfare or the environment.

(i) Enforceability. The regulations under this section are enforceable by local governments of Texas.

(j) Notice to local governments. Upon filing a registration application, the applicant shall mail notice to the city, county, and local health department of any local government in which operations will be conducted notifying local governments that an application has been filed. Proof of mailing shall be provided in the form of return receipts for registered mail.

§330.73. *Registration of Demonstration Projects for Liquid Waste Processing Facilities.*

(a) Applicability. This section shall apply to new municipal solid waste Type VI processing or handling facilities that manage only grease trap waste, grit trap waste, or septage or any combination of these three liquid wastes, and are seeking a registration to authorize such activities in accordance with §330.4(u) of this title (relating to Permit Required). For the purposes of this subsection grit trap waste means grit trap waste from car washes. Type VI facilities not meeting the exemption criteria may apply for a regular permit under §330.51

of this title (relating to Permit Application for Municipal Solid Waste Facilities).

(b) General facility design requirements.

(1) A statement justifying the facility's exemption from permit requirements as established under §330.4(u) of this title must be included in the registration application. For the purposes of this subchapter, new processes for processing grit trap waste, grease trap waste, and septage are intended to be processes that are not currently in use in Texas.

(2) The facility size shall be limited to a demonstration facility size, which shall be limited to no greater than 10,000 gallons per day.

(3) The project duration shall be limited to a two year period. Re-registration of a demonstration facility may be considered only if the new method being demonstrated is not widely used in Texas.

(4) The facility design and operation shall be coordinated with a consultant connected with an accredited college or university or with a consultant that has demonstrated the ability to carry out a scientific experiment for demonstrating new and unproven waste handling methods.

(5) The registrant shall submit to the executive director an annual and final status report to document the viability of the method being demonstrated. The report, at a minimum, must document the effluent standards and solid waste standards achieved.

(6) If applicable, waste solids produced by the processing facility shall be disposed of in a permitted solid waste disposal facility.

(7) If applicable, liquid wastes produced by the processing facility may be discharged to a treatment facility permitted under the Texas Water Code, Chapter 26. In no event, however, shall such discharge inhibit or disrupt the treatment facility permitted under the Texas Water Code, Chapter 26, its treatment processes or operations, or its sludge processes, use or disposal as defined in 40 Code of Federal Regulations Part 403 "General Pretreatment Regulations for Existing and New Sources of Pollution."

(8) At such time as the executive director determines that the registrant has documented viability of the method being demonstrated, the registrant shall file an application for a permit or registration, as applicable, pursuant to section 330.4 of this title (relating to Permit Required). Timely filing of an administratively and technically complete application shall extend the demonstration project duration until such time as the registration or permit is issued. In the event that an application is not timely filed, is withdrawn by the executive director, or is denied, the demonstration project shall terminate.

(c) General registration, construction, and operation requirements.

(1) Prior to beginning construction, a registration application must be submitted containing all information required by this section to demonstrate compliance with these regulations.

(2) Prior to beginning construction, the applicant together with the executive director shall conduct a public meeting in the local area to describe the proposed action to the general public. A public meeting under this section is not a contested case hearing under

the Administrative Procedure Act, Texas Government Code, Chapter 2001. Notice of the public meeting shall be given as prescribed by §305.107(c) of this title (relating to Public Meeting and Notice Requirements).

(3) The operation of the facility shall not begin until a pre-opening inspection has been conducted and written authorization to accept waste has been given by the Executive Director.

(4) Owners and operators must comply with all applicable requirements of this section.

(5) Owners and operators shall remain responsible for making corrections or changes that are necessary to meet requirements prior to operating the facility.

(6) If a registered facility does not begin construction within two years of obtaining its registration, the registration shall terminate and shall no longer be effective.

(7) Any change in the site operating plan must be approved prior to implementation.

(d) Registration application. The registration application shall be a completed Part A Application Form and an engineering report prepared and sealed by a professional engineer as required by the Texas Engineering Practice Act. The engineering report shall consist of all applicable information required in §330.52 of this title (relating to Technical Requirements of Part I of the Application). Information required by §330.52 of this title includes but is not limited to: maps, legal description, property owner affidavit, legal authority, evidence of competency, and evidence of financial assurance. Additional requirements of the contents of the engineering report are outlined as follows.

(1) Number of copies. Applicants for registration shall submit four copies of the completed application for registration.

(2) Land use narrative.

(A) A land use narrative shall be included in the engineering report with a description of the surrounding land use within one-half mile of the site and generalized indications of land use shall be shown on a topographic map or recent aerial photograph (scale not over 1:12,000).

(B) Where applicable, the applicant shall include documentation of local government review, approval, or acceptance of the site location, e.g., conformity with local zoning restrictions, building permit, license, nonconforming use authorization, etc. These regulations do not grant authorization for development/operation of the facility in noncompliance with local government ordinances and regulations.

(C) Maps shall be supplied that comply with the requirements of §281.5 of this title (relating to Application for Wastewater Discharge, Underground Injection, Municipal Solid Waste, Hazardous Waste, and Industrial Solid Waste Management Permits) by locating the property owned by adjacent and potentially affected landowners. The maps should show all property ownership within 500 feet of the site.

(D) The Adjacent and Potentially Affected Landowners List shall be keyed to the Land Ownership Maps and shall give each property owner's name and mailing address. The list shall comply with the requirements of §281.5 of this title. The list shall include all property owners within 500 feet of the site.

(3) Site plan. A site plan shall be included in the engineering report showing the general design criteria incorporated in a set of general plans and specifications. A site layout plan, signed and sealed by the registered professional engineer preparing the plans shall be provided.

(A) Waste identification. Design information shall be submitted identifying the sources and characteristics of waste proposed to be received for processing. An analysis of each general type of waste to be processed by the facility shall be submitted to include constituent concentrations and characteristics, including, but not limited to: pH; oil and grease concentration; total suspended solids; biochemical oxygen demand; biological oxygen demand; and other constituents that may impact the design or operation of the facility.

(B) Solid waste data. The solid waste data shall include: the types and an estimate of the amount of each liquid waste to be received; the maximum amount of solid waste to be stored at any one point in time; the maximum and average lengths of time that solid waste is to remain on the site; the maximum and average waste processing times; and the intended destination of the solids and liquids generated by this facility, where applicable.

(C) Processed wastes. The specifications for the general characteristics and constituent concentrations of all wastes leaving the facility shall be submitted, if applicable. Written documentation shall be included in the registration application for assurance that all processed waste (liquid and solid) leaving the facility will be adequately handled by other facilities, which are licensed, permitted, registered or otherwise authorized by the appropriate agencies to receive the solid and liquid wastes generated at the facility at the volumes and concentrations estimated in the facility design. An estimate shall be given for the amount and planned method for testing and final disposal of wastes resulting from the process. An estimate of the volume of process water and the planned method of treatment of such process water shall be provided.

(D) Process design. A process design shall be included to show the general design of the overall processing facility. At a minimum, the following data shall be included:

(i) flow diagrams indicating the processing sequences proposed for the various types of wastes received;

(ii) schematic view drawings showing the various phases of collection, separation, treatment, and disposal, as applicable, for the types of wastes received for processing;

(iii) proposed odor control measures for each storage, separation, and processing unit;

(iv) generalized construction details of all treatment and storage components (i.e., tanks, sumps, etc.) with regard to approximate dimensions and capacities, construction materials, vents, covers, enclosures, protective coatings of exposed surfaces, etc. (Vendor performance data sheets on all units shall be provided if available and where applicable);

(v) generalized construction details of slab and subsurface supports of all treatment and storage components;

(vi) locations and engineering design details, including supporting calculations, of all spill containment dikes or walls (with indicated freeboard) proposed to enclose all treatment, processing, and storage components and all loading and unloading areas;

(vii) plans for the on-site storage of grease, oil, and sludge, including maximum periods of time all recovered materials will remain on-site and the ultimate disposition of such materials off-site; and

(viii) proposed disposition of effluent and sludge resulting from all treatment and processing operations.

(4) Site operating plan. The operating plan must consider applicable requirements of Subchapter G of this chapter (relating to Operational Standards For Solid Waste Processing and Experimental Sites). Where applicable, the site operating plan shall include:

(A) provisions for the control of accidental spillage at the facility;

(B) provisions for periodic cleaning of storage, treatment, and processing units;

(C) maximum allowable period of time unprocessed and processed waste are to remain on-site;

(D) contingency plans for facility breakdown, catastrophic vessel failure, and accidental discharges;

(E) quality control plans to ensure that hazardous waste and other unauthorized wastes will not be unloaded or processed at the facility;

(F) plans indicating how wash waters will be collected and disposed of in an authorized manner;

(G) a description of the facility operation;

(H) operational characteristics of the equipment;

(I) facility maintenance;

(J) emergency procedures;

(K) operating hours;

(L) vector control procedures;

(M) alternate processing procedures in the event the processing facility becomes inoperable for longer than 24 hours;

(N) inspection of incoming loads;

(O) record retention provisions for results of incoming load inspections;

(P) training of personnel to recognize hazardous waste;

(Q) handling procedures for hazardous waste suspected or discovered on-site;

(R) record retention provisions for trip tickets as required by §312.145 of this title (relating to Transporters - Record Keeping); and

(S) record retention provisions documenting the process or handling method.

(5) Legal description. A legal description of the property, including the book and page number of the county deed records, and the name and address of the current property owner shall be submitted. The legal description shall be a metes and bounds description of the site signed and sealed by a registered professional land surveyor. A drawing of the description, signed and sealed by the surveyor, shall also be submitted. If the property is platted, the

book and page number of the final plat record and a copy of the final plat shall be submitted.

(6) Evidence of competency.

(A) The applicant shall submit a list of all solid waste facilities which the applicant has owned or operated within the past ten years. The facility name, permit or registration number, location, and dates of operation shall also be submitted.

(B) The names of the principals and supervisors of the applicant's organization shall be provided, together with previous affiliations with other organizations engaged in solid waste activities in Texas.

(7) Evidence of financial assurance. Evidence of financial assurance shall be provided in accordance with §§330.9, 330.282, 330.285, and 330.286 of this title (relating to Financial Assurance Required, Financial Assurance for Closure of Process Facilities, Financial Assurance Mechanisms, and Wording of the Instruments). A cost estimate of the cost to close the facility shall be submitted as part of the application.

(8) Statement of applicant. The following document shall be signed, notarized, and submitted with the application:

(A) Statement of Applicant:  
Figure 1: 30 TAC §330.73(d)(8)(A)

(B) Statement of Applicant:  
Figure 2: 30 TAC §330.73(d)(8)(B)

(e) Design criteria. The engineering report for the registration application shall consider the following criteria.

(1) Site access. The site access road from a publicly-owned roadway shall be at least a two lane paved road, designed for the expected traffic flow. The access road design shall include adequate turning radii according to the vehicles that will utilize the site and shall avoid disruption of normal traffic patterns. A positive means to control dust and mud shall be provided.

(2) Access control. Access to the site should be controlled by a perimeter fence with lockable gates. A sign shall be provided that gives the site name, registrant name, registration number, and operating hours.

(3) Miscellaneous design details. The facility shall be designed in accordance with all local building code and land development code requirements.

(4) Water pollution control. Provisions for the treatment of wastewaters from the facility shall be provided. A connection into a public sewer system is acceptable. The applicant shall obtain any permit or other approval required by state or local code for the system installed. A statement from the treatment facility permitted under the Texas Water Code, Chapter 26 of indicating the compatibility of the facility with the treatment facility shall be attached to the application. The daily effluent design standard for oil and grease concentration leaving the facility and entering a public sewer system shall not exceed 200 mg/liter or the concentration established in the wastewater discharge permit pretreatment limit. A discharge to a septic system is prohibited. In general, the following effluent standards should be used for design considerations:

Figure 3: 30 TAC §330.73(e)(4)

(5) Air pollution and ventilation.

(A) The facility shall be designed to prevent nuisance odors from leaving the property boundary of the authorized facility.

(B) The facility shall be designed to allow a minimal time of exposure of liquid waste to the air.

(C) All facilities and air pollution abatement devices constructed pursuant to this registration must obtain authorization, pursuant to Chapter 116 of this title (relating to Control of Air Pollution By Permits for New Construction or Modifications), from the Office of Air Quality prior to the start of construction.

(D) Ventilation of structures designed in accordance with applicable codes shall be provided. An air scrubber unit or equivalent technology for odor control shall be provided for any facility structure that houses a portion of the facility process that handles unprocessed liquid waste. Suitable deodorants such as biological deodorants, shall be made available to control odors from spills of untreated liquid waste.

(E) Openings to processing buildings shall be controlled to prevent release of nuisance odors to the atmosphere. All air pollution emission capture and abatement equipment or equivalent technology shall be properly maintained and operated during the facility operation. Cleaning and maintenance of the abatement equipment shall be performed as recommended by the manufacturer and as necessary so that the equipment efficiency can be adequately maintained.

(F) A design must be provided showing the unloading of liquid waste into the facility will be in a manner that minimizes waste contact with air. Air emissions from this facility must not cause or contribute to a condition of air pollution as defined in the Texas Clean Air Act.

(G) All liquid waste and solid waste shall be stored in odor retaining containers and vessels.

(H) If nuisance odors are found to be passing the facility boundary, the facility owner or operator may be required to suspend operations until the nuisance is abated. Notification for upsets and maintenance shall be made in accordance with §101.6 and §101.7 of this title (relating to Notification for Major Upset and Notification for Requirements for Maintenance).

(6) Storage requirements. Storage of unprocessed waste shall be in an enclosed building, vessel, or container.

(7) Fire protection. A fire protection plan shall be prepared. This fire protection plan shall describe fire protection procedures (a local fire department, fire hydrants, fire extinguishers, water tanks, water well, etc.), and employee training and safety procedures. The fire protection plan shall comply with local fire codes.

(8) Noise pollution and screening. Screening or other measures to minimize noise pollution and adverse visual impacts shall be provided.

(9) Site drainage. Drainage provisions for controlling surface water on or near the facility shall be provided. Drainage calculations shall be provided such as those established by standards in §330.55 of this title (relating to Site Development Plan).

(10) Spill control facilities. The process area shall have secondary containment structures to prevent releases to the waters of the state and to control spills.

(11) Waste analysis. After a registration is issued by the executive director, the registrant shall provide the executive director an analysis of a representative sample of each type of waste received each quarter or at a frequency determined by the executive director. At a minimum, analyses shall be made for benzene, lead, and total petroleum hydrocarbons (TPH). Sludges that are disposed of at a municipal solid waste landfill must be analyzed quarterly for benzene, lead, and TPH. Effluent from the facility must be analyzed quarterly for fats, oils, grease and pH. Records of each analysis shall be maintained at the facility for a minimum of five years.

(12) Sludge control. Where applicable, the facility shall be designed and operated in a manner that sludges produced are dried to a point that they pass the Paint Filter Liquids Test, (EPA method 9095) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication Number SW-846). Generally, the facility should be designed and operated to produce a sludge that is acceptable at municipal landfills and does not exceed the following standards:

Figure 4: 30 TAC §330.73(e)(12)

(13) Storage limits. The maximum time allowed for storage of unprocessed waste is 72 hours.

(14) Hazardous waste. Receipt of hazardous waste is prohibited.

(15) 100-year flood. The facility shall not be located in a 100-year floodplain.

(f) General prohibitions. A person may not cause, suffer, allow, or permit the collection, storage, transportation, processing, or disposal of liquid waste or solid waste, or the use or operation of a liquid waste processing facility to store, process, or dispose of liquid waste or solid waste, in violation of the Texas Solid Waste Disposal Act, or any regulations, rules, permit, license, registration, or order of the commission or in such a manner so as to cause:

(1) the discharge or imminent threat of discharge of liquid waste or solid waste into or adjacent to the waters in the state without obtaining specific authorization for such discharge from the commission;

(2) the creation and maintenance of a nuisance; or

(3) the endangerment of the human health and welfare or the environment.

(g) Enforceability. The regulations under this section are enforceable by local governments of Texas.

(h) Motion for reconsideration. In regard to motions for reconsideration, notwithstanding §50.31(c)(8) of this title (relating to Purpose and Applicability), applications for registration under this subchapter are governed by §50.31(b)-(f) of this title (relating to Motion for Reconsideration). The rights of the public regarding motion for reconsideration shall be explained in public notices given under this section. Notice of issuance of registration shall be mailed to adjacent and potentially affected landowners as shown on the land ownership map and landowners list under subsection (d)(2)(C) and (D) of this section, and to any other person requesting notice. The applicant or a person affected may file with the chief clerk a motion for reconsideration, under §50.39(b)-(f) of this title (relating to Motion for Reconsideration), of the executive director's final approval of an application. Notice of issuance of registration shall be published once in the same manner as prescribed by §305.107(c) of this title.

(i) Variances.

(1) In specific cases the executive director may approve a variance from the requirements of this section if the variance is not contrary to the public health and safety. A variance may not be approved concerning the procedural requirements of this section.

(2) A request for a variance must be submitted in writing to the executive director. The request may be made in an application for a registration. Any approval of a variance must be in writing from the executive director.

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

Issued in Austin, Texas, on November 12, 1996.

TRD-9616336

Barry S. Irwin

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: February 5, 1997

For further information, please call: (512) 239-1970

◆ ◆ ◆  
**TITLE 31. NATURAL RESOURCES AND CONSERVATION**

**Part I. General Land Office**

**Chapter 25. Beach Cleaning and Maintenance Assistance Program**

**Subchapter**

**31 TAC §§25.4, 25.6, 25.12, 25.13, 25.16,**

The Texas General Land Office proposes amendments to §§25.4, 25.6, 25.12, 25.13 and 25.16, concerning the administration of the Beach Maintenance Fund Program (BMFP). These amendments are necessary to make Chapter 25 conform to amendments to the Texas Natural Resources Code, §61.076 (relating to the limitation on the state share), and the Tax Code, §156.2511 (concerning hotel occupancy tax), resulting from House Bill (HB) 2129 as passed by the 74th Legislature in 1995. These legislative changes to the Texas Natural Resources Code and the Tax Code provide an opportunity for eligible coastal municipalities (ECM) as defined by the Tax Code, §156.2511(1), to collect a refund based on the collection of hotel occupancy taxes received from hotels located in the ECM (hereafter referred to as the "tax refund"). The tax refund must be used to clean and maintain the public beaches in that ECM as mandated by the Tax Code, §156.2511. Other monies expended by local governments to clean and maintain the public beach may qualify for reimbursement through the BMFP. The amendments to these rules will clarify the relationship and the distinction between the BMFP reimbursement and the tax refund. Other amendments proposed by the Texas General Land Office streamline the BMFP process by: revising the time period for calculating expenditure history to conform to the end of the state's fiscal year; removing the requirement that an independent certified public accountant certify BMFP reimbursement

applications as true and correct; and adding a provision which permits funds expended by local governments on beach nourishment projects to be considered for BMFP reimbursement.

The purpose of the Texas Natural Resources Code, Chapter 61, Subchapter C, is to allocate responsibility for cleaning the beaches of this state, and to preserve and protect local initiative in the maintenance and administration of Texas' public beaches. Pursuant to Texas Natural Resources Code, Chapter 61, the Texas General Land Office first adopted 31 TAC Chapter 25, related to the administration of the BMFP, in 1991. The BMFP is a state fund administered by the Texas General Land Office for the purpose of reimbursing eligible cities and counties. The Texas General Land Office calculates the amount allocated to each community using a formula based primarily on past expenditures for cleaning and maintaining gulf beaches and secondarily on the proportionate share of total linear footage of gulf beach cleaned and maintained.

The current period for calculation of expenditure history in §25.4 (concerning notification of availability of funds) is the 11 quarters (2-3/4 years) prior to June 1 of the state's fiscal year, which runs from September 1 to August 31. The Texas General Land Office uses a local government's expenditure history to calculate the appropriate reimbursement amount for the fiscal year for which an applicant seeks reimbursement. The Texas General Land Office adopted the 11 quarter time period to facilitate reimbursement by providing BMFP applicants the opportunity to submit their claims for reimbursement prior to the expiration of the state's fiscal year; however, most applicants prefer to submit their claims for BMFP reimbursement closer to the end of the state's fiscal year. The time period in §25.4 is changed to two fiscal years preceding the year for which the applicant seeks reimbursement. This change to the BMFP reimbursement filing procedure streamlines the program by conforming the time period to the end of the state's fiscal year. This change is expected to reduce paperwork, and minimize state and local government expenditures of time and resources.

Subsection (e) is added to §25.6 to require a local official designated by resolution of the appropriate local governing body to certify as true and correct the BMFP reimbursement application. Subsection 25.16(b) (concerning certification of expenses billed as true and correct) is deleted because such certification will now occur pursuant to new §25.6(e). This change eliminates the requirement that cities or counties which do not employ a staff auditor hire an independent auditor and reduces associated costs for local governments. This amendment will provide local governments the opportunity to designate a local official to certify BMFP program applications as true and correct.

In order to accommodate the deletion of §25.16(b), §25.16(c) is now subsection (b); §25.16(d) is now subsection (c); and §25.16(e) is now subsection (d).

Subsection (e) is added to §25.12 (concerning eligible costs) to indicate that funds expended by cities and counties on beach nourishment projects, conducted under the Texas Natural Resources Code, Chapter 33, Subchapter H, may be included as an eligible expense for the purpose of setting the two-thirds cap imposed by the Texas Natural Resources Code, §61.076(a), and §25.13(a) of this title, on the state's share of



funds (comprised of BMFP reimbursements and tax refunds) refunded to individual local governments through the BMFP and the tax. This means that no local government may receive as its state's share more than two-thirds of the amount it spends to clean and maintain the public beach.

Subsection (c) is added to §25.13 to provide rules consistent with the HB 2129 amendments to the Tax Code, Chapter 156, Subchapter F, §156.2511, and the Texas Natural Resources Code, §61.076. The Comptroller of the State of Texas is responsible for disbursing tax refunds to ECM. The Texas General Land Office administers the BMFP and reimburses eligible cities and counties for expenditures on cleaning and maintaining gulf beaches. Although tax refunds received by local governments from the Comptroller's office must be spent on cleaning and maintaining the public beach, they are not eligible for BMFP reimbursement, nor are they included in the calculation of the two-thirds cap as prohibited by the HB 2129 amendment to the Texas Natural Resource Code, §61.076(c)(1). Therefore, any tax refund portion of local expenditures used to clean and maintain the beach is not included in the BMFP calculation. For example: if ECM#1 spends a total of \$100 (\$80 local expenditure and \$20 tax refund) to clean and maintain the beach for Fiscal Year 1996, only \$80 is eligible for BMFP reimbursement for Fiscal Year 1996.

John Hamilton, Texas General Land Office program director for the BMFP, has determined that for the first five-year period the rules are in effect there will be no significant fiscal impact on state or local government as a result of enforcing or administering the rules. The amendments to Chapter 25 of this title do not create additional criteria to the existing BMFP, nor do they result in additional responsibilities or duties for local governments seeking BMFP reimbursement.

Mr. Hamilton also has determined that for each year of the first five years the rules are in effect the public benefits anticipated as a result of enforcing these rules will be the upgrading of beach maintenance services and streamlining the BMFP reimbursement process for eligible local governments. There will be no cost of compliance for small businesses in the administration of these rules. There will be no cost of compliance for individuals in the administration of these rules.

Comments on the proposed amendments may be submitted to Cheli Cook, Texas General Land Office, Legal Services Division, 1700 North Congress Avenue, Room 630, Austin, Texas 78701-1495, FAX: (512) 463-6311. Comments on the proposed amendments must be received by 5:00 p.m. on May 13, 1996.

The amendments are proposed under the Texas Natural Resources Code, §§61.061 et seq, which provides the Texas General Land Office with the authority to allocate responsibility for cleaning the beaches of Texas and to preserve and protect local initiative in the maintenance and administration of beaches.

The Natural Resources Code, Chapter 61, Subchapter C, is affected by these proposed amendments.

#### §25.4. Notification of Available Funds.

(a) The agency shall use the following formula for calculating the amount of funds available to each city and county for the fiscal year for which they seek reimbursement. Seventy-five percent

of funds available for distribution shall be allocated by determining each participant's proportionate share of total participant expenditures during the two fiscal years [11 quarters prior to June 1 of the fiscal year] preceding the year for which participant is applying for reimbursement. Twenty-five percent of the funds available for distribution shall be allocated by determining each participant's proportionate share of total linear footage of gulf beach which the participants will clean and maintain pursuant to project agreements authorized in §25.11 of this title (relating to Project Agreement).

(b) (No change.)

#### §25.6. Application for Funds Assistance.

(a)-(d) (No change.)

(e) The contents of all applications submitted to the agency shall be certified true and correct by a local official designated by resolution of the appropriate local governing body.

#### §25.12. Eligible Costs.

(a)-(d) (No change.)

(e) Costs incurred by coastal cities and counties in implementing beach nourishment projects, conducted under Texas Natural Resources Code, Chapter 33, Subchapter H, may qualify as eligible expenses under §25.13(a) of this title (relating to Extent of State Assistance) and for BMFP reimbursement subject to §25.3 of this title (relating to Administration of Funds).

#### §25.13. Extent of State Assistance.

(a)-(b) (No change.)

(c) Monies received by an eligible coastal municipality under the Tax Code, §156.2511, shall be included as part of the state share as required by the Texas Natural Resources Code, §61.076(c)(2), and must be spent on cleaning and maintaining the beach as required by the Tax Code, §156.2511(b); however these funds are not eligible for reimbursement from the BMFP program as specifically prohibited by the Texas Natural Resource Code, §61.076(c)(1).

#### §25.16. Billing.

(a) Billing will consist of a breakdown of project cost elements and will be in a summary format requiring minimal supporting detail.

(b) The agency reserves the right to require full documentation if deemed necessary. [All expenses billed must be certified as true and correct by the county or city internal auditor and chief financial officer, or if the county or city does not have an internal auditor, by a certified independent public accountant to be chosen by the county or city and a chief financial officer.]

(c) Billing records, certification, and all documentation substantiating billings will be maintained in the office of the county or city internal auditor or if the county or city does not have an internal auditor, in the office of its chief financial officer. [The agency reserves the right to require full documentation if deemed necessary.]

(d) All billing and certification documents will be provided by the agency. [Billing records, certification, and all documentation substantiating billings will be maintained in the office of the county or city internal auditor or if the county or city does not have an internal auditor, in the office of its chief financial officer.]

[(e) All billing and certification documents will be provided by the agency.]

This 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 8, 1996.

TRD-9616273

Garry Mauro

Commissioner

General Land Office

Earliest possible date of adoption: December 20, 1996

For further information, please call: (512) 305-9129

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 50. Day Activity and Health Services Monitoring/Quality Assurance/Audits

##### 40 TAC §50.703, §50.704

The Texas Department of Human Services (DHS) proposes amendments to §50.703 and §50.704, concerning administrative errors and financial errors, in its Day Activity and Health Services (DAHS) chapter. The purpose of the amendments is to define DAHS financial errors as only those errors that pertain to accurate provision and reimbursement of services, and administrative errors as improper billing documentation.

Terry Trimble, interim commissioner, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Trimble also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be assurance that DAHS services are billed and reimbursed properly without excess payments for services or misutilization of services. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of the proposal may be directed to Frances Barraza at (512) 438-3216 in DHS's Community Care section. Written comments on the proposal may be submitted to Supervisor, Rules Unit, Media and Policy Services-017, Texas Department of Human Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Government Code §531.021, which provides the Health and Human Services Commission

with the authority to administer federal medical assistance funds.

The amendments implement §§22.001-22.030 and §§32.001-32.041 of the Human Resources Code.

§50.703. *Administrative Errors.*

Administrative errors include, but are not limited to, the following:

(1) The [the] facility [:]

[(A) leaves the month and year of service blank at the top of the Texas Department of Human Services' (DHS's) Daily Attendance Record form, but the month and year can be verified elsewhere on the same form. DHS applies the error to the total number of units reimbursed for the billing period;]

[(B) ] enters a date of signature on the Texas Department of Human Services'(DHS's) [DHS's] Daily Attendance Record form that is before the date of the last day services are provided. DHS applies the error to the total number of units reimbursed after the signature date. [;]

(2)[(C)] The facility fails to sign DHS's Daily Attendance Record form and the signature can be verified on DHS's [and/or] Daily Transportation Record form. DHS applies the error to the total number of units reimbursed on the unsigned form. [for the billing period;]

[(2) daily transportation records indicate client was transported to the facility and daily attendance records do not list client as being in the facility. DHS applies the error to the total number of units reimbursed for the dates of the billing period in question.]

(3) The facility fails to list the client on DHS's Daily Attendance Record form, but the client was listed on DHS's Daily Transportation Record form. DHS applies the error to the total number of units reimbursed for the period the client was left off the attendance record form.

(4) The facility completes the total units of service column and leaves the time in and time out columns blank on DHS's Daily Attendance Record form, but the time in and time out can be verified on DHS's Daily Transportation Record form. DHS applies the error to the total number of units reimbursed in which the time in time out days was left blank.

(5) The facility leaves the days of service blank on DHS's Daily Attendance Record form, but the days of service can be verified elsewhere on the form or on DHS's Daily Transportation Record form. DHS applies the error to the total number of units reimbursed for the days left blank.

(6) The facility fails to enter a date of signature on DHS's Daily Attendance Record form to certify total number of units provided to the client. DHS applies the error to the total number of units reimbursed on the undated form.

(7) The facility corrects the date of signature on DHS's Daily Attendance Record form, but fails to initial the correction. DHS applies the error to the number of units reimbursed after the earliest signature date.

(8) The facility uses a signature stamp, but fails to initial the stamped signature. DHS applies the error to the total number of units reimbursed on the signature stamped form.

(9) The facility makes an illegible entry or illegible correction to any portion of DHS's Daily Attendance or Daily Transportation Record form. DHS applies the error to the total number of units reimbursed for the days in which entries are illegible.

(10) The facility completes DHS's Daily Attendance or Daily Transportation Record form in pencil. DHS applies the error to the total number of units reimbursed that were completed in pencil.

(11) The facility uses liquid paper or correction fluid to correct an entry in DHS's Daily Attendance or Daily Transportation Record form. DHS applies the error to the total number of units reimbursed that were corrected for the billing period.

(12) The facility uses a daily attendance or transportation record form that has not been approved by DHS. DHS applies the error to the total number of units reimbursed while using the unapproved daily attendance or transportation record form.

*§50.704. Financial Errors.*

In the absence of acceptable secondary documentation, financial errors include, but are not limited to, the errors specified in paragraphs (1)-(3) [(1)-(8)] of this section.

(1) The facility is reimbursed for services, but the Texas Department of Human Services' (DHS's) Daily Attendance and [and/or] Daily Transportation Record form is missing for the period for which services are reimbursed. DHS applies the error to the total number of units reimbursed for the billing period.

(2) The facility is reimbursed for units that exceed the units recorded on DHS's Daily Attendance and [and/or] Daily Transportation Record form. DHS applies the error to the total number of units reimbursed in excess of the units recorded.

(3) The facility is reimbursed for units of service and the client did not receive services or was Medicaid ineligible (not applicable to Title 20 clients). DHS applies the error to the total

number of units reimbursed for the days the client did not receive services or was Medicaid ineligible.

[(4) The facility makes an illegible entry or illegible correction to any portion of DHS's Daily Attendance and/or Daily Transportation Record form. DHS applies the error to the total number of units reimbursed for the days in which entries are illegible.]

[(5) The facility completes DHS's Daily Attendance and/or Daily Transportation Record form in pencil. DHS applies the error to the total number of units reimbursed that were completed in pencil.]

[(6) The facility uses liquid paper/correction fluid to correct an entry in DHS's Daily Attendance and/or Daily Transportation Record form. DHS applies the error to the total number of units reimbursed that were corrected for the billing period.]

[(7) The facility received reimbursement for services, but a valid DHS Prior Approval for CCAD Services form is missing for the period claimed. DHS applies the error to the total number of units claimed and not covered by a valid DHS Prior Approval for CCAD Services form.]

[(8) The facility received reimbursement for services, but a valid DHS Physician's Orders form is missing for the period claimed. DHS applies the error to the total number of units claimed and not covered by valid DHS Physician's Orders form.]

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

Issued in Austin, Texas on November 7, 1996

TRD-9616191

Glenn Scott

General Counsel, Legal Services

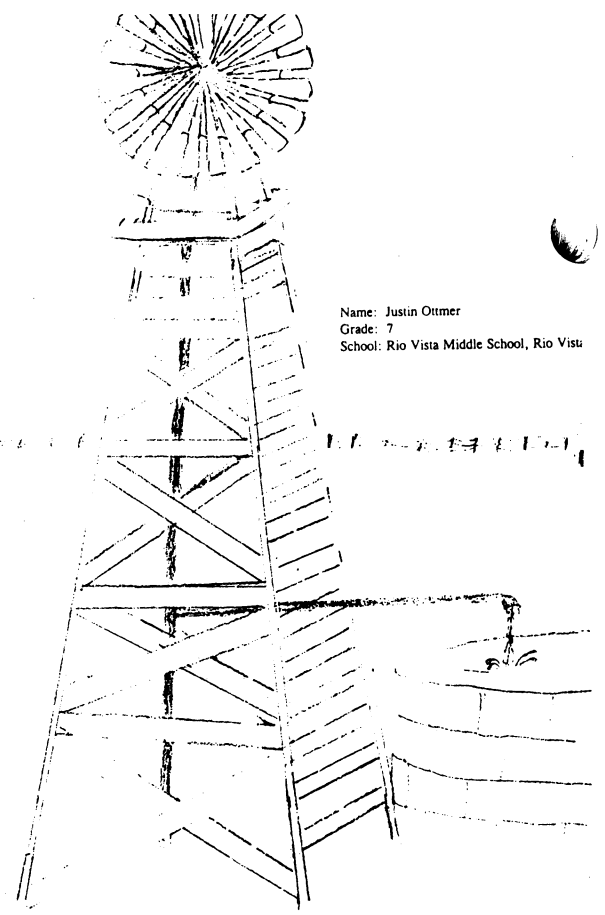
Texas Department of Human Services

Proposed date of adoption: January 1, 1997

For further information, please call: (512) 438-3765



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# ★ TEXAS ★

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# ADOPTED RULES

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 29. Purchased Health Services

On behalf of the State Medicaid Director, the Texas Department of Health (department) submits adopted amendments to §29.606 and §29.1125, concerning payment for hospital services and coverage of procurement of nonsolid organs, in its purchased health services rules, without changes to the proposed text as published in the July 26, 1996, issue of the *Texas Register* (21 TexReg 6935).

The sections as amended provide for reimbursement for transplant diagnosis related groups that are based on Medicaid-specific data.

The amendments allow the department to calculate relative weights for organ transplant diagnosis related groups with less than 10 observations, using Medicaid-specific data. The relative weights include organ procurement for both solid and nonsolid organs.

No comments were received regarding the adoption of these amendments.

#### Subchapter G. Hospital Services

##### 25 TAC §29.606

This amendment is adopted under the Human Resources Code, §32.021 and Government Code §531.021, which provides the Health and Human Services Commission with the authority to adopt rules to administer the state's medical assistance program and are submitted by the Texas Department of Health under its agreement with the Health and Human Services Commission to operate the purchased health services program and as authorized under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on November 7, 1996.

TRD-9616172  
Susan K. Steeg  
General Counsel  
Texas Department of Health

Effective date: November 28, 1996

Proposal publication date: July 26, 1996

For further information, please call: (512) 458-7236

#### Subchapter L. General Administration

##### 25 TAC §29.1125

This amendment is adopted under the Human Resources Code, §32.021 and Government Code §531.021, which provides the Health and Human Services Commission with the authority to adopt rules to administer the state's medical assistance program and are submitted by the Texas Department of Health under its agreement with the Health and Human Services Commission to operate the purchased health services program and as authorized under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on November 7, 1996.

TRD-9616173  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Effective date: November 28, 1996  
Proposal publication date: July 26, 1996  
For further information, please call: (512) 458-7236

## TITLE 30. ENVIRONMENTAL QUALITY

### Part I. Texas Natural Resource Conservation Commission

#### Chapter 330. Municipal Solid Waste

#### Subchapter N. Landfill Mining

##### 30 TAC §§330.401-330.419

The Texas Natural Resource Conservation Commission (commission) adopts new Subchapter N, §§330.401-330.419, concerning recovery of materials from landfills. Section 330.407

and §330.417 are adopted with changes to the proposed text as published in the September 3, 1996 issue of the *Texas Register* (21 TexReg 8386). Sections 330.401-330.406, 330.408-330.416, and 330.418-330.419 are adopted without changes and will not be republished.

**EXPLANATION OF ADOPTED RULES.** The purpose of these new sections is to provide regulation for facilities known as landfill mining facilities. These facilities will be exempt from permit requirements, will be required to register with the commission, and will be required to design and operate in accordance with requirements set forth in a new section. The statutory basis for the rules is found in House Bill 2315, 74th Legislature, which amended the Health and Safety Code, Chapter 361, the Solid Waste Disposal Act, §361.0861 and §361.092. The statute directs the commission to establish rules to exempt from permit requirements the recovery of materials from landfills, to adopt rules establishing minimum standards for the issuance of registrations for the recovery of material from municipal solid waste landfills, and to establish a registration procedure for recovery operations.

**HEARING AND COMMENTERS.** A public hearing was held on September 23, 1996, in Austin. No interested commenters attended the hearing. Only one commenter submitted testimony during the comment period which closed on October 3, 1996. The one commenter, Browing-Ferris Industries a large landfilling company, supported the proposal without recommended changes.

The commission has changed language in §330.407(c)(2) to clarify that notices to the public shall be both mailed and published. Language in §330.407(f) has been changed to clarify a reference and to clarify the rights of the applicant and persons affected regarding a motion for reconsideration. Language in §330.417(b)(4) regarding the date of the publication of a reference document has been changed to the 1995 publication date.

**TAKINGS IMPACT ASSESSMENT.** 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 proposed rules is to regulate activities associated with the extraction of material from municipal solid waste landfills. The rules will establish the level of agency authorization as a registration in lieu of the previously required permit level. The rules will provide the specific operational and design standards for obtaining an authorization for a landfill mining operation. New landfill mining facilities must comply with all technical and administrative standards stipulated by the new regulations. The proposed rules are necessary to advance the agency's mission of providing adequate public health and safety relative to facilities wishing to engage in the management of the recovery of usable material from waste in municipal solid waste landfills. The proposed rules will establish specific operating and management standards which currently do not exist under Chapter 330; therefore, both the regulated community and the public will be accorded greater assurance that human health and the environment are being protected. Promulgation and enforcement of these rules will not affect private real property.

**STATUTORY AUTHORITY.** The new sections are adopted under the authority of the Texas Water Code, §5.103, which provides the commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, and under House Bill 2315, as passed by the 74th Legislature; and pursuant to the Texas Solid Waste Disposal Act, Texas Health and Safety Code §361.024, which provides the commission with the authority to regulate municipal solid waste and adopt rules as necessary to regulate the operation, management, and control of solid waste under its jurisdiction.

§330.407. *Registration Application Processing.*

(a) An application shall be submitted to the executive director. When an application is administratively complete, the executive director shall assign the application an identification number.

(b) The applicant and the commission shall conduct a public meeting in the local area, when the application is administratively complete, to describe the proposed action to the general public. The public meeting shall be held as prescribed in §305.107 of this title (relating to Public Meeting and Notice Requirements).

(c) The requirements for public notice are as follows:

(1) When an application is administratively complete the chief clerk shall mail notice to adjacent landowners. The chief clerk also shall mail notice to other affected landowners as directed by the executive director.

(2) When an application is technically complete the chief clerk shall mail notice to adjacent landowners. The chief clerk shall also mail notice to other affected landowners as directed by the executive director. The applicant shall publish notice in the county in which the facility is located, and in all adjacent counties. The published notice shall be published once a week for three consecutive weeks. The applicant should attempt to obtain publication in a Sunday edition of a newspaper. The mailed and published notices shall explain the method for submitting a motion for reconsideration.

(3) Notice issued under paragraphs (1) or (2) of this subsection shall contain the following information:

(A) the identifying number given the application by the executive director;

(B) the type of registration sought under the application;

(C) the name and address of the applicant(s);

(D) the date on which the application was submitted; and

(E) a brief summary of the information included in the application.

(d) The executive director or his designee shall, after review of any application for registration of a landfill mining facility, determine if he will approve or deny an application in whole or in part. The executive director shall base his decision on whether the application meets the requirements of this subchapter and the requirements of §330.403 of this title (relating to General Requirements).

(e) At the same time that the executive director's final decision is mailed to the applicant, a copy or copies of this decision

shall also be mailed to all adjacent landowners and to other affected landowners as directed by the executive director.

(f) In regard to motions for reconsideration, notwithstanding §50.31(c)(8) of this title (relating to Purpose and Applicability), applications for registration under this subchapter are governed by §50.39(b)-(f) of this title (relating to Motion for Reconsideration). The applicant or a person affected may file with the chief clerk a motion for reconsideration under §50.39(b)-(f) of this title of the executive director's final decision.

*§330.417. Sampling and Analysis Requirements for Soil Final Product.*

(a) Applicability. Facilities that receive a registration under this subchapter, are required to test final product in accordance with this section.

(b) Analytical methods. Facilities which use analytical methods to characterize their final product must use methods such as those described in the following publications:

(1) Chemical and physical analysis shall utilize:

(A) "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" (SW-846);

(B) "Methods for Chemical Analysis of Water and Wastes" (EPA-600); or

(2) Analysis of pathogens shall utilize "Standard Methods for the Examination of Water and Wastewater" (Water Pollution Control Federation, 1995).

(3) Analysis for salinity and pH shall utilize North Central Regional (NCR) Method 14 for Saturated Media Extract Method contained in "Recommended Test Procedure for Greenhouse Growth Media" NCR Publication Number 221 (Revised), Recommended Chemical Soil Test Procedures, Bulletin Number 49 (Revised), October 1988, pages 34-37.

(4) Analysis of total, fixed and volatile solids shall utilize Method 2540 G (Total, Fixed, and Volatile Solids in Solid and Semi-solid Samples) as described in "Standard Methods for the Examination of Water and Wastewater" (Water Pollution Control Federation, 1995).

(c) Sample collection. Sample collection, preservation and analysis shall assure valid and representative results pursuant to an agency-approved quality assurance quality control (QAQC) plan.

(d) Documentation.

(1) Owners or operators of registered facilities shall record and maintain all of the following information regarding their activities of operation for three years after the final product is shipped off-site or upon site closure:

(A) batch numbers identifying the final product sampling batch;

(B) the quantities, types and sources of materials processed and the dates processed;

(C) the quantity and final product grade assigned described in §330.418 of this title (relating to Final Soil Product Grades);

(D) the date of sampling; and

(E) all analytical data used to characterize the final product, including laboratory quality assurance/quality control data.

(2) The following records shall be maintained on-site permanently or until site closure:

(A) sampling plan and procedures;

(B) training and certification records of staff; and

(C) soil final product test results.

(3) Records shall be available for inspection by executive director representatives during normal business hours.

(4) The executive director may at any time request by registered or certified mail that a soil generator submit copies of all documentation listed in paragraph (1) of this subsection for auditing the final soil product grade. Documentation requested under this section shall be submitted within ten (10) working days of receipt of the request.

(e) Sampling frequencies. All final soil product must be sampled and assigned a final product grade set forth in §330.418 of this title at a minimum rate of one sample for every 5,000 cubic yard batch of final soil product or annually, whichever is more frequent. Each sample will be a composite of nine grab samples as discussed in subsection (f) of this section.

(f) Sampling requirements. The operator shall utilize the protocol in an executive director approved facility QAQC plan. The executive director may at any time request that split samples be provided to an agency representative. Specific sampling requirements which must be satisfied include:

(1) Sampling from stockpiles. One third of the grab samples shall be taken from the base of the stockpile (at least 12 inches into the pile at ground level), one third from the exposed surface and one third from a depth of two feet from the exposed surface of the stockpile.

(2) Sampling from conveyors. Sampling times shall be selected randomly at frequencies which provide the same number of subsamples per volume of mined soil product as is required in subsection (d) of this section.

(A) If samples are taken from a conveyor belt, the belt shall be stopped at that time. Sampling shall be done along the entire width and depth of the belt.

(B) If samples are taken as the material falls from the end of a conveyor, the conveyor does not need to be stopped. Free-falling samples need to be taken to minimize the bias created as larger particles segregate or heavier particles sink to the bottom as the belt moves. In order to minimize sampling bias, the sample container shall be moved in the shape of a "D" under the falling product to be sampled. The flat portion of the "D" shall be perpendicular to the beltline. The circular portion of the "D" shall be accomplished to return the sampling container to the starting point in a manner so that no product to be sampled is included.

(g) Analytical requirements. Final product subject to the sampling requirements of this section will be tested for all of the following parameters. The executive director may at any time request that additional parameters be tested. These parameters are intended to address public health and environmental protection.

(1) total metals, to include:



- (A) arsenic;
- (B) cadmium;
- (C) chromium;
- (D) copper;
- (E) lead;
- (F) mercury;
- (G) molybdenum;
- (H) nickel;
- (I) selenium; and
- (J) zinc.

- (2) weight percent of foreign matter, dry weight basis.
- (3) pH by the saturated media extract method.
- (4) salinity by the saturated media extract electrical conductivity method.
- (5) pathogens:
  - (A) salmonella; and
  - (B) fecal coliform.
- (6) polychlorinated-biphenyls.
- (7) asbestos.

(h) Data precision and accuracy. Analytical data quality shall be established by the United States Environmental Protection Agency standard laboratory practices to ensure precision and accuracy.

(i) Reporting requirements.

(1) Facilities must report the following information to the executive director on a semi-annual basis for each sampling batch of final soil product. Reports must include, but may not be limited to all of the following information:

- (A) batch numbers identifying the final soil product sampling batch;
- (B) the quantities and types of waste materials processed the dates processed;
- (C) the quantity of final soil product;
- (D) the final soil product grade or permit number of the disposal facility receiving the final product if it is not Grade 1 or Grade 2 as established in §330.418 of this title;
- (E) all analytical results used to characterize the final soil product including laboratory quality assurance/quality control data and chain-of-custody documentation; and
- (F) the date of sampling.

(2) Reports must be submitted to the executive director within two months after the reporting period ends.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on November 12, 1996.

TRD-9616337

Kevin McCalla  
 Director, Legal Division  
 Texas Natural Resource Conservation Commission  
 Effective date: December 3, 1996  
 Proposal publication date: September 3, 1996  
 For further information, please call: (512) 239-1970

## ◆ ◆ ◆

# TITLE 40. SOCIAL SERVICES AND ASSISTANCE

## Part I. Texas Department of Human Services

### Chapter 90. Intermediate Care Facilities for Persons with Mental Retardation or Related Conditions

#### Subchapter B. Application Procedures

#### 40 TAC §90.14, §90.15

The Texas Department of Human Services (DHS) adopts amendments to §90.14 and §90.15, without changes to the proposed text as published in the October 1, 1996, issue of the *Texas Register* (21 TexReg 9437).

Justification for the amendments is that the policy will be easier to find.

The amendments will function by referencing §533.065 of the Texas Health and Safety Code, which governs the approval or expansion of beds, and adding rules which clarify what constitutes the timely filing of a licensure application.

During the public comment period, DHS received one comment from New Avenues of Hope, Inc.

Comment: The Health and Safety Code §533.062 was not intended to restrict beds located within an ICF/MR which do not require Medicaid funding. Applying the ICF/MR Bed Plan to non-Medicaid reimbursed beds has a negative impact of restricting the growth of private pay beds.

Response: Under Health and Safety Code §222.042, the department may not license or approve as meeting licensing standards new ICF/MR beds or the expansion of an existing ICF/MR facility unless the new beds or the expansion was included in the plan approved by the Health and Human Services Commission (the commission) in accordance with §533.062. Subsection (f) of §533.062 directs the commission to adjust the plan after legislative action on the appropriation for long-term care services for persons with mental retardation, to ensure that the number of ICF/MR beds licensed or approved as meeting licensing requirements and the capacity of the HCS waiver program are within appropriated amounts. The reference to "ICF/MR beds licensed or approved as meeting licensing requirements" indicated that the plan approved by the commission under §533.062 was meant to include all ICF/MR beds, not just those beds certified to participate in the Medicaid program. Commission staff have indicated that the plan covers

all ICF/MR beds, not only those that are Medicaid-certified. The sections are being adopted as proposed.

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and under the Health and Safety Code, Chapter 242, which authorizes the department to license ICF-MR facilities, and §222.042, which restricts the department's authority to license these facilities.

The amendments implement the Human Resources Code, §§22.001-22.030, and Chapter 242 and §222.042 of the Health and Safety Code.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on November 8, 1996.

TRD-9616300

Glenn Scott

General Counsel, Legal Services

Texas Department of Human Services

Effective date: January 1, 1997

Proposal publication date: October 1, 1996

For further information, please call: (512) 438-3765



## Chapter 96. Certification of Long Term Care Facilities

### 40 TAC §96.6

The Texas Department of Human Services (DHS) adopts an amendment to §96.6, without changes to the proposed text as published in the October 4, 1996, issue of the *Texas Register* (21 TexReg 9624).

Justification for the amendment is to give providers clearer understanding of the informal administrative review process.

The amendment will function by clarifying the Informal Administrative Review (IAR) process. The surveyors will inform providers of their right to an IAR in writing; requests for an IAR will be made in writing and can be faxed; time lines were changed uniformly to seven calendar days; and all references to the Texas Department of Health were changed to DHS.

The department received no comments regarding adoption of the section.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and under the Health and Safety Code, Chapter 242, which authorizes the department to license ICF-MR facilities, and §222.043, which establishes a review process for ICF-MR surveys.

The amendment implements the Human Resources Code, §§22.001-22.030, and Chapter 242 and §222.043 of the Health and Safety Code.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on November 8, 1996.

TRD-9616305

Glenn Scott

General Counsel, Legal Services

Texas Department of Human Services

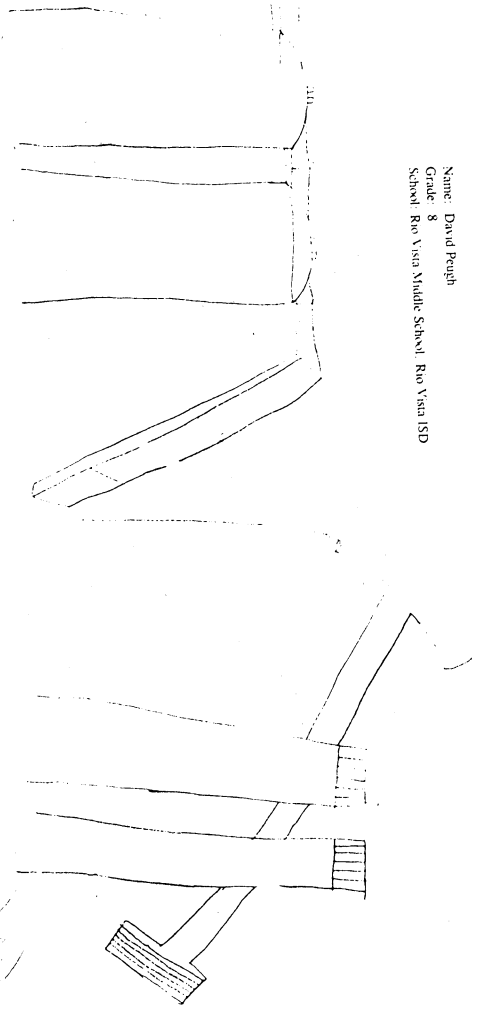
Effective date: January 1, 1997

Proposal publication date: October 4, 1996

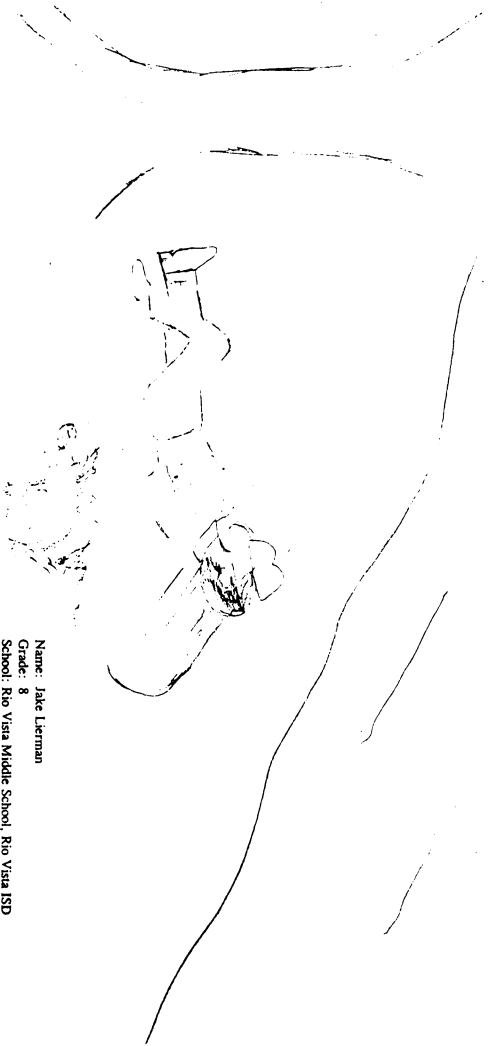
For further information, please call: (512) 438-3765



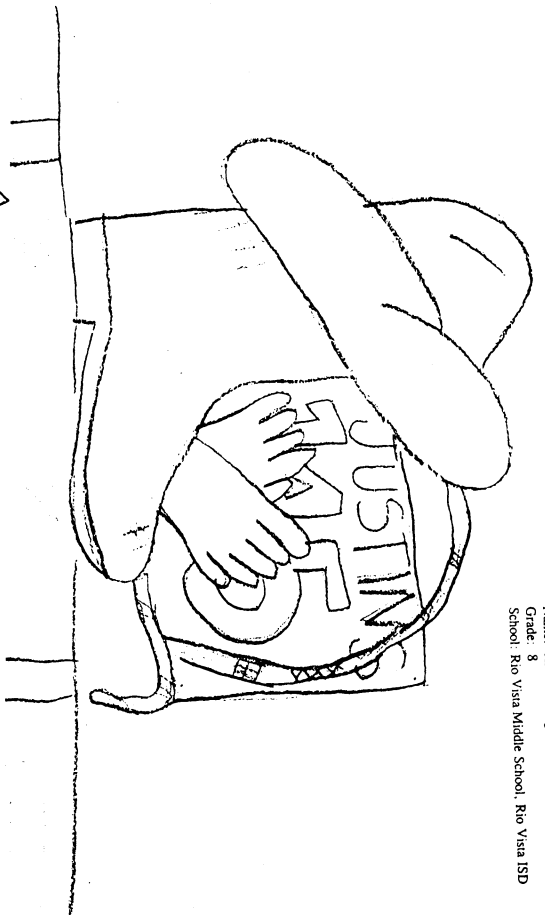
Name: David Peugh  
Grade: 8  
School: Rio Vista Middle School, Rio Vista ISD



Name: Jake Lierman  
Grade: 8  
School: Rio Vista Middle School, Rio Vista ISD



Name: Jarred Robinson  
Grade: 8  
School: Rio Vista Middle School, Rio Vista ISD



Name: Kristen Staughter  
Grade: 8  
School: Rio Vista Middle School, Rio Vista ISD



# TABLES & GRAPHICS

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Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

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Figure 1: 30 TAC §330.71(e)(10)(A)

### Statement of Applicant

I, \_\_\_\_\_, state that I have knowledge of the facts set forth herein and that these facts are true and correct, to the best of my knowledge and belief. I further state that, to my knowledge and belief, the project for which application is now being made will not in any way violate any law, rule, ordinance, or decree of the duly authorized governmental entity having jurisdiction. I further state that I am the applicant or am authorized to act for the city/county/applicant.

\_\_\_\_\_  
(Signature of applicant)

\_\_\_\_\_  
(Name and Title)

\_\_\_\_\_  
(Date)

Figure 2: 30 TAC §330.71(e)(10)(B)

Notary public's certificate: Subscribed and sworn to before me, by the said \_\_\_\_\_, this \_\_\_\_ day  
of \_\_\_\_\_ 19\_\_\_\_, to certify which witness my hand and seal of office.

\_\_\_\_\_

Notary Public in and for \_\_\_\_\_ County, Texas.

My commission expires on \_\_\_\_\_.

Figure 3: 30 TAC §330.71(f)(4)

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed-
	Metric units (kg/kkg of raw material)	
Oil and grease .....	0.10	0.05
TPH	0.01	0.01
pH .....	( <sup>1</sup> )	( <sup>1</sup> )
	English units (lb/1,000 lb. of raw material)	
Oil and grease .....	0.10	0.05
TPH	0.01	0.01
pH .....	( <sup>1</sup> )	( <sup>1</sup> )

<sup>1</sup> Within the range 5.5 to 10.5.

Figure 4: 30 TAC §330.71(f)(12)

<u>Contaminant</u>	<u>Total Limit</u>	<u>TCLP Limit</u>
Benzene	10 mg/kg	0.5 mg/L
Lead	30 mg/kg	1.5 mg/L
TPH	1500 mg/kg	not applicable



Figure 1: 30 TAC §330.72(c)(1)

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed-
	Metric units (kg/kkg of raw material)	
Oil and grease .....	0.10	0.05
TPH	0.01	0.01
pH .....	( <sup>1</sup> )	( <sup>1</sup> )
	English units (lb/1,000 lb. of raw material)	
Oil and grease .....	0.10	0.05
TPH	0.01	0.01
pH .....	( <sup>1</sup> )	( <sup>1</sup> )

<sup>1</sup> Within the range 5.5 to 10.5.

Statement of Applicant

I, \_\_\_\_\_, state that I have knowledge of the facts set forth herein and that these facts are true and correct, to the best of my knowledge and belief. I further state that, to my knowledge and belief, the project for which application is now being made will not in any way violate any law, rule, ordinance, or decree of the duly authorized governmental entity having jurisdiction. I further state that I am the applicant or am authorized to act for the city/county/applicant.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name and Title)

\_\_\_\_\_  
(Date)

Figure 3: 30 TAC §330.72(f)(10)(B)

Notary public's certificate: Subscribed and sworn to before me, by the said \_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for \_\_\_\_\_ County, Texas.

My commission expires on \_\_\_\_\_.

Figure 4: 30 TAC §330.72(f)(11)(H)

<u>Contaminant</u>	<u>Total Limit</u>	<u>TCLP Limit</u>
Benzene	10 mg/kg	0.5 mg/L
Lead	30 mg/kg	1.5 mg/L
TPH	1500 mg/kg	not applicable

Statement of Applicant

I, \_\_\_\_\_, state that I have knowledge of the facts set forth herein and that these facts are true and correct, to the best of my knowledge and belief. I further state that, to my knowledge and belief, the project for which application is now being made will not in any way violate any law, rule, ordinance, or decree of the duly authorized governmental entity having jurisdiction. I further state that I am the applicant or am authorized to act for the city/county/applicant.

\_\_\_\_\_  
(Signature of applicant)

\_\_\_\_\_  
(Name and Title)

\_\_\_\_\_  
(Date)

Figure 2: 30 TAC §330.73(d)(8)(B)

Notary public's certificate: Subscribed and sworn to before me, by the said \_\_\_\_\_, this \_\_\_\_ day  
of \_\_\_\_\_ 19\_\_\_\_, to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for \_\_\_\_\_ County, Texas.

My commission expires on \_\_\_\_\_.

Figure 3: 30 TAC §330.73(e)(4)

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed-
	Metric units (kg/kg of raw material)	
Oil and grease .....	0.10	0.05
TPH	0.01	0.01
pH .....	( <sup>1</sup> )	( <sup>1</sup> )
	English units (lb/1,000 lb. of raw material)	
Oil and grease .....	0.10	0.05
TPH	0.01	0.01
pH .....	( <sup>1</sup> )	( <sup>1</sup> )

<sup>1</sup> Within the range 5.5 to 10.5.



Figure 4: 30 TAC §330.73(e)(12)

<u>Contaminant</u>	<u>Total Limit</u>	<u>TCLP Limit</u>
Benzene	10 mg/kg	0.5 mg/L
Lead	30 mg/kg	1.5 mg/L
TPH	1500 mg/kg	not applicable

# OPEN MEETINGS

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours before a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

**Emergency meetings and agendas.** Any of the governmental entities listed above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. All emergency meeting notices filed by governmental agencies will be published.

**Posting of open meeting notices.** All notices are posted on the bulletin board at the main office of the Secretary of State in the lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain a more detailed agenda than what is published in the *Texas Register*.

**Meeting Accessibility.** Under the Americans with Disabilities Act, an individual with a disability must have equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

## Texas State Board of Public Accountancy

November 21, 1996 at 9:00 a.m.

333 Guadalupe Street, Tower III, Room 910

Austin

Board Meeting

AGENDA:

Consideration of: Committee Reports from Executive, Licensing, Technical Standards, Quality Review, Behavioral Enforcement, Qualifications, Continuing Professional Education, Regulatory Compliance, Rules, Major Case, Rules Subcommittee on Specialization Committees; Adoption of Board Rules, Agreed Consent Orders, Board Orders, Proposals for Decision; and consideration of application for reinstatement by NICPAP; Executive Session consultation to seek the advice of the board's attorney concerning pending or contemplated litigation or a settlement offer on the American Express, Charles Williams and Leonard Mednick Lawsuits.

Contact: J. Randel (Jerry) Hill, 333 Guadalupe, Tower III, Room 900, Austin, Texas 78701-3900. (512) 505-5542.

Filed: November 8, 1996, 4:51 p.m.

TRD-9616308

## State Office of Administrative Hearings

Tuesday, February 18, 1997; 9:00 a.m.

1701 North Congress Avenue

Austin

Utility Division

AGENDA:

A HEARING ON THE MERITS has been RESCHEDULED and will be held at the above date and time in SOAH DOCKET NO. 473-96-0115; PUC DOCKET NO. 15042; APPLICATION OF GTE SOUTHWEST INC. TO REVISE GENERAL EXCHANGE TARIFF

TO INCORPORATE ALL CENTRANET AND INTEGRATED SERVICES DIGITAL NETWORK (ISDN) SERVICES PURSUANT TO PUC SUBST. R. 23.69.

Contact: J. K. Trostle, 300 West 15th Street, Suite 502, Austin, Texas 78701-1649, (512) 936-0728.

Filed: November 12, 1996, 4:35 p.m.

TRD-9616381

## Texas Department of Agriculture

Thursday, November 21, 1996, 9:00 a.m.

Texas Department of Agriculture, 1700 North Congress, Room 911

Austin

Texas Agricultural Finance

AGENDA:

Discussion and action on: minutes of previous meeting, Authority's section of the management control audit of the Texas Department of Agriculture, Cost Benefit Study and the Cost Benefit Report; amending the Program rules and Credit Policy and Procedures for the Farm and Ranch Finance Program, application for Jensen Ranches, Incorporated, application for Brandon Manning, application for Lindsey Hooper, renewal of guarantee for Glenn E. Dylla and Karla K. Dylla, adopting the rules and credit policy and procedures for the Loan Guaranty Program, proposal for the purchase of the Authority owned facility in Plainview, Sesaco Corporation application for guaranty, portfolio of the Authority, Authority budget for FY'97; Public Comment; Discussion and action on future meeting date.

Contact: Robert Kennedy, P.O. Box 12847, Austin, Texas 78711, (512) 463-7639.

Filed: November 13, 1996, 8:09 a.m.

TRD-9616387

Monday, December 2, 1996, 1:00 p.m.

300 West 15th Street, Suite 502

Austin

State Office of Administrative Hearings

AGENDA:

Alleged violation of the Texas Cotton Pest Control Law contained in Texas Agriculture Code, Chapter 74, by James Gavranovic.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: November 8, 1996, 4:52 p.m.

TRD-9616309



Thursday, December 5, 1996, 1:00 p.m.

300 West 15th Street, Suite 502

Austin

State Office of Administrative Hearings

AGENDA:

Alleged violation of the Texas Cotton Pest Control Law contained in Texas Agriculture Code, Chapter 74, by Don Cunningham.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: November 8, 1996, 4:52 p.m.

TRD-9616310



Friday, December 6, 1996, 9:00 p.m.

300 West 15th Street, Suite 502

Austin

State Office of Administrative Hearings

AGENDA:

Alleged violation of the Texas Cotton Pest Control Law contained in Texas Agriculture Code, Chapter 74, by Prince Farms, Inc.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: November 8, 1996, 4:52 p.m.

TRD-9616312



Friday, December 6, 1996, 1:00 p.m.

300 West 15th Street, Suite 502

Austin

State Office of Administrative Hearings

AGENDA:

Alleged violation of the Texas Cotton Pest Control Law contained in Texas Agriculture Code, Chapter 74, by Kallion Farms, PTN.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: November 8, 1996, 4:52 p.m.

TRD-9616311



**Texas Commission on the Arts**

Thursday, December 5, 1996, 8:30 a.m.

701 East 11th Street, Austin Marriott at the Capitol

Austin

Administrative Committee

AGENDA:

I. Call to Order

II. Roll Call

III. Public Hearing

IV. Approval of Minutes for September 6, 1996 Meeting

V. Financial Statement FY 97 and FY 96 Annual Report

VI. Cultural Trust Fund Report

VII. Update on Legislative Appropriations Request for FY 98-99

VIII. State Audit Report and Response

IX. Changes in Federal Audit Requirements

X. Organizational Structure Update

XI. Preliminary Marketing Plan for FY 98-99

XII. Other Business

XIII. Adjournment

Contact: Deborah Cole, Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: November 13, 1996, 8:11 a.m.

TRD-9616389



Thursday, December 5, 1996, 10:00 a.m.

701 East 11th Street, Austin Marriott at the Capitol

Austin

Commission Meeting

AGENDA SUMMARY:

I. Call to Order

II. Roll Call

III. Public Hearing

IV. Items for Commission Consent

V. Items for Information Only

Contact: Deborah Cole, Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: November 13, 1996, 8:11 a.m.

TRD-9616390



**State Auditor's Office**

November 20, 1996, 10:00 a.m.

Senate Chamber, State Capitol

Austin

Legislative Audit Committee

AGENDA:

1. Call to Order
2. Approval of the State Auditor's Office Work Plan, Fiscal Year 1997
3. Approval of the State Auditor's Office Operating Budget, Fiscal Year 1997
4. Establish the amount of the Surety Bond for the State Auditor as required by Section 321.008, Texas Government Code
5. Any Other Business
6. Adjourn

Contact: Lawrence F. Alwin, Two Commodore Plaza, 206 East 9th Street, 19th Floor, Austin, Texas 78701.

Filed: November 12, 1996, 4:32 p.m.

TRD-9616374

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### State Board of Dental Examiners

Saturday, November 23, 1996, 9:30 a.m. until conclusion

SBDE Offices, 333 Guadalupe, Tower 3, Suite 800

Austin

Anesthesia Consultants Committee

AGENDA:

- I. Call to order
- II. Roll Call
- III. Review and approval of past minutes
- IV. Discuss and review current anesthesia rules 109.171-109.177.
- V. Discuss and review current permitting procedures for anesthesia administration.
- VI. Announcements
- VIII. Adjourn

Contact: Mei Ling Clendennen, Executive Assistant, SBDE, 333 Guadalupe, Tower 3, Suite 800, Austin, Texas 78701, (512) 463-6400.  
Filed: November 12, 1996, 9:45 a.m.

TRD-9616325

◆ ◆ ◆

Thursday, December 5, 1996, 3:00 p.m. until conclusion

SBDE Offices, 333 Guadalupe, Tower 3, Suite 800

Austin

Credentials Review Committee

AGENDA:

I. Call to order

II. Roll Call

III. Review and approval of past minutes

IV. Review dental applications for licensure by credentials and make recommendations to the Board for approval or denial of said applications.

V. Review dental hygiene applications for licensure by credentials and make recommendations to the board for approval or denial of said applications.

VI. Public comments

VII. Announcements

VIII. Adjourn

Contact: Mei Ling Clendennen, Executive Assistant, SBDE, 333 Guadalupe, Tower 3, Suite 800, Austin, Texas 78701, (512) 463-6400.  
Filed: November 12, 1996, 9:43 a.m.

TRD-9616326

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### Interagency Council on Early Childhood Intervention

Thursday, November 21, 1996, 9:30 a.m.

909 West 45th Street

Austin

AGENDA:

Internal Audit Sub-Committee Meeting. Public Comment. Discussion and Approval of Minutes from the October 17, 1996 Meeting. Discussion and Approval of the Advisory Committee and Director's Forum Reports. Presentation of the Fiscal Year 1996 Internal Audit Report. Discussion and Approval of the Internal Audit Subcommittee Report. Discussion of the Legislative Process Including Revisions to Chapter 73, Human Resources Code and the Appropriations Process. Discussion and Approval of Plan to Award Merit Raises. Discussion and Approval of Staff Recommendation to Extend Contract with Laredo State Center to August 31, 1997. Discussion and Approval to Award to the Easter Seal Society of the Rio Grande Valley for Contract Ending February 28, 1997. Discussion and Approval of Staff Recommendations to Revise the ECI/Administrative/Operational Procedures. Executive Session: Under the Authority of the Open Meetings Act, Section 551.071, Government Code, to Consult with Legal Counsel Regarding Pending or Contemplated Litigation. FYI

Contact: Linda Hill, Interagency Council on Early Childhood Intervention, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 424-6754,

Filed: November 12, 1996, 10:15 a.m.

TRD-9616344

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### Texas Education Agency (TEA)

Thursday, November 21, 1996, 9:00 a.m.

Wild Basin Wilderness Conference Room, 805 North Capital of Texas Hwy

Austin

Texas Environmental Education Advisory Committee (TEEAC) Executive Subcommittee

**AGENDA:**

The strategic planning meeting agenda will include the following items: evaluating current status of TEEAC; inventory present TEEAC programs; exploring possible future initiatives; reviewing teacher training activities; and developing a process to communicate Texas essential knowledge and skills to staff development providers.

Contact: Irene Pickhardt, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas (512) 463-9556.

Filed: November 12, 1996, 11:03 a.m.

TRD-9616350

◆ ◆ ◆  
**General Land Office**

Tuesday, November 19, 1996, 10:00 a.m.

Stephen F. Austin Building, 1700 North Congress, Room 831

Austin

School Land Board

**AGENDA:**

Approval of previous board meeting minutes; pooling applications, Giddings (Austin Chalk-3) Field, Brazos and Burleson Counties; Barstow (Fusselman) Field, Ward Co.; Cross Creek (Wilcox) Field, Harris Co.; Wildcat Field, Colorado Co.; royalty incentive application, Hawk Eye (Adams Branch), Eastland Co.; consideration of nominations, terms and conditions for a special oil and gas lease sale on January 7, 1997; consideration of bids received on oil and condensate, Calhoun County; Coastal public lands- easement applications, Copano Bay, Aransas Co.; and Keller Bay, Calhoun Co.; structure (cabin) permit renewals, amendments, terminations and requests, Laguna Madre, Cameron Co.; Laguna Madre, Kenedy Co.; Espiritu Santo Bay, Calhoun Co.; and Laguna Madre, Kleberg Co.; Executive Session- pending or contemplated litigation; Executive Session- Report on the royalty audit program and status of audits; Executive Session and Open Session — consideration and approval of a boundary agreement between Nueces County and the State of Texas, Mustang Island, Corpus Christi Bay, Nueces County, Texas.

Contact: Linda K. Fisher, Secretary, School Land Board, Stephen F. Austin Building, 1700 North Congress, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: November 8, 1996, 4:31 p.m.

TRD-9616302

◆ ◆ ◆  
**Office of the Governor-Criminal Justice Division**

Monday, December 9, 1996, 9:30 a.m.

221 East 11th Street, 1st Floor, Main Conference Room

Austin

Juvenile Justice Processing in Texas

**AGENDA:**

I. Welcome; II. Draft Report Presentation; III. Review and Comment; VI. Discussion by Work Group; V. Adjourn.

Contact: Glenn Brooks, Ed Santiago, P.O. Box 12428, Austin, Texas 78711, (512) 463-1944, (512) 463-1786.

Filed: November 8, 1996, 2:27 p.m.

TRD-9616260

◆ ◆ ◆  
**Texas Growth Fund**

Tuesday, November 19, 1996, 10:30 a.m.

1000 Red River

Austin

Board of Trustees

**AGENDA:**

1. Review and approve minutes of the Special Meeting of the Board of Trustees held on September 19, 1996.
2. Review and approve Treasurer's report.
3. Review and approve proposal from Ernst & Young L.L.P. to perform 1996 year-end audit.
4. Review and approve invoices from Vinson & Elkins L.L.P.
5. Discuss renewal of directors and officers/errors and omissions insurance policy.
6. Receive an activity report from TGF Management Corp.
7. Review and approve TGF Management Corp.'s 1997 Budget Request.
8. Review and approve proposed investment(s).
9. Such other matters as may come before the Board of Trustees.

Contact: Janet Waldeier, 100 Congress Avenue, Suite 980, Austin, Texas 78701, (512) 322-3100.

Filed: November 8, 1996, 3:00 p.m.

TRD-9616277

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**Texas Department of Health**

Wednesday, November 20, 1996, 10:00 a.m.

Moreton Building, Room M-739, Texas Department of Health, 1100 West 49th Street

Austin

Board Briefing

**AGENDA:**

The board will receive a briefing on the drug ephedrine.

To request an accommodation under the ADA, please contact Lonzo Kerr, ADA Coordinator in the Office of Civil Rights at (512) 458-7627, or TDD at (512) 458-7708 at least two days prior to the meeting.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756,  
(512) 458-7484.  
Filed: November 12, 1996, 4:32 p.m.  
TRD-9616372

◆ ◆ ◆  
Wednesday, November 20, 1996, 3:00 p.m.

Moreton Building, Room M-739, Texas Department of Health, 1100  
West 49th Street

Austin

Board Briefing

AGENDA:

The board will receive a briefing on proposed legislation.

To request an accommodation under the ADA, please contact Lonzo  
Kerr, ADA Coordinator in the Office of Civil Rights at (512) 458-  
7627, or TDD at (512) 458-7708 at least two days prior to the  
meeting.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756,  
(512) 458-7484.  
Filed: November 12, 1996, 4:32 p.m.

TRD-9616373

◆ ◆ ◆  
**Texas Department of Human Services**

Friday, November 15, 1996, 11:00 a.m.

701 West 51st Street, 1st Floor, East Tower, Public Hearing Room

Austin

Texas Board of Human Services

EMERGENCY REVISED AGENDA:

As authorized by the Texas Open Meetings Act, Sections 551.045  
and 551.071 of the Texas Government Code, the following items are  
being added to the agenda for November 15, 1996.

12. The Board will recess to go into a closed executive session to  
consult with its attorney concerning the following pending litigation:  
Texas Health Care Association v. Terry Trimble, Interim Commis-  
sioner of the Texas Department of Human Services; and David Hern-  
don, Chairman of the Board, Texas Department of Human Services,  
et al.

13. The Board will reconvene in open session to take action, if  
necessary, resulting from discussion in executive session.

REASON FOR EMERGENCY: This addendum is required by an  
emergency or urgent public necessity. Concurrent with its filing of  
the November 15, 1996 Board agenda with the Secretary of State,  
the department was served notice of litigation requiring immediate  
consideration by the Board. Filing of the lawsuit was unforeseeable  
prior to the agency's posting of its regular Board agenda.

Contact: Sherron Heinemann, Texas Department of Human Services,  
P.O. Box 149030, Austin, Texas 78714-9030, (512) 438-3048.  
Filed: November 12, 1996, 4:34 p.m.

TRD-9616379

**Texas Department of Insurance**

Tuesday, November 26, 1996, 9:00 a.m.

333 Guadalupe, Tower I, Room 100

Austin

AGENDA:

The Commissioner of Insurance will hold a public hearing under  
Docket No. 2269. The Commissioner will consider for adoption an  
amendment to section 5.4501, concerning the adoption by reference of  
a revised manual of rules governing the writing of windstorm and hail  
insurance by the Texas Catastrophe Property Insurance Association  
(TCPIA).

The proposed sections and the statutory authority for the proposed  
sections, were published in the October 18, 1996, issue of the Texas  
Register (21 TexReg 10269).

Contact: Sylvia Gutierrez, 333 Guadalupe Street, Texas Department  
of Insurance, Austin, Texas 78701, (512) 463-6327.  
Filed: November 13, 1996, 9:53 a.m.

TRD-9616401

◆ ◆ ◆  
Monday, December 2, 1996, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite  
502

Austin

AGENDA:

Hearing in the Matter of the Request for an Appeal by CHILDREN'S  
MEDICAL CENTER OF DALLAS.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A,  
Austin, Texas 78701, (512) 463-6328.  
Filed: November 8, 1996, 11:46 a.m.

TRD-9616250

◆ ◆ ◆  
Wednesday, December 4, 1996, 1:30 p.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite  
502

Austin

AGENDA:

Prehearing Conference in the Matter of the appeal by EMPLOYER'S  
INSURANCE OF WAUSAU, A MUTUAL COMPANY from a  
Decision of the Texas Workers' Compensation Insurance Facility  
(continued from 11-7-96).

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A,  
Austin, Texas 78701, (512) 463-6328.  
Filed: November 8, 1996, 11:56 a.m.

TRD-9616251

◆ ◆ ◆  
Thursday, December 5, 1996, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite  
502

Austin

AGENDA:

In the Matter of the Appeal by CHILDREN'S MEDICAL CENTER OF DALLAS from a Decision of the Texas Medical Liability Insurance Association, Joint Underwriting Association (JUA) (Continued from 10/16/96).

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: November 8, 1996, 11:56 a.m.

TRD-9616252



**Board of Law Examiners**

Friday, November 22, 1996, 8:30 a.m.

Suite 500, Tom C. Clark, 205 West 14th Street

Austin

Hearings Panel

AGENDA:

The hearings panel will hold public hearings and conduct deliberations, including the consideration of proposed agreed orders, on the character and fitness of the following applicants, declarants and/or probationary: James Pistorino; Ashley Gulden, Bruce Dailey; Jose Aasletten; Donna Sumners; Mike Futia; Lawrence Pinsof. (Character and fitness deliberations may be conducted in executive session, pursuant to Sec. 82.003(a), Texas Government Code).

Contact: Rachael Martin, Executive Director, P.O. Box 13486, Austin, Texas 78711-3486, (512) 463-1621.

Filed: November 12, 1996, 11:02 a.m.

TRD-9616349



**Texas Natural Resource Conservation Commission**

Wednesday, November 20, 1996, 9:00 a.m.

12100 Park 35, Building A, Room 202, 2nd Floor

Austin

Irrigators Advisory Council

AGENDA:

Meeting called to order; Committees of the Council will meet; Reports by staff and general public for informational purposes only; Meeting will adjourn.

Contact: Gene Reagan or Bettye Jean Urban at TNRCC, Texas Irrigators Advisory Council, P.O. Box 13087, MC-177, Austin, Texas 78711-3087, (512) 239-6719 or 239-6658 or 239-6659.

Filed: November 12, 1996, 4:33 p.m.

TRD-9616376



Wednesday, November 20, 1996, 9:30 a.m.; 1:00 p.m.

12118 N. IH35, Building E, Room 201S,

Austin

AGENDA:

The Commission will consider approving the following matters on the attached agenda: Awards; Agency Enforcement Report; Class 3 Modification; Hearing Requests; Opposition and Comments; Levy of Standby Fee; Petroleum Storage Tank Enforcement Agreed Orders; Air Quality Enforcement Agreed Orders; Municipal Waste Discharge Enforcement Agreed Orders; Public Water Supply Enforcement Agreed Order; Industrial Hazardous Waste Enforcement Agreed Order; Industrial Waste Discharge Enforcement Agreed Order; Water Well Drillers Enforcement Agreed Order; Contract; Rules; Executive Session; the Commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the Commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time. (REGISTRATION FOR 9:30 AGENDA STARTS 8:45 UNTIL 9:25).

The Commission will consider approving the following matters on the attached 1:00 p.m. agenda: Administrative Law Judge's Proposal for Decisions; Motion for Rehearing.

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: November 12, 1996, 9:46 a.m.

TRD-9616331



November 20, 1996, 9:30 a.m.; 1:00 p.m.

12118 N. IH35, Building E, Room 201S

Austin

REVISED AGENDA:

The Commission will consider an addendum to the 9:30 a.m. agenda: Rules.

The Commission will consider an addendum to the 1:00 p.m. agenda: Motion for Rehearings.

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: November 12, 1996, 4:37 p.m.

TRD-9616385



November 20, 1996, 9:30 a.m.

12118 N. IH35, Building E, Room 201S

Austin

REVISED AGENDA:

The Commission will consider an addendum to the 9:30 agenda.

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: November 12, 1996, 4:38 p.m.

TRD-9616386



**Board of Nurse Examiners**

Thursday, November 21, 1996, 8:30 a.m.

333 Guadalupe, Tower 2, Room 225

Austin

**EMERGENCY REVISED AGENDA:**

Under 8.2 ALJ's Proposals for Decision, add: James A. Adamson, #464119; Sharon Marie Ballard, #586232; Janet Ann Bogart, #414781; Veama Geraldine Etor, Applicant; Diana Kay Hughes, #514381; Betty Herndon Mifflin, #563566; Patricia Ann Rush, #443602 and Laura Brady Williams, #421741.

**REASON FOR EMERGENCY:** Proposals for Decision were received from the ALJ and require action prior to the next regularly scheduled meeting.

Contact: Erlene Fisher, Box 140466; Austin, Texas 78714, (512) 305-6811,

Filed: November 12, 1996, 11:58 a.m.

TRD-9616355

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**Public Utility Commission of Texas**

Friday, December 13, 1996, 9:30 a.m.

1701 North Congress Avenue

Austin

Legal Administration

**AGENDA:**

A prehearing conference has been scheduled in Docket No. 16542-Application of Southwestern Bell Telephone Company for Approval to Establish New Pricing Flexibility Plan Tariff.

Contact: Paula Mueller, 1701 North Congress Avenue, Austin, Texas 78711, (512) 936-7145.

Filed: November 12, 1996, 4:31 p.m.

TRD-9616369

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**Texas Senate**

Tuesday, December 3, 1996, 9:00 a.m.

Finance Committee Room

Austin

Senate Finance Committee

**AGENDA:**

Consideration of Public Testimony

Contact: Patricia Hicks, Senate Finance Committee, P.O. Box 12068, Austin, Texas 78711

Filed: November 8, 1996, 2:36 p.m.

TRD-9616269

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**Texas State Soil and Water Conservation Board**

Wednesday, November 20, 1996, 8:00 a.m.

311 North 5th Street, Hearings Room

Temple

**AGENDA:**

Minutes from September 11, 1996 Board Meeting; District Director Appointments; Section 319 Status Report; Senate bill 503 Status Report; Texas Coastal Management Program; Upper North Bosque River Status Report; Corpus Christi Bay National Estuary Program; Request for Variance from Approved Cost Share List; Request for Allocation from Statewide Cost Share Funds; District's Request for Inclusion in Senate Bill 503 Cost Share Program; Subdivision Description Changes for Bureson-Lee Soil and Water Conservation District No. 313; Subdivision Boundary Changes for Toyah-Limpia SWCD #209; Subdivision Boundary Changes for North Concho River SWCD #252; Conservation Awards Program; 1997 Governor's Awards for Environmental Excellence; Legislation Affecting Soil and Water Conservation; Status Report on District Agreements with NRCS and USDA; 1996 Farm Bill Implementation; District director Election Update; Reports from Agencies and Guests; Recruiting and Staffing Update; Public Information/Education Report; Expenditure Report for Two Month Period Ending October 31, 1996; Allocations of Fiscal Year 1997 Subchapter H Technical Assistance funds; Fiscal Year 1996 Supplemental Technical Assistance Allocations; Status Report on District Financial Statements and Audits; Report on 1996 Annual State Meeting; 1998-1999 Biennium Legislative Appropriation Request Status Report; Report on Performance Measure Audit; Board Member Travel; Next Regular Board Meeting is January 15, 1997.

Contact: Robert G. Buckley, P.O. Box 658, Temple, Texas 78503, (817) 773-2250

Filed: November 8, 1996, 3:00 p.m.

TRD-9616276

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**The Texas A & M University System**

Friday, November 15, 1996, 1:00 p.m.

Board of Regents Meeting Room, Memorial Student Center

College Station

Board Bylaws Committee

**AGENDA:**

The purpose of this meeting is to discuss and adopt revisions to the Bylaws of the Board of Regents of the Texas A & M University System.

Contact: Vicki Running, Executive Secretary to the Board, The Texas A & M University System, College Station, Texas 77843, (409) 845-9600.

Filed: November 12, 1996, 8:14 a.m.

TRD-9616320

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**The University of Texas System**

Wednesday, November 13, 1996, 3:00 p.m.

Cambridge Room, Le Meridien Hotel, 650 North Pearl Street

Dallas



Board of Regents and Standing Committees

**EMERGENCY REVISED AGENDA:**

Additional items to the Executive Session Agenda filed on November 4, 1996.

Reference: Texas Government Code, Chapter 551, Section 551.074

1. U.T. San Antonio: Consideration of Promotion of Faculty Member Pursuant to Order in Pending Litigation
2. U.T. System: Consideration of Executive Evaluation and Compensation.

**REASONS FOR EMERGENCY:** 1. Because of an order by the U.S. Court of Appeals for the 5th Circuit received November 7, 1996; 2. Certain executive compensation levels, which were frozen in August 1996, require prompt Board consideration to achieve competitiveness in the marketplace.

Contact: Arthur H. Dilly, 201 West Seventh Street, Austin, Texas 78701-2981, (512) 499-4402.

Filed: November 12, 1996, 8:15 a.m.

TRD-9616322

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**The University of Texas Health Science Center  
at San Antonio**

Wednesday, November 20, 1996, 3:00 p.m.

7703 Floyd Curl Drive, Room 422A

San Antonio

Institutional Animal Care and Use Committee

**AGENDA:**

1. Approval of Minutes
2. Protocols for Review
3. Subcommittee Reports
4. Other Business

Contact: Molly Greene, 7703 Floyd Curl Drive, San Antonio, Texas 78284-7822, (210) 567-3717.

Filed: November 12, 1996, 4:32 p.m.

TRD-9616375

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**University Interscholastic League**

Wednesday, November 13, 1996, 10:00 a.m.

Omni Southpark Hotel, Ben White at IH35

Austin

State Executive Committee

**EMERGENCY MEETING AGENDA:**

AA. Appeal of Decision of District 9 AAAAA Executive Committee Finding a Student Representative of Plano High School Ineligible.

BB. Transfer From District 19 AAAAA of Eligibility Determination of Student Representative, Spring Branch Memorial High School.

**REASON FOR EMERGENCY:** Eligibility decision will determine which team will advance in football playoff game Friday, November 15, 1996. Advancing team and opponent must have time to prepare for the game.

Contact: C. Ray Daniel, 3001 Lake Austin Boulevard, Austin, Texas, 78711, (512) 471-5883.

Filed: November 12, 1996, 8:26 a.m.

TRD-9616323

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Tuesday, November 12, 1996, 11:00 a.m.

Hogg Foundation, Conference Room, 4th Floor, 3001 Lake Austin Boulevard

Austin

Waiver Review Board

**EMERGENCY MEETING AGENDA:**

AA. Request for waiver of the Parent-Residence Rule by Cy Garratt Cattan representing Memorial High School in Houston, Texas.

**REASON FOR EMERGENCY:** Eligibility decision will determine which team will advance in football playoff game Friday, November 15, 1996. Advancing team and opponent must have time to prepare for the game.

Contact: Sam Harper, 23001 Lake Austin Boulevard, Austin, Texas, 78713, (512) 471-5883.

Filed: November 12, 1996, 8:27 a.m.

TRD-9616324

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**Board of Vocational Nurse Examiners**

Monday, November 18, 1996, 2:30 p.m.

333 Guadalupe, Tower 3, Suite 400

Austin

Budget Committee

**EMERGENCY MEETING AGENDA:**

The Board of Vocational Nurse Examiner's Budget Committee will meet via conference call. The committee will review the Legislative Appropriation Request and specifically discuss the supplemental portion of the request. The conference call will originate from (512) 305-8100 at the office of the Board of Vocational Nurse Examiners. It is anticipated the call will conclude on or before 3:30 p.m.

**REASON FOR EMERGENCY:** This is the only date the committee members could mutually agree upon.

Contact: Marjorie A. Bronk, Executive Director, 333 Guadalupe, Suite 3-400, Austin, Texas 78701, (512) 305-8100.

Filed: November 12, 1996, 11:58 a.m.

TRD-9616354

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**Texas Water Development Board**

Wednesday, November 20, 1996, 10:30 a.m.

Dallas Public Library, 1515 Young Street

Dallas

Finance Committee

**AGENDA:**

1. Consider approval of the minutes of the meeting of October 16, 1996.
2. Briefing and discussion on the investment portfolio in accordance with the Public Funds Investment Act.
3. Consider a \$2,556,957 grant/loan to the Lower Valley Water District (El Paso County) increasing the total Phase II commitment from \$19,153,554 to \$21,710, 511 for construction of a wastewater collection system and water line extensions to a portion of the city of Socorro. (Economically Distressed Areas Program and State Water Pollution Control Revolving Fund).
4. Briefing on present and future EDAP projects.
5. Report on the status of approved contracts.
6. May consider items on the agenda of the November 20, 1996 Board meeting.

\*\* Additional non-committee Board members may be present to deliberate but will not vote in the Committee meeting.

Contact: Craig D. Pedersen, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: November 12, 1996, 4:36 p.m.

TRD-9616383

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Wednesday, November 20, 1996, 1:30 p.m.

Dallas Public Library, 1515 Young Street

Dallas

**AGENDA:**

The Board will consider: TWDB projects in the Dallas area, minutes; executive, financial and committee reports; a facility planning application to Moore WSC and transfer of funds; financial assistance to Brazos River Authority (Robinson project), Lampasas, San Marcos and environmental issues related to a previous commitment, Siesta Shores WC and ID, Huntsville, Rockett Special Utility District, Benton City WSC, Deer Park, Port Lavaca, Victoria Co. WC and ID #1, Macedonia-Eylau MUD #1, Houston, and Lower Valley Water District; financial assistance and loan agreement with Evergreen Underground Water Conservation District (WCD), Panhandle Ground WCD No. 3, High Plains Underground WCD#1, Sandy Land Underground WCD, South Plains Underground WCD, Ward County Water Improvement District #3; grant application and agreement with Hidalgo County Irrigation District #1; request for extension on loan commitments to cities of Forest Hill and Alton; increase in Edinburg's CPLP project area to include the Faysville area; extension of time for staff to resolve CWTAP match requirements; an increase to Harris County Utility District #5; agricultural conservation grant applications; reassignment of a planning grant from Laredo to South Texas Development Council; contracts with Tarrant Regional Water District and Texas Parks and Wildlife Department and transfer of funds; amendment of bond counsel contracts; amendments

to Chapters 363 and 375 regarding Depository Trust rules and community Self-Help rules; actions for the sale of \$185,000,000 State Revolving Fund Senior Lien Revenue Bonds Series 1996B, up to \$90,000,000 State of Texas Water Development Bonds Series 1997A, 1997B, and 1997C, and \$5,000,000 Agricultural Water Conservation Bonds, Taxable Series 1997; release of the 1996 Texas Water Plan Update legislative summary; guidance to loan applicants regarding use of surety bond policies for reserve fund requirements; and publication of Drinking Water State Revolving Fund proposed rules.

Contact: Craig D. Pedersen, Executive Administrator, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: November 12, 1996, 4:36 p.m.

TRD-9616384

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**Texas Workers' Compensation Insurance Fund**

Tuesday, November 19, 1996, 8:00 p.m.

Four Seasons Hotel, 98 San Jacinto, Plaza Suite 716

Austin

Board of Directors

**AGENDA:**

The Board of Directors of the Texas Workers' Compensation Insurance Fund ("Fund") will have an informal dinner at 8:00 p.m. on Tuesday, November 19, 1996. The dinner is intended to be a social event, and there is no formal agenda. No formal action will be taken, but it is possible that discussions could occur which could be construed as "deliberations" within the meaning of the Open Meetings Act. Therefore, the dinner will be treated as an "open meeting" and the public will be allowed to observe. However, dinner will be provided only for the Board of Directors of the Fund, and certain staff of the Fund. No dinner or refreshments will be provided for members of the public who may wish to attend.

Contact: Jeanette Ward, 221 West 6th Street, Suite 300, Austin, Texas 78701, (512) 404-7142.

Filed: November 12, 1996, 8:15 a.m.

TRD-9616321

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Wednesday, November 20, 1996, 1:00 p.m.

221 West 6th Street, Suite 328

Austin

Board of Directors

**AGENDA:**

Call to Order; Roll Call; Presentation to Former Board Member; Review and Approval of the Minutes of the September 25, 1996, Board Meeting and the October 11-12, 1996, Board Retreat; Action Items: Election of the Organizational Effectiveness committee for 1997; Consideration of Election of Vice Chair and Secretary of the Board for the Remainder of 1996; Financial Report; Consideration of Write-Off of Bad Debts and Policy for Future Write-Offs; Fund Status Report; Informational Items; Report of the Finance Committee; Report of the Operations Committee; Report of the Audit Committee;

Public Participation; Executive Session; Action Items Resulting from Executive Session Deliberations; Announcements; Adjourn.

Contact: Jeanette Ward, 221 West 6th Street, Suite 328, Austin, Texas 78701, (512) 404-7142.

Filed: November 12, 1996, 4:29 p.m.

TRD-9616365

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**Texas Youth Commission**

Thursday, November 21, 1996, 10:30 a.m.

4900 North Lamar, Public Hearing Rooms 1420 and 1430

Austin

Board

AGENDA:

Opening Remarks

Approval of the Minutes of the September 19, 1996 Board Meeting (Action)

Executive Director's Report (Information)

Public Comments (Information)

Approval of November 1996 Six-Month Follow-up Report Status of Implementation of Prior Audit Recommendations (Action)

Approval of Memorandum of Understanding with State Auditor's Office for Administration of a Joint Consultant Study of TDCJ and TYC Medical Services Contractors (Action)

Approval of Resolution Authorizing TYC to Act in Regard to the Violent Offender Incarceration and Truth-in-Sentencing Incentive Formula Grant Program (Action)

Approval of Compensation Study Contract (Action)

Approval of Textbook Committee (Action)

Approval of Construction Contract for the West Texas Water Treatment Plant Renovation Project (Action)

Report on Final Resolution of Change Order for Jefferson County Parking Lot Approved by Board at September 19, 1996 Meeting (Information)

Contact: Eleanor Thompson, P.O. Box 4260, Austin, Texas 78765, (512) 424-6001.

Filed: November 12, 1996, 4:29 p.m.

TRD-9616363

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**Regional Meetings**

Meetings Filed on November 8, 1996

Archer County Appraisal District, Board of Directors, met at 101 South Center, Archer, November 13, 1996, at 5:00 p.m. Information may be obtained from Edward H. Trigg, III, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172. TRD-9616256.

Brazos River Authority, Board of Directors, will meet at Omni Austin Hotel, 700 San Jacinto, Austin, November 25, 1996, at 10:00 a.m.

Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD-9616319.

Coleman County Water Supply Corporation, Board of Directors met at 214 Santa Anna Avenue, Coleman, November 13, 1996, at 1:30 p.m. Information may be obtained from Davey Thweatt, 214 Santa Anna Avenue, Coleman, Texas 767834, (915) 625-2133. TRD-9616259.

Dallas Area Rapid Transit, Legal AdHoc Committee, met at 1401 Pacific Avenue, Conference Room "C", First Floor, Dallas, November 12, 1996, at 11:00 a.m. Information may be obtained from Paula J. Bailey, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9616298.

Dallas Area Rapid Transit, Committee-of-the-Whole Meeting, met at 1401 Pacific Avenue, Conference Room "C", First Floor, Dallas, November 12, 1996, at 1:00 p.m. Information may be obtained from Paula Bailey, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9616299.

Dallas Area Rapid Transit, Board met at 1401 Pacific Avenue, Board Room, First Floor, Dallas, November 12, 1996, at 6:30 p.m. Information may be obtained from Paula Bailey, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9616301.

Edwards Aquifer Authority, Finance Committee met at 1615 North St. Marys Street, San Antonio, November 12, 1996, at 4:30 p.m. Information may be obtained from Sally Tamez-Salas, 1615 North St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD-9616268.

Edwards Aquifer Authority, Board Committee met at 1615 North St. Marys Street, San Antonio, November 12, 1996, at 6:00 p.m. Information may be obtained from Sally Tamez-Salas, 1615 North St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD-9616248.

El Oso Water Supply Corporation, Board of Directors met at FM 99, Karnes City, November 12, 1996, at 7:00 p.m. Information may be obtained from Judith Zimmermann, P.O. Box 309, Karnes City, Texas 78118, (210) 780-3539. TRD-9616255.

Gonzales County Appraisal District, Board of Directors, met at 928 St. Paul Street, Gonzales, November 14, 1996 at 6:00 p.m. Information may be obtained from Connie Barfield or Glenda Strackbein, 928 St. Paul, Gonzales, Texas 78629, (210) 672-2879. TRD-9616278.

Gray County Appraisal District, Board of Directors, met at 815 North Sumner, Pampa, November 14, 1996 at 7:30 a.m. Information may be obtained from Jennifer Read, P.O. Box 836, Pampa, Texas 79066-0836, (806) 665-0791. TRD-9616267.

Hockley County Appraisal District, Board of Directors, met at 1103 Houston Street, Levelland, November 11, 1996, at 7:30 p.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654. TRD-9616314.

Hood County Appraisal District, Appraisal Review Board, met at 1902 West Pearl Street, District Office, Granbury, November 14, 1996, at 9:00 a.m. Information may be obtained from Harold Chesnut, P.O. Box 819, Granbury, Texas 76048, (817) 573-2471. TRD-9616253.

Hunt County Appraisal District, Board of Directors, met at 4801 King Street, Greenville, November 14, 1996, at Noon. Information may

be obtained from Shirley Smith, P.O. Box 1339, Greenville, Texas, 75403, (903) 454-3510. TRD-9616254.

Johnson County Central Appraisal District, Appraisal Review Board, met at 109 North Main, ARB Conference Room, Cleburne, November 13, 1996, at 9:00 a.m. Information may be obtained from Don Gilmore, 109 North Main, Cleburne, Texas 76031, (817) 645-3986. TRD-9616304.

Lake Livingston Water Supply and Sewer Service Corporation, Board of Directors, met at Park Inn, 2500 U.S. Highway 59 South, Livingston, November 12, 1996, at 6:30 p.m. Information may be obtained from John O. Houchins, 13738 Kingsride, Houston, Texas 77079, (713) 464-3205. TRD-9616315.

Lake Livingston Water Supply and Sewer Service Corporation, Board of Directors will meet at the Community Civic Center, Cedar Avenue and Church Streets, Coldsprings, November 21, 1996, at 6:30 p.m. Information may be obtained from John O. Houchins, 13738 Kingsride, Houston, Texas 77079, (713) 464-3205. TRD-9616316.

Mansville Water Supply Corporation, Regular Board met at 108 North Commerce Street, Coupland, November 14, 1996, at 7:00 p.m. Information may be obtained from Tony Graf, 108 North Commerce Street, Coupland, Texas 78615, (512) 272-4044. TRD-9616272.

Middle Rio Grande Development Council, (REVISED AGENDA) Texas Review and Comment System, met at MRGDC Operations Conference Room, 209 North Getty, Uvalde, November 13, 1996, 4:00 p.m. Information may be obtained from Leodoro Martinez, Jr., P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9616258.

Middle Rio Grande Development Council, Workforce Development Board met at the Sage Room, Holiday Inn, 920 East Main Street, Uvalde, November 14, 1996, at 11:45 a.m. Information may be obtained from Leodoro Martinez, Jr., P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9616275.

Middle Rio Grande Development Council, Workforce Development Board met at the Sage Room, Holiday Inn, 920 East Main Street, Uvalde, November 14, 1996, at 11:50 a.m. Information may be obtained from Leodoro Martinez, Jr., P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9616257.

Nueces River Authority, Board of Directors, met at the Omni Marina Hotel, 707 North Shoreline Boulevard, Corpus Christi, November 12, 1996, at 10:00 a.m. Information may be obtained from Con Mims, P.O. Box 349, Uvalde, Texas 78802-0349, (210) 278-6810. TRD-9616270.

Northeast Texas Rural Rail Transportation District, Board met at 2821 Washington Street, Administrative Conference Room, Greenville, November 13, 1996, at 3:00 p.m. Information may be obtained from Sue Ann Harting, P.O. Box 306, Commerce, Texas 75428-0306, (903) 450-0140. TRD-9616247.

Sharon Water Supply Corporation, Special Called, met at the Office of Sharon Water Supply Corporation, Route 5, Box 50361, Winnsboro, November 13, 1996, at 7:00 p.m. Information may be obtained from Gerald Brewer, Route 5, Box 50361, Winnsboro, Texas 75494, (903) 342-3525. TRD-9616249.

Sulphur-Cypress Soil and Water Conservation District #419, met at 1809 West Ferguson, Suite D, Mt. Pleasant, November 14, 1996, at 10:00 a.m. Information may be obtained from Beverly Amerson,

1809 West Ferguson, Suite D, Mt. Pleasant, Texas 75455, (903) 572-5411. TRD-9616303.

#### Meetings Filed on November 12, 1996

Austin-Travis County MHMR Center, Public Relations Committee, met at 1430 Collier Street, Board Room, Austin, November 14, 1996, at Noon. Reason for emergency meeting: Just notified of agenda item, only time committee members can meet. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 440-4031. TRD-9616352.

Austin-Travis County MHMR Center, Public Relations Committee, met at 1430 Collier Street, Board Room, Austin, November 15, 1996, at Noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 440-4031. TRD-9616353.

Brazos Valley Development Council, Brazos Valley Workforce Development Board met at 1706 East 29th Street, Bryan, November 18, 1996, at 3:30 p.m. Information may be obtained from Tom Wilkinson, Jr., P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD-9616362.

Central Texas Council of Governments, Officers Meeting, met at 302 East Central Avenue, Belton, November 18, 1996, at 11:00 a.m. Information may be obtained from A. C. Johnson, 302 East Central Avenue, Belton, (817) 939-1801. TRD-9616377.

Central Texas Council of Governments, Officers Meeting, met at 302 East Central Avenue, Belton, November 18, 1996, at 11:00 a.m. Information may be obtained from A. C. Johnson, 302 East Central Avenue, Belton, (817) 939-1801. TRD-9616378.

Central Texas Economic Development District, Executive Committee, met at Heitmiller's Steak House, IH 35 and FM 308, Elm Mott, November 14, 1996, at 11:00 a.m. Information may be obtained from Bruce Gaines, P.O. Box 154118, Waco, Texas 76715, (817) 799-0258. TRD-9616345.

Colorado County Appraisal District, Ag Advisory Board, will meet at 400 Spring (Grand Jury Room), Columbus, November 19, 1996, at 1:30 p.m. Information may be obtained from Billy Youens, P.O. Box 10 Columbus, Texas 78934, (409) 732-8222. TRD-9616329.

Dewitt County Appraisal District, Board of Directors, will meet at 103 Bailey Street, Cuero, November 19, 1996, at 7:30 p.m. Information may be obtained from Kay Rath, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753. TRD-9616348.

Guadalupe-Blanco River Authority, Audit Committee, will meet at 933 East Court Street, Seguin, November 19, 1996, at 3:30 p.m. Information may be obtained from W. E. West, Jr., 933 East Court Street, Seguin, Texas 78155, (210) 379-5822. TRD-9616367.

Guadalupe-Blanco River Authority, Retirement and Benefit Committee, will meet at 933 East Court Street, Seguin, November 20, 1996, at 8:30 a.m. Information may be obtained from W. E. West, Jr., 933 East Court Street, Seguin, Texas 78155, (210) 379-5822. TRD-9616368.

Guadalupe-Blanco River Authority, Board of Directors, will meet at 933 East Court Street, Seguin, November 20, 1996, at 10:00 p.m. Information may be obtained from W. E. West, Jr., 933 East Court Street, Seguin, Texas 78155, (210) 379-5822. TRD-9616366.

Limestone County Appraisal District, Board of Directors, met at 200 West State Street, LCAD Office, Ground Floor, Courthouse,

Groesbeck, November 12, 1996, at 1:30 p.m. Information may be obtained from Karen Wietzikoski, P.O. Drawer 831, Groesbeck, Texas 76642, (817) 729-3009. TRD-9616343.

North Texas Municipal Water District, Board of Directors, will meet at the Administration Office, 505 East Brown, Wylie, November 21, 1996, at 4:00 p.m. Information may be obtained from Carl W. Riehn, P.O. Box 2408, Wylie, Texas 75098, (972) 442-5405. TRD-9616346.

Palo Pinto Appraisal District, Board of Directors, will meet at the Court House, Highway 180, Palo Pinto, November 20, 1996, at 3:00 p.m. Information may be obtained from Carol Holmes, P.O. Box 250, Palo Pinto, Texas 76484-0250, (817) 659-1281. TRD-9616359.

Panhandle Information Network, Board of Directors, will meet at 415 West Eighth, Board Room, Amarillo, November 19, 1996, at 1:30 p.m. Information may be obtained from Linda Pitner, Box 215, Canyon, Texas 79016-0001, (806) 656-2983. TRD-9616382.

San Antonio River Authority, Board of Directors, will meet at 100 East Guenther Street, Boardroom, San Antonio, November 20, 1996, at 2:00 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (210) 227-1373. TRD-9616347.

Sulphur-Cypress Soil and Water Conservation District #419, will meet at 1708 Industrial, Mt. Pleasant, November 19, 1996, at 9:00 a.m. Information may be obtained from Beverly Amerson, 1809 West Ferguson, Suite D, Mt. Pleasant, Texas 75455, (903) 572-5411. TRD-9616358.

Texas Council Risk Management Fund, Executive Committee, met at the Red Lion Hotel, 6121 I-35 North, Room-Lone Star, Austin, November 14, 1996, at 7:30 p.m. Information may be obtained from Spencer McClure, Westpark Building 3, Suite 240, 8140 Mopac Expressway, Austin, Texas 78759, (512) 346-6921. TRD-9616330.

Texas Water Conservation Association Risk Management Fund, Board of Trustee Meeting and Training, will meet at the Tapatio Conference Center and Resort, P.O. Box 550, Boerne, November 21-22, 1996, at 8:00 a.m. and 7:30 a.m.(respectively). Information may be obtained from Leroy Goodson, 221 East 9th Street, Suite 206, Austin, Texas 78701, (512) 472-7216. TRD-9616332.

#### Meetings Filed on November 13, 1996

Cash Water Supply Corporation, Board of Directors, met at the Corporation Office, FM 1564 at Highway 34, Greenville, November 18, 1996, at 7:00 p.m. Information may be obtained from Eddy W. Daniel, P.O. Box 8129, Greenville, Texas 75404-8129, (903) 883-2695. TRD-9616423.

Dallas Central Appraisal District, Appraisal Review Board, will meet at 2949 North Stemmons Freeway, Second Floor Community Room,

November 20, 1996, at 10:00 a.m. Information may be obtained from Rick Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9616391.

Dallas Housing Authority, Dallas Housing Authority Board of Commissioners, will meet at the Roseland Homes, Community Center, 2021 North Washington, Dallas, November 21, 1996, at 4:00 p.m. Information may be obtained from Betsy Horn, 3939 North Hampton Road, Dallas, Texas 75212, (214) 951-8302. TRD-9616402.

Education Service Center, Region XIII, Board of Directors, met at 5701 Springdale Road, Room H, Austin, November 18, 1996, at 12:30 p.m. Information may be obtained from Dr. Roy C. Benavides, 5701 Springdale Road, Austin, Texas 78723, (512) 919-5300. TRD-9616416.

Hale County Appraisal District, Appraisal Review Board, will meet at 3314 Olton Road, Plainview, November 20, 1996, at Noon. Information may be obtained from Linda Jayens, 3314 Olton Road, Plainview, Texas, (806) 293-4226. TRD-9616412.

Hale County Appraisal District, Board of Directors, will meet at 910 I-27 Far East Restaurant, Plainview, November 21, 1996, at Noon. Information may be obtained from Linda Jayens, 3314 Olton Road, Plainview, Texas, (806) 293-4226. TRD-9616411.

Houston-Galveston Area Council, Projects Review Committee, will meet at 3555 Timmons Lane, Conference Room A, Second Floor, Houston, November 19, 1996, at 9:40 a.m. Information may be obtained from Rowena Ballas, 3555 Timmons Lane, Suite 500, Houston, Texas 77027, (713) 627-3200. TRD-9616394.

Mills County Appraisal District, Board of Directors will meet at the Mills County Courthouse, Jury Room, Fisher Street, Goldthwaite, November 19, 1996, at 6:30 p.m. Information may be obtained from Bill Presley, P.O. Box 565, Goldthwaite, Texas 76844, (915) 648-2253. TRD-9616420.

Nolan County, Central Appraisal District, Board of Directors met at Oma's Kochen, 119 East Third, Sweetwater, November 15, 1996, at 1:00 p.m. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421. TRD-9616422.

Nortex Regional Planning Commission, North Texas Private Industry Council, will meet at 4309 Jacksboro Highway, Suite 200, Wichita Falls, November 20, 1996, at 12:15 p.m. Information may be obtained from Kelly Couch, 3917 Texas, Vernon, Texas 76384, (817) 552-6818. TRD-9616418.

Wheeler County Appraisal, Board of Directors, met at 103 East Texas, Courthouse Square, Wheeler, November 18, 1996, at 5:00 p.m. Information may be obtained from Larry Schoenhale, P.O. Box 1200, Wheeler, Texas 79096, (806) 826-5900. TRD-9616417.

# IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

## Texas Department of Health

### Extension of Public Comment Period for the Texas Health Care Information Council Proposed New Rules

The Texas Health Care Information Council is extending the public comment period for the proposed new §§1301.31 - 1301.35. The previous announcement and rules were published in the October 15, 1996, issue of the *Texas Register* (21 TexReg 10161). The new deadline for submission is through November 25, 1996. Comments may be submitted to Craig A. Jimerfield, Texas Health Care Information Council, 4900 North Lamar, OOL-3407, Austin, Texas 78751, phone (512) 424-6492, and fax (512) 424-6491.

Issued in Austin, Texas, on November 13, 1996.

TRD-9616421

Susan K. Steeg

General Counsel

Texas Department of Health

Filed: November 13, 1996

## Texas Department of Housing and Community Affairs

### Notice of Funding Availability for Owner Occupied Housing Rehabilitation in Region 10

The Texas Department of Housing and Community Affairs (Department), through its HOME Investment Partnerships (HOME) Program, is authorized to provide grants to finance, acquire, rehabilitate and develop affordable, decent, safe, and sanitary housing for low and very-low income persons and families. These funds will be distributed according to the rules and procedures as set forth in the State of Texas HOME Program Rules.

#### I. Estimated Allocations:

The Department will make available to Region 10 a minimum of \$500,000 as grants to eligible applicants for rehabilitation or reconstruction of owner occupied housing. Funding for assistance

will be awarded through a competitive application process. The Department may increase the allocation amount as additional funds become available, and will publish an updated NOFA at that time.

#### II. Eligible applicants:

(A) Nonprofit Organizations which have tax exemption ruling from the Internal Revenue Service under the Internal Revenue Code of 1986, §501(c);

(B) State-Certified CHDOs;

(C) Units of General Local Government;

(D) Public Housing Agencies;

#### III. Eligible Activities:

Rehabilitation or Reconstruction of Single-family housing under the HOME Program

#### IV. Application Availability:

Requests for applications, questions or requests for additional information may be directed to the HOME Investment Partnerships Program, Texas Department of Housing and Community Affairs, P.O. Box 13941, 507 Sabine, Suite 900, Austin, Texas 78701-3941.

#### V. Application Submission:

Applications will be due 30 days from the date of publication of this NOFA. Applications should be mailed to the HOME Investment Partnership Program, Texas Department of Housing and Community Affairs, P.O. Box 13941, 507 Sabine, Suite 900, Austin, Texas 78701-3941.

Applications sent by facsimile will not be accepted. Applicants are required to submit a non-refundable application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$25.00 per application. Please send a personal check, cashier's check or money order; **do not send cash**. The application fee must be paid at the time of submission. For additional information, contact the HOME Program at (512) 475-3109.

Issued in Austin, Texas, on November 13, 1996.

TRD-9616404  
Larry Paul Manley  
Executive Director  
Texas Department of Housing  
Filed: November 13, 1996

## Texas Department of Human Services

### Open Solicitation for Upton County

Pursuant to Title 2, Chapters 22 and 32, of the Human Resources Code and 40 TAC §19.2324, in the March 31, 1995, issue of the *Texas Register* (20 TexReg 2443), the Texas Department of Human Services (TDHS) is announcing an open solicitation period of 30 days (starting the date of this public notice) for the construction of a 90-bed nursing facility in UPTON County, County #231, identified in the October 4, 1996, issue of the *Texas Register* (21 TexReg 9683) for the six month continuous period (APRIL 1996 - SEPTEMBER 1996): 96.1, 95.5, 94.0, 95.1, 97.4, 97.7. Potential contractors desiring to construct a 90-bed nursing facility in the county identified in this public notice must submit a written reply (as described in 40 TAC §19.2324) to TDHS, Gary L. Allen, Certification, Enrollment, and Billing Services, Long Term Care-Regulatory, Mail Code (Y-976), P.O. Box 149030, Austin, Texas 78714-9030. The written reply must be received by TDHS by 5:00 p.m., December 19, 1996, the last day of the open solicitation period. Potential contractors will be allowed 90 days to qualify and qualified potential contractors will be placed on a secondary-selection waiting list in the order that their applications are received. To qualify, potential contractors must demonstrate an intent and ability to begin construction of a facility and to complete contracting within specified time frames. They must submit a letter of application to TDHS with the following documentation: First, there must be acceptable written documentation showing the ownership of or an option to buy the land on which the proposed facility is or will be located. Second, documentation must include a letter of finance from a financial institution. Third, documentation must include a signed agreement stating that, if selected, the potential contractor will pay liquidated damages if the 180-day and/or 18-month deadline(s) described in 40 TAC §19.2443(q) are not met. The signed agreement must also require the potential contractor to provide, within ten working days after the date of selection, a surety bond or other financial guarantee acceptable to TDHS ensuring payment in the event of default. If the 180-day deadline is not met, liquidated damages are 5.0% of the estimated total cost of the proposed or completed facility. If the 18-month deadline is not met, liquidated damages are an additional 5% of the estimated total cost of the proposed or completed facility. Fourth, there must be acceptable written documentation that the preliminary architectural plans for the proposed or completed facility have been submitted to the Architectural Section of TDHS. Each application must be complete at the time of its receipt. TDHS accepts the first qualified potential contractor on the secondary-selection waiting list. If no potential contractors submit replies during this open solicitation period, TDHS will place another public notice in the *Texas Register* announcing the reopening of the open solicitation period until a potential contractor replies.

Issued in Austin, Texas, on November 12, 1996.

TRD-9616351  
Glen Scott  
General Counsel, Legal Services

Texas Department of Human Services  
Filed: November 12, 1996

## Texas Department of Insurance

### Insurer Services

The following applications have been filed with the Texas Department of Insurance and are under consideration:

Application for admission in Texas for Infinity Select Insurance Company, a foreign fire and casualty company. The home office is in Indianapolis, Indiana.

Application for admission in Texas for Victoria Fire & Casualty Company, a foreign fire and casualty company. The home office is in Cleveland, Ohio.

Application by National Benefit Life Insurance Company, a foreign life, accident and health company, to drop its assumed name in Texas, NB Life Insurance Company. The home office is in New York, New York.

Application for a name change in Texas for Professional Insurance Corporation, a foreign life, accident and health company. The proposed new name is PIC Life Insurance Company. The home office is in Jacksonville, Florida.

Application for a name change in Texas for Foremost Life Insurance Company, a foreign life, accident and health company. The proposed new name is Assurity Life Insurance Company. The home office is in Caledonia, Michigan.

Application for a name change in Texas for Armor Casualty Insurance Company, a domestic fire and casualty company. The proposed new name is Galaxy Casualty Insurance Company. The home office is in Dallas, Texas.

Any objections must be filed within 20 days after this notice was filed with the Texas Department of Insurance, addressed to the attention of Cindy Thurman, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

Issued in Austin, Texas, on November 12, 1996.

TRD-9616327  
Caroline Scott  
General Counsel and Chief Clerk  
Texas Department of Insurance  
Filed: November 12, 1996

### Notices of Public Hearing

The Commissioner of Insurance will hold a public hearing under Docket Number 2268 on December 9, 1996, at 9:00 a.m. in Room 102 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas. The Commissioner will consider for adoption new §7.66 concerning annual and quarterly statement blanks, other reporting forms, diskettes and instructions to be used by insurers and certain other entities regulated by the Texas Department of Insurance when reporting their financial condition and business operations and activities, and the requirement to file such completed statement blanks and other reporting forms, including diskettes.

The proposed sections and the statutory authority for the proposed sections, were published in the October 29, 1996, issue of the *Texas Register* (21 TexReg 10654).

Issued in Austin, Texas, on November 13, 1996.

TRD-9616397  
Caroline Scott  
General Counsel and Chief Clerk  
Texas Department of Insurance  
Filed: November 13, 1996

The Commissioner of Insurance will hold a public hearing under Docket Number 2269 on November 26, 1996, at 9:00 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas. The Commissioner will consider for adoption an amendment to §5.4501, concerning the adoption by reference of a revised manual of rules governing the writing of windstorm and hail insurance by the Texas Catastrophe Property Insurance Association (TCPIA).

The proposed sections and the statutory authority for the proposed sections, were published in the October 18, 1996, issue of the *Texas Register* (21 TexReg 10269).

Issued in Austin, Texas, on November 13, 1996.

TRD-9616398  
Caroline Scott  
General Counsel and Chief Clerk  
Texas Department of Insurance  
Filed: November 13, 1996

The Commissioner of Insurance will hold a public hearing under Docket Number 2270 on December 12, 1996, at 9:00 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas. The Commissioner will consider for adoption an amendment to §§19.1501-19.1502 and new §19.1503, concerning fees charged by local recording agents to purchasers of insurance policies.

The proposed sections and the statutory authority for the proposed sections, were published in the August 27, 1996, issue of the *Texas Register* (21 TexReg 8083).

Issued in Austin, Texas, on November 13, 1996.

TRD-9616399  
Caroline Scott  
General Counsel and Chief Clerk  
Texas Department of Insurance  
Filed: November 13, 1996

The Commissioner of Insurance will hold a public hearing under Docket Number 2271 on December 12, 1996, at 9:00 a.m. in Room 100, Commissioner's Hearing Room of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78701. The purpose of the public hearing will be to receive comments and evidence regarding the petition of the Surplus Lines Stamping Office of Texas to increase the stamping fee charged by the Surplus Lines Stamping

Office of Texas from 0.1% to 0.15%. The proposed effective date for the increase is January 1, 1997.

The Surplus Lines Stamping Office of Texas (Stamping Office) was created by the Texas Legislature in 1987. It is a non-profit corporation subject to the supervision of the Commissioner of Insurance. It monitors the sale of surplus lines insurance policies and evaluates the eligibility of surplus lines insurers that write surplus lines insurance in Texas. Pursuant to the Insurance Code, Article 1.14-2, §6, the Stamping Office has petitioned the Commissioner of Insurance for an increase in the stamping fee charged by the Stamping Office on the gross premium resulting from surplus lines contracts. The petition requests that the fee be increased by 0.05%, beginning January 1, 1997. The increase, if approved, would set the stamping fee at 0.15%. The current stamping fee is 0.1%.

A copy of the petition filed by Surplus Lines Stamping Office of Texas is available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas. For further information or to request copies of the petition, please contact Angie Arizpe at (512) 463-6326; (refer to Reference Number O-0996-51).

Issued in Austin, Texas, on November 13, 1996.

TRD-9616400  
Caroline Scott  
General Counsel and Chief Clerk  
Texas Department of Insurance  
Filed: November 13, 1996

### Third Party Administrator Applications

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application for admission to Texas of Administrative Resources Company, Inc., a foreign third party administrator. The home office is New Orleans, Louisiana.

Application for incorporation in Texas of University Behavioral Health Associates, P.L.L.C., a domestic third party administrator. The home office is Houston, Texas.

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Charles M. Waits, MC 107-5A, 333 Guadalupe, Austin, Texas 78714-9104.

Issued in Austin, Texas, on November 12, 1996.

TRD-9616328  
Caroline Scott  
General Counsel and Chief Clerk  
Texas Department of Insurance  
Filed: November 12, 1996

## Texas Department of Mental Health and Mental Retardation

### Notice of Public Hearing



The Texas Department of Mental Health and Mental Retardation (TDMHMR) will conduct a public hearing to receive comments on the department's proposed reimbursements for the following Medicaid program: case management for mental health service and case management for mental retardation services. The proposed reimbursements will cover the time period December 1, 1996 through November 30, 1997. The public hearing is held in compliance with Title 25, Texas Administrative Code, Chapter 409, Subchapter A, §409.002(j), which requires a public hearing on proposed reimbursement rates for medical assistance programs.

The hearing will be held at 1:30 p.m., Friday, December 6, 1996, in Room 295 of the TDMHMR Central Office (main building) at 909 West 45th Street in Austin, Texas.

Persons who wish to offer testimony but who are unable to attend the hearing may submit written comments which must be received by noon the day of the hearing. The written comments should be sent to the Data Analysis Section, Medicaid Administration, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668 or faxed to (512) 206-5725.

Interested parties may obtain a copy of the reimbursement briefing package by calling the Data Analysis Section at 512/206-5680. If interpreters for the hearing impaired are required, please contact the Data Analysis Section at the number given previously at least 72 hours in advance of the hearing.

Issued in Austin, Texas, on November 13, 1996.

TRD-9616403

Ann K. Utley

Chair, Texas MHMR Board

Texas Department of Mental Health and Mental Retardation

Filed: November 13, 1996



## Texas Natural Resource Conservation Commission

### Enforcement Orders

An agreed enforcement order was entered regarding NORTH STAR STEEL TEXAS, Docket Number 95-1576-IHW-E (SWR #31237) on October 26, 1996, assessing \$20,000 in administrative penalties with \$6,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Anne Nyffenegger, Enforcement Coordinator, (512) 239-2554, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed enforcement order was entered regarding CELOTEX CORPORATION, Docket Number 96-1463-IHW-E (SWR 31143) on October 26, 1996, assessing \$18,800 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Vic McWhorter, Staff Attorney, (512) 239-0579 or Patricia Bobeck, Enforcement Coordinator, (512) 239-2585, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed enforcement order was entered regarding KLEBERG COUNTY PARKS AND RECREATION, Docket Number 96-1280-

PST-E (Facility 046878, Enforcement ID E11428) on October 26, 1996, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Ray Winter, Staff Attorney, (512) 239-0600 or Sushil Modak, Enforcement Coordinator, (512) 239-2126, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed enforcement order was entered regarding B & B SERVICE CENTER, Docket Number 96-0308-PST-E (Facility 066036, Enforcement ID E11314) on October 26, 1996, assessing \$3,200 in administrative penalties with \$2,600 deferred.

Information concerning any aspect of this order may be obtained by contacting Ray Winter, Staff Attorney, (512) 239-0600 or Srinu Kusumanchi, Enforcement Coordinator, (512) 239-2126, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed enforcement order was entered regarding N.E. JONES OIL COMPANY, Docket Number 96-1210-PST-E (Facility 46137, Enforcement ID E11610) on October 26, 1996, assessing \$19,400 in administrative penalties with \$5,820 deferred.

Information concerning any aspect of this order may be obtained by contacting Ray Winter, Staff Attorney, (512) 239-0600 or Sushil Modal, Enforcement Coordinator, (512) 239-2142, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed enforcement order was entered regarding FARASHEH, SELEEM, Docket Number 96-1413-PST-E (Facility 30561, Enforcement ID E10978) on October 26, 1996, assessing \$1,200 in administrative penalties with \$360 deferred.

Information concerning any aspect of this order may be obtained by contacting Ray Winter, Staff Attorney, (512) 239-0600 or Sushil Modak, Enforcement Coordinator, (512) 239-2126, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed enforcement order was entered regarding HORKEY OIL COMPANY, INCORPORATED, Docket Number 96-0556-PST-E (Facility 44324, Enforcement ID E11525) on October 26, 1996, assessing \$1,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Ray Winter, Staff Attorney, (512) 239-0600 or Sushil Modak, Enforcement Coordinator, (512) 239-2142, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed enforcement order was entered regarding ROSE, DAVID B, Docket Number 96-1452-PST-E (Facility 03052, Enforcement ID E11357) on October 26, 1996, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Ray Winter, Staff Attorney, (512) 239-0600 Jaime Lopez, Enforcement Coordinator, (512) 239-2126, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed enforcement order was entered regarding YOUNGBLOOD OIL COMPANY, Docket Number 96-1093-PST-E (Facility 36283,

Enforcement ID E11596) on October 26, 1996, assessing \$2,400 in administrative penalties with \$720 deferred.

Information concerning any aspect of this order may be obtained by contacting Ray Winter, Staff Attorney, (512) 239-0600 or Jaime Lopez, Enforcement Coordinator, (512) 239-5868, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed enforcement order was entered regarding CARTER, SUK CHA, Docket Number 96-0973-PST-E (Facility 54637, Enforcement ID E11572) on October 26, 1996, assessing \$2,400 in administrative penalties with \$720 deferred.

Information concerning any aspect of this order may be obtained by contacting Ray Winter, Staff Attorney, (512) 239-0600 or Connie Wong, Enforcement Coordinator, (512) 239-2567, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

Issued in Austin, Texas, on November 8, 1996.

TRD-9616264

Mamie M. Black

Acting Chief Clerk

Texas Natural Resource Conservation Commission

Filed: November 8, 1996



#### Notice of Application for Amendment to Certificate of Adjudication Pursuant to Texas Water Code §11.122 Requiring Notice to Interjacent Appropriators

Notice was mailed 11-8-96 on Application Number 14-1132B to amend Certificate of Adjudication Number 14-1132, as amended; Colorado River Basin; Runnels County, Texas; Applicant, Gordon Euhus, seeks to amend Certificate of Adjudication Number 14-1132, as amended, by severing irrigation diversion rights of 49 acre-feet of water per annum authorized under Certificate of Adjudication Number 14-1032 and combining these rights with the rights authorized under Certificate Number 14-1132, as amended. The Certificate to be severed of irrigation diversion rights, Certificate of Adjudication Number 14-1032, was issued to Lanham M. Carter on August 19, 1977, and authorizes owner to maintain an existing dam and reservoir on Oak Creek and impound therein not to exceed 83 acre-feet of water and the diversion and use of not to exceed 49 acre-feet of water per annum from the reservoir on Oak Creek at a maximum rate of 750 gpm to irrigate a maximum of 49 acres of land in Runnels County, Texas, with a time priority of March 1914. Applicant is further requesting that the diversion rights of the 49 acre-feet of water per annum acquired from Certificate 14-1032 be moved to the Colorado River (from Oak Creek) and that this diversion right be used to irrigate 20 acres out of 326.75 acres of land in Runnels County, Texas. The right to maintain the existing dam and reservoir on Oak Creek would be retained by the owner of Certificate of Adjudication Number 14-1032.

The Executive Director may issue an amendment to the Certificate of Adjudication on or after December 6, 1996, unless a written hearing request is filed in the Chief Clerk's Office of the TNRCC on or before November 28, 1996. To request a hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the applicant and the permit

number; (3) the statement "I/we request a public hearing;" (4) a brief description of how you would be adversely affected by the granting of the application in a way not common to the general public; and (5) the location of your property relative to the applicant's operations.

If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TNRCC Commissioners for their consideration at a scheduled Commission meeting. If a hearing is held, it will be a legal proceeding similar to civil trials in state district court.

Requests for hearing must be submitted in writing to the Chief Clerk's Office, MC 105, TNRCC, P.O. Box 13087, Austin, TX 78711-3087. Written public comments may also be submitted to the Chief Clerk's Office on or before November 28, 1996. For information concerning technical aspects of the permit, contact Mike Howard, MC 160, at the same above PO Box address. For information concerning hearing procedures or citizen participation, contact the Public Interest Counsel, MC 103, at the same PO Box address. Individual members of the public who wish to inquire about the information contained in this notice, or to inquire about other agency permit applications or permitting processes, should call the TNRCC Office of Public Assistance, Toll Free, at 1-800-687-4040.

Issued in Austin, Texas on November 8, 1996.

TRD-9616262

Mamie M. Black

Acting Chief Clerk

Texas Natural Resource Conservation Commission

Filed: November 8, 1996



#### Notice of Application for Waste Disposal Permits

Attached are Notices of Applications for waste disposal permits issued during the period of October 23rd thru November 8, 1996.

The Executive Director will issue these permits unless one or more persons file written protests and/or a request for a hearing within 30 days after newspaper publication of this notice.

If you wish to request a public hearing, you must submit your request in writing. You must state (1) your name, mailing address and daytime phone number; (2) the permit number or other recognizable reference to this application; (3) the statement "I/we request a public hearing;" (4) a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; (5) a description of the location of your property relative to the applicant's operations; and (6) your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing.

Information concerning any aspect of these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, Chief Clerks Office-MC105, P.O. Box 13087, Austin, Texas 78711. Individual members of the public who wish to inquire about the information contained in this notice, or to inquire about other agency permit applications or permitting processes, should call the TNRCC Office of Public Assistance, Toll Free, at 1-800-687-4040.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number and type of application-new permit, amendment, or renewal.

BLUE WATER COVE WATER/WASTEWATER SUPPLY CORPORATION, 4002 Blue Water Cove, Point Blank, Texas 77364, the wastewater treatment facilities are east and adjacent to U.S. Highway 190 in the Bluewater Cove Subdivision and approximately 3,500 feet south of the Trinity River in San Jacinto County, Texas, new, 13851-01.

BROWNSVILLE PUBLIC UTILITIES BOARD, P.O. Box 3270, Brownsville, Texas 78520, the wastewater treatment facilities are at 2800 East Avenue, north of the 2800 block of East Avenue, approximately 1/2 mile west of East 30th Street in southeast Brownsville in Cameron County, Texas, amendment, 10397-03.

CALABRIAN CHEMICAL CORPORATION, 5500 State Highway 366, Port Neches, Texas 77651, an inorganic chemical plant, the plant site is at 5500 State Highway 366 in the City of Port Neches, Jefferson County, Texas, renewal, 01857.

CANYON RIDGE INVESTMENT COMPANY, 1027 Tempe, Amarillo, Texas 79118, The wastewater treatment facilities and the irrigated site are located approximately 1000 feet north of McCormick Road and 4000 feet east of Interstate Highway 27 in Randall County, Texas, renewal, 11198-01.

CITY OF CHANDLER, P.O. Box 425, Chandler, Texas 75758, the City of Chandler Wastewater Treatment Facilities are located on the east side of Old Noonday Road south of the City of Chandler, approximately 1 mile southeast of the intersection of State Highway 31 and Farm-to-Market Road 315 in Henderson County, Texas, amendment, 11012-01.

CITY OF COLMESNEIL, P.O. Box 144, Colmesneil, Texas 75938, the City of Colmesneil Wastewater Treatment Plant, the plant site is located approximately 0.8 mile northwest of the intersection of U.S. Highway 69 and Farm-to-Market Road 256 in the northwest part of the City of Colmesneil in Tyler County, Texas, renewal, 11295-01.

ROY H. CULLEN, 601 Jefferson, Suite 4000, Houston, Texas 77002-7904, the Pearland Tract Wastewater Treatment Facilities, the wastewater treatment facilities are approximately 0.3 mile northeast of the intersection of Farm-to-Market Road 518 and Farm-to-Market 865, approximately 2.5 miles east of State Highway 288 and 3.6 miles west of the City of Pearland in Brazoria, Texas, renewal, 12424-01.

DOUBLE "B" FOODS, INC., P.O. Drawer A, Schulenburg, Texas 78956, The facility is located approximately 1.25 miles west of the intersection of Old U.S. Highway 90 and State Highway 155, near the City of Weimar, Colorado County, Texas. The facility and irrigation site are located in the drainage area of Segment No. 1605 of the Navidad River Above Lake Texana, amendment, 02868.

KENNETH R. DRUM, 12650 Ashford Point, #715, Houston, Texas 77082, the wastewater treatment facilities are approximately 0.5 mile west of Interstate Highway 45 and 1.5 miles along Interstate Highway 45 from its intersection with State Highway 21 in Madison County, Texas, new, 13852-01.

FF & VDB, INC., P.O. Box 7509, Dallas, Texas 75209, the Fin and Feather Marina Wastewater Treatment Plant is located on the shoreline of Toledo Bend Reservoir approximately 500 feet north of Farm-to-Market Road 2928 and 1.2 miles due north of Oak Hill Cemetery in Sabine County, Texas, renewal, 12143-01.

FREER WATER CONTROL AND IMPROVEMENT DISTRICT, P.O. Box 329, Freer, Texas 78357, the wastewater treatment facilities and the disposal site are adjacent to State Highway 16 and 1/2 mile

north of the Town of Freer in Duval County, Texas, renewal, 10088-01.

G & C PROPERTIES-HOUSTON, LTD, 40 NE Loop 410, Suite 610, San Antonio, Texas 78216, the North Freeway R & R Wastewater Treatment Plant, the plant site is located at the intersection of Gulf Bank Road and Interstate Highway 45 in Harris County, Texas, renewal, 11657-01.

DONALD L. GALE, Route 1, Box 187, Emory, Texas 75440, wastewater treatment plant site is approximately 200 feet east of Farm-to-Market Road 2946, approximately 1.2 miles south of the intersection of Farm-to-Market Road 2946 and State Highway 514, and approximately 7.5 miles east-northeast of the City of Emory in Rains County, Texas, new, 13853-01.

GRAPE CREEK PULLIAM INDEPENDENT SCHOOL DISTRICT, 9633 Grape Creek Road, San Angelo, Texas 76901, the wastewater treatment facilities and the disposal site are located 3500 feet north of intersection of Farm-to-Market Road 2288 and U.S. Highway 87 in Tom Green County, Texas, new, 13859-01.

CITY OF HENRIETTA, P.O. Box 409, Henrietta, Texas 76365, the wastewater treatment facilities are approximately 1,800 feet west of Farm-to-Market Road 1197, approximately 4,700 feet northwest of U.S. Highway 82 and Farm-to-Market Road 1197 intersection at Bridge and Omega Streets, northwest of the City of Henrietta in Clay County, Texas, renewal, 10454-01.

CITY OF HENRIETTA, P.O. Box 409, Henrietta, Texas 76365, the City of Henrietta South Wastewater Treatment Plant, the plant site is located approximately 1 mile northeast of the intersection of U.S. Highway 287 and State Highway Loop 510 in Clay County, Texas, renewal, 10454-02.

HOUSTON LIGHTING & POWER COMPANY, P.O. Box 1700, Houston, Texas 77251, the Sam Bertron Steam Electric Station, the plant site is south of Peggy Lake, adjacent to Miller Cutoff Road, approximately 1.25 miles north of the intersection of Miller Cutoff Road and State Highway 225 northwest of the City of La Porte in Harris County, Texas, renewal, 01026.

CITY OF JACKSONVILLE, P.O. Box 1390, Jacksonville, Texas 75766-1390, Double Creek Wastewater Treatment Plant, the plant site is located along State Highway 204, approximately 1.6 miles southeast of the intersection of State Highway 204 and Loop 456 in Cherokee County, Texas, renewal, 10693-03.

CITY OF LINDALE, P.O. Box 130, Lindale, Texas 75771-0130, the wastewater treatment facilities are adjacent to Highway 20, approximately 0.9 mile west of the intersection of Highway 20 and County Road 463 in Smith County, Texas, renewal, 10412-02.

LUTHERAN OUTDOORS MINISTRY OF TEXAS, INC., 2016 Camp Lone Star Road, La Grange, Texas 78945, the Camp Lone Star Wastewater Treatment Facilities are located approximately 1.8 miles northeast of the intersection of Farm-to-Market Road 155 and U.S. Highway 77 in Fayette County, Texas, renewal, 12168-01.

NORTH TEXAS DISTRICT COUNCIL ASSEMBLIES OF GOD, P.O. Box 1188, Hurst, Texas 76053-1188, the wastewater treatment facilities are approximately 400 feet southeast of the east end of Soil Conservation Service Dam No. 56 and approximately 2 1/2 miles east northeast of the City of Maypearl in Ellis County, Texas, new, 13847-01.

PHILLIPS PETROLEUM COMPANY, SWEENEY REFINERY & PETROCHEMICAL COMPLEX, P.O. Box 866, Sweeny, Texas 77480, the Sweeny Refinery and Petrochemical Complex and the San Bernard Terminal, the plant site is approximately 3.5 miles northwest of the City of Sweeny and southwest of the intersection of State Highway 35 and Farm-to-Market Road 524, and the San Bernard Terminal is located on an extension of Avenue A about 1.5 miles northeast of the City of Sweeny in Brazoria County, Texas, amendment, 00721.

PRESBYTERIAN CHILDREN'S HOME AND SERVICE AGENCY, P.O. Box 100, Itasca, Texas 76055-0100, the wastewater treatment plant site is located southeast of the Children's Home, on the southeast side of Farm-to-Market Road 66, approximately four miles east of the intersection of Interstate Highway 35 and Farm-to-Market Road 66 in Hill County, Texas, renewal, 11276-01.

SAN ANGELO PACKING COMPANY, INC. AND JIMMY STOKES, 1809 North Bell Street, San Angelo, Texas 76903, the meat packing plant is located on the Atchison Topeka and Santa Fe Railway, 5,000 feet east and 4,000 feet south of the intersection of Armstrong Road and 50th Street in the City of San Angelo, Tom Green County, Texas, new, 03901.

SOUTHERN SANITARY CORPORATION, 5710 Airline Drive, Houston, Texas 77076, the Hidden Valley Wastewater Treatment Facilities, the plant site is located on the south bank on Halls Bayou, approximately 4500 feet west of Interstate Highway 45 in Harris County, Texas, renewal, 10610-01.

SOUTHLAND NEWSPRINT, L.P., 5949 Sherry Lane, Suite 1350, Dallas, Texas 75225-8014, proposes to operate a facility that manufactures newsprint and enhanced newsprint, the facilities are to be located west of the intersection of Interstate 20 and Highway 259 and on the north side of Farm-to-Market Road 1252, north of the City of Kilgore, Gregg County, Texas, new, 03912.

SOUTHWESTERN ELECTRIC POWER COMPANY, P.O. Box 21106, Shreveport, Louisiana, 71101, the Welsh Steam Electric Station is located approximately two (2) miles northwest of the Town of Cason, Texas and approximately one and one-half (1 1/2) miles north of State Highway 11, Titus County, Texas, amendment and temporary variance, 01811.

TEMPLE-INLAND FOREST PRODUCTS CORPORATION, P.O. Drawer N, Diboll, Texas 75941, the Kraft pulp and paper mill plant is located approximately one mile south of Farm-to-Market Road 2246 and one mile southeast of the Town of Evadale, Jasper County, Texas, amendment, 00493.

TE PRODUCTS PIPELINE COMPANY, LIMITED PARTNERSHIP, 2929 Allen Parkway, Houston, Texas 77252, a bulk petroleum liquids storage terminal with marine cargo and pipeline facilities, the plant site is at the end of a private road adjoining Mansfield Ferry Road on the east bank of the Neches River and approximately three miles southwest of the City of Vidor in Orange County, Texas, renewal, 02302.

CITY OF TRINIDAD, P.O. Box 345, Trinidad, Texas 75163, the wastewater treatment facilities are southeast of the City of Trinidad, approximately 1.2 miles south of the intersection of Farm-to-Market

Road 1667 and U.S. Highway 31 in Henderson County, Texas, renewal, 10467-02.

CITY OF WILSON, P.O. Box 22, Wilson, Texas 79381, the wastewater treatment facilities and the disposal site are approximately 0.8 mile southwest of the intersection of Farm-to-Market Roads 400 and 211 and approximately 600 feet west of Farm-to-Market Road 400 in Lynn County, Texas, renewal, 10624-01.

MONSANTO COMPANY, P.O. Box 711, Alvin, Texas 77512, compliance plan will authorize the incorporation of performance-based strategy in the compliance plan to allow the Monsanto Company flexibility in adjusting the ground-water remediation system to meet performance-based objectives, Monsanto Company produces chemical feedstocks and intermediates. Wastes are generated and managed on-site at the Monsanto Company manufacturing plant. The facility is located in Brazoria County on a 3,000-acre tract of land approximately eleven miles southeast of Alvin, Texas, on FM 2917 approximately seven miles southeast of the intersection of Texas State Route 35 and FM 2917, Compliance Plan No. CP-50189, 45-day notice.

TEXAS ECOLOGISTS, INC., P.O. Box 307, Robstown, Texas 78380, a commercial industrial and hazardous waste facility, will authorize the continued operation of an industrial solid waste storage, processing, and disposal facility for the management of hazardous and Class 1, Class 2, and Class 3 non-hazardous wastes. The authorized waste management units consist of six existing landfill cells, thirteen existing tanks, and two existing container storage areas. The major amendment to the permit will authorize the addition of one proposed landfill with seventeen subcells (maximum capacity of 3,100,000 cubic yards) and one proposed container storage area (maximum capacity of 80,780 gallons) and will authorize the Waste Stabilization Building as a containment building. The compliance plan renewal will authorize continued remediation of contaminated ground water, including ground-water monitoring to measure the effectiveness of the Corrective Action Program. Wastes are generated on-site and received from off-site sources. The facility is located on a 240-acre tract of land on Petronila Road, approximately 0.5 mile southeast of the intersection of Farm Road 2826 and Petronila Road and approximately 3.5 miles south of Robstown, Nueces County, Texas, renew and amend Permit No. HW-50052-001 and Compliance Plan No. CP-50052-001, 45-notice.

URI, INC., 12750 Merit Drive, Suite 1020 LB12, Dallas, Texas 75251, to authorize in situ uranium mining at its Vasquez Project. The permit area of this site is 841.66 acres and contains one proposed production area of approximately 454 acres, the mine is located in Duval County on the north side of Highway 359, ten miles south-southeast of Bruni and 50 miles east of Laredo, a Class III underground Injection Control Permit, new, URO3050-001.

Issued in Austin, Texas, on November 8, 1996.

TRD-9616265

Mamie M. Black

Acting Chief Clerk

Texas Natural Resource Conservation Commission

Filed: November 8, 1996



**Notice of Opportunity to Comment on Settlement Agreements of Administrative Enforcement Actions**

The Texas Natural Resource Conservation Commission (TNRCC) Staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) pursuant to the Health and Safety Code, the Texas Clean Air Act (the Act), Chapter 382, §382.096. The Act, §382.096 requires that the TNRCC may not approve these AOs unless the public has been provided an opportunity to submit written comments. Section 382.096 requires that notice of the proposed orders and of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is December 19, 1996. Section 382.096 also requires that the TNRCC promptly consider any written comments received and that the TNRCC may withhold approval of an AO if a comment indicates the proposed AO is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Additional notice is not required if changes to an AO are made in response to written comments.

A copy of each of the proposed AOs is available for public inspection at both the TNRCC's Central Office, located at 12124 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-1864 and at the applicable Regional Office listed as follows. Written comments about these AOs should be sent to the Enforcement Coordinator designated for each AO at the TNRCC's Central Office at P.O. Box 13087 Austin, Texas 78711-3087 and must be received by 5:00 p.m. on December 19, 1996. Written comments may also be sent by facsimile machine to the Enforcement Coordinator at (512) 239-1893. The TNRCC Enforcement Coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, §382.096 provides that comments on the AOs should be submitted to the TNRCC in writing.

(1)COMPANY: Akzo Nobel Chemicals, Inc; DOCKET NUMBER: 96-1185-AIR-E; ACCOUNT NUMBER: HG-0037-Q; LOCATION: Pasadena, Harris County, Texas; TYPE OF FACILITY: chemical manufacturing plant; RULE VIOLATED: 30 TAC §116.115(a) and the Act, §382.085(b), by failing to conduct quarterly fugitive monitoring of 24 components at the Nouryset 200 Plant during the period beginning second quarter of 1993 until the fourth quarter of 1994; and 30 TAC §101.20(1) and the Act, §382.085(b), by failing to submit startup notification for the Zeolite Plant boiler within the required time of 15 days after startup; PENALTY: \$7,000; ENFORCEMENT COORDINATOR: Randy Norwood, (512) 239-1879; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1423, (713) 767-3500.

(2)COMPANY: Boerne Trailer Manufacturing, Inc.; DOCKET NUMBER: 96-1249-AIR-E; ACCOUNT NUMBER: BG-0877-U; LOCATION: Boerne, Bexar County, Texas; TYPE OF FACILITY: gooseneck utility trailer manufacturing plant; RULE VIOLATED: 30 TAC §116.110(a) and the Act, §382.0518(a) and §382.085(b), by operating painting activities without first obtaining a permit or satisfying the conditions of a standard exemption; PENALTY: \$350; ENFORCEMENT COORDINATOR: Sheila Smith, (512) 239-1670;

REGIONAL OFFICE: 140 Heimer Road, Suite 360, San Antonio, Texas 78232-5042, (210) 490-3096.

(3)COMPANY: Brite-Sol Services, Incorporated; DOCKET NUMBER: 96-0862-AIR-E; ACCOUNT NUMBER: BL-0363-G; LOCATION: Freeport, Brazoria County, Texas; TYPE OF FACILITY: tank truck cleaning facility; RULE VIOLATED: 30 TAC §§101.4, 101.6, and 116.115(a) and the Act, §382.082(b), by emitting an acrylate odor of such concentration and duration to create a nuisance, failing to report upset conditions, and failing to satisfy General Provision Numbers 5 and 6 and Special Provision Numbers 2, 5, 6, and 17 of TNRCC Permit Number 19483; PENALTY: \$65,125; ENFORCEMENT COORDINATOR: Sheila Smith, (512) 239-1670; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1423, (713) 767-3500.

(4)COMPANY: Cars Like New, Inc.; DOCKET NUMBER: 96-1016-AIR-E; ACCOUNT NUMBER: HX-0644-T; LOCATION: South Houston, Harris County, Texas; TYPE OF FACILITY: automotive paint and body shop; RULE VIOLATED: 30 TAC §115.426(a)(1)(B) and §116.115 and the Act, §382.085(b), by failing to maintain records of operating hours and paint usage; 30 TAC §115.422(1)(A) and the Act, §382.085(b), by failing to use a cleaning solvent with a vapor pressure which is less than 100 millimeters of mercury at 68 degrees Fahrenheit; and 30 TAC §115.426(a)(1)(A) and the Act, §382.085(b), by failing to maintain material data safety sheets for each coating and solvent available for use; PENALTY: \$0; ENFORCEMENT COORDINATOR: Miriam Hall, (512) 239-1044; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1423, (713) 767-3500.

(5)COMPANY: Dallas Marble, Incorporated; DOCKET NUMBER: 96-1268-AIR-E; ACCOUNT NUMBER: DB-1604-C; LOCATION: Cedar Hill, Dallas County, Texas; TYPE OF FACILITY: cultured marble manufacturing plant; RULE VIOLATED: 30 TAC §116.115 and the Act, §382.085(b), by using gelcoat with greater than 35% styrene by weight limit, exceeding the allowable material usage rate of ten pounds per hour of acetone, and exceeding the acetone usage limit of 2.0% by weight of the sum of monthly gelcoat and resin usage limit specified by Special Provisions 4, 3, and 10B of TNRCC Permit Number T-17292; PENALTY: \$1,050; ENFORCEMENT COORDINATOR: David Edge, (512) 239-1779; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(6)COMPANY: Hydro-Action, Incorporated; DOCKET NUMBER: 96-0619-AIR-E; ACCOUNT NUMBER: HF-0120-Q; LOCATION: Kountze, Hardin County, Texas; TYPE OF FACILITY: fiberglass septic tank production plant; RULE VIOLATED: 30 TAC §116.110(a) and the Act, §381.0518(a) and §382.085(b), by operating a fiberglass septic tank production plant without first obtaining a permit or satisfying the conditions of a standard exemption; PENALTY: \$5,950; ENFORCEMENT COORDINATOR: Sheila Smith, (512) 239-1670; REGIONAL OFFICE: 3870 Eastex Freeway, Suite 110, Beaumont, Texas 77703-1830, (409) 898-3838.

(7)COMPANY: Lane Supply Company, Inc.; DOCKET NUMBER: 96-1269-AIR-E; ACCOUNT NUMBER: TA-2084-T; LOCATION: Arlington, Tarrant County, Texas; TYPE OF FACILITY: canopy manufacturing plant; RULE VIOLATED: 30 TAC §116.115 and the Act, §382.085(b), by exceeding the six pound per hour volatile organic compound (VOC) emission rate limit specified in TNRCC Standard Exemption 75; and 30 TAC §115.421(a)(9)(A) and the Act, §382.085(b), by using coatings in a metal part primer coating operation that exceed the VOC limit of 3.5 pounds per gallon of coating (formerly 6.7 pounds per gallon of solids) delivered to the application system; PENALTY: \$0; ENFORCEMENT COORDINATOR: David Edge, (512) 239-1779; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(8)COMPANY: Norton Crushing, Inc; DOCKET NUMBER: 96-0921-AIR-E; ACCOUNT NUMBER: 92-2193-C; LOCATION: Terrell, Kaufman County, Texas; TYPE OF FACILITY: rock crushing plant; RULE VIOLATED: 30 TAC §116.115 and the Act, §382.085(b), by failing to meet distance requirements required by TNRCC Permit Number 22193 for relocation and operation; and 30 TAC §116.116 and the Act, §382.085(b), by misrepresenting the distance of the facility from residences in an application for relocation; PENALTY: \$1,050; ENFORCEMENT COORDINATOR: David Edge, (512) 239-1779; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(9)COMPANY: O.K. Auto Sales; DOCKET NUMBER: 96-1073-AIR-E; ACCOUNT NUMBER: EE-1552-P; LOCATION: El Paso, El Paso County, Texas; TYPE OF FACILITY: used car dealership; RULE VIOLATED: 30 TAC §114.1(c)(1) and (2) and the Act, §382.085(b), by offering for sale two vehicles with missing and/or inoperable emission control systems or devices; PENALTY: \$350; ENFORCEMENT COORDINATOR: Sheila Smith, (512) 239-1670; REGIONAL OFFICE: 7500 Viscount Boulevard, Suite 147, El Paso, Texas 79925, (915) 778-9634.

(10)COMPANY: Simpson Pasadena Paper Company; DOCKET NUMBER: 96-0791-AIR-E; ACCOUNT NUMBER: HG-0129-K; LOCATION: Pasadena, Harris County, Texas; TYPE OF FACILITY: paper mill; RULE VIOLATED: 30 TAC §§101.4, 101.6, and 101.7 and the Act, §382.085(a) and §382.085(b), by emitting into the atmosphere an odor in such concentration and duration as to create a nuisance, failing to report an upset condition, and failing to provide notification of scheduled maintenance on the mercaptan storage tanks; PENALTY: \$4,725; ENFORCEMENT COORDINATOR: Sheila Smith, (512) 239-1670, REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1423, (713) 767-3500.

(11)COMPANY: Southwest Toyota, Jeep, Eagle; DOCKET NUMBER: 96-1582-AIR-E; ACCOUNT NUMBER: PC-0194-M; LOCATION: Wetherford, Parker County, Texas; TYPE OF FACILITY: used car sales lot; RULE VIOLATED: 30 TAC §114.1(c)(1) and the Act, §382.085(b), by offering for sale a vehicle with missing required emission control systems or devices; PENALTY: \$350; ENFORCEMENT COORDINATOR: Mary Jennings, (512) 239-1864; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(12)COMPANY: Witco Corporation; DOCKET NUMBER: 96-1121-AIR-E; ACCOUNT NUMBER: TA-0273-F; LOCATION: Fort Worth, Tarrant County, Texas; TYPE OF FACILITY: specialty detergents manufacturing plant; RULE VIOLATED: 30 TAC §116.115,

TNRCC Permit Number R-4691, and the Act, §382.085(b), by exceeding permit allowable emissions for volatile organic compounds; PENALTY: \$3,500; ENFORCEMENT COORDINATOR: Carl Schnitz, (512) 239-1892; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

Issued in Austin, Texas, on November 13, 1996.

TRD-9616395

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Filed: November 13, 1996

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**Notice of Receipt of Application for a Texas Weather Modification Permit and Declaration of Administrative Completeness**

**DECLARATION OF ADMINISTRATIVE COMPLETENESS.** The applicants seek to obtain a Texas weather modification permit, under Texas Water Code Chapter 18 (Texas Weather Modification Act of 1967) and the Rules of the Texas Natural Resource Conservation Commission (TNRCC), 30 TAC Chapter 289.

Application Number E630030A submitted by POWELL PLANT FARMS, INC., new; The application contains a project operations plan which includes a description of equipment, operation site, and hail suppression methodology. The applicant has paid the required permit fee. The operation for which a permit is being sought includes hail suppression, during any time of the year, during the years 1996-1999 within a portion of Cherokee County, Texas, specifically Isaac Reed Survey, Abstract #45, Block 750, Tract 3A, Cherokee County. Subsequent to the receipt of the permit application, applicant published a Notice of Intention to Conduct Weather-Modification Activities in Cherokee County.

Application Number E630030B submitted by POWELL PLANT FARMS, INC., new; The application contains a project operations plan which includes a description of equipment, operation site, and hail suppression methodology. The applicant has paid the required permit fee. The operation for which a permit is being sought includes hail suppression, during any time of the year during the years 1996-1999, within a portion of Jeff Davis County, Texas, specifically 65 Acres, Survey #9, Houston and Texas Central Railway Company, Block 2, Abstract 740, Jeff Davis County. Subsequent to the receipt of the permit application, applicant published a Notice of Intention to Conduct Weather-Modification Activities in Jeff Davis County.

TNRCC may issue the permit if it determines that: (1) the operation proposed in the application will not significantly dissipate the clouds and prevent their natural course of developing rain in the area where the operation is to be conducted to the material detriment of persons or property in that area; and (2) the applicant holds a valid weather modification license, has submitted a complete application, and has published a notice of intention and submitted proof of publication.

The application now enters the technical review period by agency staff. Upon completion of technical review, the Commission will decide on the permit or whether to send it to the State Office of Administrative Hearings for setting of a hearing.

Individual members of the public who wish to inquire about the information contained in this notice, or to inquire about other agency permit applications or permitting processes, should call the TNRCC Office of Public Assistance, Toll Free, at 1-800-687-4040.

Issued in Austin, Texas, on November 8, 1996.

TRD-9616263

Mamie M. Black

Acting Chief Clerk

Texas Natural Resource Conservation Commission

Filed: November 8, 1996

◆ ◆ ◆  
**Provisionally-Issued Temporary Permits to Appropriate State Water**

Listed below are permits issued during the period of November 8, 1996

Application Number TA-7745 by E.E. Hood & Sons, Inc. for diversion of 10 acre-feet in a one year period for industrial (highway construction) use. Water may be diverted from the Nueces River at the stream crossing of SH 55, approximately 15 miles north of Uvalde in Uvalde County, Texas, Nueces River Basin.

The Executive Director of the TNRCC has reviewed each application for the permits listed and determined that sufficient water is available at the proposed point of diversion to satisfy the requirements of the application as well as all existing water rights. Any person or persons who own water rights or who are lawful users of water on a stream affected by the temporary permits listed above and who believe that the diversion of water under the temporary permit will impair their rights may file a complaint with the TNRCC. The complaint can be filed at any point after the application has been filed with the TNRCC and the time the permit expires. The Executive Director shall make an immediate investigation to determine whether there is a reasonable basis for such a complaint. If a preliminary investigation determines that diversion under the temporary permit will cause injury to the complainant the commission shall notify the holder that the permit shall be cancelled without notice and hearing. No further diversions may be made pending a full hearing as provided in §295.174. Complaints should be addressed to Water Rights Permitting Section, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, Telephone (512) 239-4433. Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78731, Telephone (512) 239-3300.

Issued in Austin, Texas, on November 8, 1996.

TRD-9616261

Mamie M. Black

Acting Chief Clerk

Texas Natural Resource Conservation Commission

Filed: November 8, 1996

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**Notice of Public Hearings**

**NOTICE OF PUBLIC HEARING BY THE TEXAS NATURAL RESOURCE CONSERVATION COMMISSION ON PROPOSED**

**REVISIONS TO 30 TAC CHAPTERS 101 AND 115, AND TO THE STATE IMPLEMENTATION PLAN**

Notice is hereby given that pursuant to the requirements of the Texas Health and Safety Code Annotated, §382.017 (Vernon's 1992); Texas Government Code Annotated, Subchapter B, Chapter 2001 (Vernon's 1993); and 40 Code of Federal Regulations, §51.102, of the United States Environmental Protection Agency regulations concerning State Implementation Plans (SIP), the Texas Natural Resource Conservation Commission will conduct a public hearing to receive testimony regarding revisions to 30 TAC Chapters 101 and 115, and to the SIP.

Revisions are being proposed to Chapters 101 and 115 in order to correct and update rule references, correct references to federal test methods, clarify control requirements, update terminology for consistency throughout Chapter 115, delete definitions that are no longer needed, delete language made obsolete by the passing of compliance dates and revise references to TNRCC and executive director for consistency with the agency's style guidelines.

Amendments are also being proposed to Chapter 115, Subchapters B and D which would simplify emission control and recordkeeping requirements, extend a compliance date for pulp and paper industry sources, make revisions consistent with agency rule drafting and style guidelines, delete superseded rules, eliminate the work practice of directed maintenance, and make a variety of needed minor revisions.

A public hearing on these proposals will be held in Austin on December 13, 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 35 Circle, 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, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. Comments must be received by 5:00 p.m., December 19, 1996. For further information, please contact Eddie Mack, Air Policy and Regulations Division, (512) 239-1488 or Randy Hamilton, Air Policy and Regulations Division, (512) 239-1512.

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

Issued in Austin, Texas on November 7, 1996.

TRD-9616279

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Filed: November 8, 1996

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**NOTICE OF PUBLIC HEARING BY THE TEXAS NATURAL RESOURCE CONSERVATION COMMISSION CONCERNING REVISIONS TO 30 TAC CHAPTERS 312 AND 330**



Notice is hereby given that pursuant to the requirements of the Texas Health and Safety Code Annotated, §382.017 (Vernon's 1992) and Texas Government Code Annotated, Subchapter B, Chapter 2001 (Vernon's 1993), the Texas Natural Resource Conservation Commission (commission) will conduct a public hearing to receive testimony regarding municipal solid waste management.

The proposal would amend §312.143, amend §330.4 by adding new subsections (s)-(u), and add new §§330.71-330.73. The proposed changes are in response to a need resulting from a federal mandate of Subtitle D of the Resource Conservation and Recovery Act (RCRA) which bans liquid waste from being disposed of at landfills. Title 40 Code of Federal Regulations, Parts 257 and 258 as amended, implement certain requirements of RCRA Subtitle D and generally prohibit bulk liquid waste disposal at municipal solid waste landfills. Since the ban on liquid waste receipt at landfills became effective on the dates of October 9, 1993, and April 9, 1994, a lack of disposal service for these liquid wastes is being observed in some regions of the state. The commission is concerned that much of the liquid wastes banned from landfilling by Subtitle D are being improperly handled, causing a real and potential threat to the health and environment of the people of the state. Consequently, a need exists to adopt these amendments and new sections. The commission is promulgating this rule in order to encourage the establishment of processing facilities that handle liquid waste. An applicant wishing to operate a Type V municipal solid waste processing facility that processes grease trap waste, grit trap waste, or septage or a combination of these wastes may be eligible for a registration in lieu of a permit, upon compliance with certain requirements. In particular, the facility must comply with design and operational requirements, and a public meeting must be held in the area where the facility is to be located.

A public hearing on this proposal will be held in Austin on November 26, 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 35 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, 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 95112-330-WS. Comments must be received by 5:00 p.m., December 19, 1996. For further information, please contact Wayne Lee, Waste Policy and Regulations Division, (512) 239-6815.

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

Issued in Austin, Texas on November 12, 1996.

TRD-9616333

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Filed: November 12, 1996

## Public Utility Commission of Texas

### Notice of Joint Petition of GTE Southwest, Inc. (GTE) and the Crawford Exchange to Provide One-Way, Optional, Extended Area Service (EAS) to the Waco Metropolitan Area

Notice is given to the public of the filing with the Public Utility Commission of Texas of a joint petition on November 7, 1996, seeking approval of one-way, optional, Extended Area Service (EAS) to the Waco Metropolitan exchange pursuant to Public Utility Commission Substantive Rule §23.49(b)(8).

Project Title and Number: Joint Petition of GTE Southwest, Inc. (GTE), and the Crawford exchange to provide one-way optional Extended Area Calling Service (EAS) to the Waco Metropolitan Exchange, Project Number 14033.

The Joint Petition: GTE requested approval to offer EAS in the form of one-way, optional, toll-free local calling to the Waco Metropolitan exchange.

EAS is a optional one-way offering to which subscribing GTE residence and business local exchange customers within the Crawford exchange will be able to call all other telephone customers within the Waco Metropolitan calling exchange for a flat monthly rate.

Customers will pay flat-rate, monthly additives in addition to their tariffed basic local exchange charges. New customers placing order for EAS at the same time they order local exchange service will not be billed the connection charge; however, all other appropriate tariffed service connection charges will be applicable. Customers of EAS will not be required to change their telephone numbers.

The joint applicants have requested that the joint petition filing be processed administratively pursuant to Public Utility Commission Substantive Rule §23.49(b)(8)(C). Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at P.O. Box 13326, Austin, Texas 78711-3326, or call the Commission's Office of Consumer Affairs at (512) 936-7120 by January 19, 1997. Hearing and speech impaired individuals with text telephones (TTY) may contact the Commission at (512) 936-7136.

Issued in Austin, Texas, on November 12, 1996.

TRD-9616380

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: November 12, 1996

### Notice of Petition for Rulemaking Published Pursuant to Procedural Rule §22.821(a)(2)

The Public Utility Commission of Texas (Commission) has received a petition for rulemaking from the Office of Public Utility Counsel (OPC), the Center for Economic Justice (CEJ), and Consumers Union Southwest Regional Office (CU), "the Petitioners," to amend Substantive Rules §§23.42, 23.43, 23.45, 23.46, 24.31, and 24.32. The petitioners recommend that the commission adopt rules which prohibit telephone utilities from disconnecting or refusing to connect basic local telephone service for nonpayment of other services, including, long distance, and other reforms such as, voluntary long distance limits. Comments on the petition will be received for



three weeks from the date of publication of this notice. Parties are encouraged to submit their comments as early as possible. Persons interested in obtaining a copy of the petition may do so by contacting the commission's central records office, at 1701 North Congress Avenue, Austin, Texas 78711-3326. All inquiries and comments relating to this petition must reference Project Number 16606.

Issued in Austin, Texas, on November 12, 1996.

TRD-9616388

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: November 13, 1996



## Texas Department of Transportation

### Public Hearing Notice

In accordance with, Transportation Code, §201.602, the Texas Transportation Commission will conduct a public hearing to receive data, comments, views, and/or testimony concerning the commission's highway project selection process and the relative importance of the various criteria on which the commission bases its project selection decisions. It is emphasized that the subject of the hearing will be the procedure by which projects are selected and not the merits or details of specific projects themselves.

The public hearing will be held on Thursday, December 19, 1996, at 9:00 a.m., in the first floor hearing room of the Dewitt C. Greer State Highway Building, 125 East 11th Street, Austin, Texas. The hearing will be held in accordance with the procedures specified in 43 TAC §1.5. Any interested person may appear and offer comments, either orally or in writing, however, questioning of those making presentations will be reserved exclusively to the presiding authority as may be necessary to ensure a complete record. While any person with

pertinent comments or testimony concerning the selection procedure will be granted an opportunity to present them during the course of the hearing, the presiding authority reserves the right to restrict testimony in terms of time and repetitive comment. Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who plan to attend the hearing and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Kerry Kutch, community relations manager, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8954 at least two working days prior to the hearing so that appropriate arrangements can be made.

Copies of the criteria/information will be available beginning November 19, 1996, at the department's Camp Hubbard Annex, 4000 Jackson Avenue, Building 1, Room 320, Austin, (512) 302-2278. Written comments may be submitted to the Texas Department of Transportation, Attention: Alvin R. Luedecke, P.E., P.O. Box 5051, Austin, Texas 78763-5051. The deadline for receipt of comments is 5:00 p.m. on January 2, 1997.

Issued in Austin, Texas, on November 12, 1996.

TRD-9616361

Robert E. Shaddock

General Counsel

Texas Department of Transportation

Filed: November 12, 1996



## November - December 1996 Publication Schedule

The following is the November-December 1996 Publication Schedule for the *Texas Register*. Listed below are the deadline dates for these issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. No issues will be published on December 3, and December 31. An asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON:	DEADLINES FOR RULES BY 10 A.M.	DEADLINES FOR MISCELLANEOUS DOCUMENTS BY 10 A.M.	DEADLINES FOR OPEN MEETINGS BY 10 A.M.
81 Friday, November 1	Wednesday, October 23	Monday, October 28	Monday, October 28
82 Tuesday, November 5	Monday, October 28	Wednesday, October 30	Wednesday, October 30
83 Friday, November 8	Wednesday, October 30	Monday, November 4	Monday, November 4
84 Tuesday, November 12	Monday, November 4	Wednesday, November 6	Wednesday, November 6
85 Friday, November 15	Wednesday, November 6	*Friday, November 8	*Friday, November 8
86 Tuesday, November 19	*Tuesday, November 12	Wednesday, November 13	Wednesday, November 13
87 Friday, November 22	Wednesday, November 13	Monday, November 18	Monday, November 18
88 Tuesday, November 26	Monday, November 18	Wednesday, November 20	Wednesday, November 20
89 Friday, November 29	Wednesday, November 20	Monday, November 25	Monday, November 25
Tuesday, December 3	<i>No Issue Published</i>		
90 Friday, December 6	Wednesday, November 27	Monday, December 2	Monday, December 2
91 Tuesday, December 10	Monday, December 2	Wednesday, December 4	Wednesday, December 4
92 Friday, December 13	Wednesday, December 4	Monday, December 9	Monday, December 9
93 Tuesday, December 17	Monday, December 9	Wednesday, December 11	Wednesday, December 11
94 Friday, December 20	Wednesday, December 11	Monday, December 16	Monday, December 16
95 Tuesday, December 24	Monday, December 16	Wednesday, December 18	Wednesday, December 18

96 Friday, December 27	Wednesday, December 18	Monday, December 23	Monday, December 23
Tuesday, December 31	<i>No Issue Published</i>		

## January - December 1997 Publication Schedule

The following is the January-December 1997 Publication Schedule for the *Texas Register*. Listed below are the deadline dates for these issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. No issues will be published on May 30, November 14, December 2, and December 30. An asterisk beside a publication date indicates that the deadlines are early due to state holidays.

FOR ISSUE PUBLISHED ON:	DEADLINES FOR RULES BY 10 A.M.	DEADLINES FOR MISCELLANEOUS DOCUMENTS BY 10 A.M.	DEADLINES FOR OPEN MEETINGS BY 10 A.M.
1 Friday, January 3	*Monday, December 23	Monday, December 30	Monday, December 30
2 Tuesday, January 7	Monday, December 30	*Tuesday, December 31	*Tuesday, December 31
3 Friday, January 10	*Tuesday, December 31	Monday, January 6	Monday, January 6
4 Tuesday, January 14	Monday, January 6	Wednesday, January 8	Wednesday, January 8
5 Friday, January 17	Wednesday, January 8	Monday, January 13	Monday, January 13
6 Tuesday, January 21	Monday, January 13	Wednesday, January 15	Wednesday, January 15
7 Friday, January 24	Wednesday, January 15	*Friday, January 17	*Friday, January 17
Tuesday, January 28	<i>1996 Annual Index</i>		
8 Friday, January 31	Wednesday, January 22	Monday, January 27	Monday, January 27
9 Tuesday, February 4	Monday, January 27	Wednesday, January 29	Wednesday, January 29
10 Friday, February 7	Wednesday, January 29	Monday, February 3	Monday, February 3
11 Tuesday, February 11	Monday, February 3	Wednesday, February 5	Wednesday, February 5
12 Friday, February 14	Wednesday, February 5	Monday, February 10	Monday, February 10
13 Tuesday, February 18	Monday, February 10	Wednesday, February 12	Wednesday, February 12
14 Friday, February 21	Wednesday, February 12	*Friday, February 14	*Friday, February 14
15 Tuesday, February 25	*Friday, February 14	Wednesday, February 19	Wednesday, February 19

<b>FOR ISSUE PUBLISHED ON:</b>	<b>DEADLINES FOR RULES BY 10 A.M.</b>	<b>DEADLINES FOR MISCELLANEOUS DOCUMENTS BY 10 A.M.</b>	<b>DEADLINES FOR OPEN MEETINGS BY 10 A.M.</b>
16 Friday, February 28	Wednesday, February 19	Monday, February 24	Monday, February 24
17 Tuesday, March 4	Monday, February 24	Wednesday, February 26	Wednesday, February 26
18 Friday, March 7	Wednesday, February 26	Monday, March 3	Monday, March 3
19 Tuesday, March 11	Monday, March 3	Wednesday, March 5	Wednesday, March 5
20 Friday, March 14	Wednesday, March 5	Monday, March 10	Monday, March 10
21 Tuesday, March 18	Monday, March 10	Wednesday, March 12	Wednesday, March 12
22 Friday, March 21	Wednesday, March 12	Monday, March 17	Monday, March 17
23 Tuesday, March 25	Monday, March 17	Wednesday, March 19	Wednesday, March 19
24 Friday, March 28	Wednesday, March 19	Monday, March 24	Monday, March 24
25 Tuesday, April 1	Monday, March 24	Wednesday, March 26	Wednesday, March 26
26 Friday, April 4	Wednesday, March 26	Monday, March 31	Monday, March 31
Tuesday, April 8	<i>First Quarterly Index</i>		
27 Friday, April 11	Wednesday, April 2	Monday, April 7	Monday, April 7
28 Tuesday, April 15	Monday, April 7	Wednesday, April 9	Wednesday, April 9
29 Friday, April 18	Wednesday, April 9	Monday, April 14	Monday, April 14
30 Tuesday, April 22	Monday, April 14	Wednesday, April 16	Wednesday, April 16
31 Friday, April 25	Wednesday, April 16	Monday, April 21	Monday, April 21
32 Tuesday, April 29	Monday, April 21	Wednesday, April 23	Wednesday, April 23
33 Friday, May 2	Wednesday, April 23	Monday, April 28	Monday, April 28
34 Tuesday, May 6	Monday, April 28	Wednesday, April 30	Wednesday, April 30
35 Friday, May 9	Wednesday, April 30	Monday, May 5	Monday, May 5
36 Tuesday, May 13	Monday, May 5	Wednesday, May 7	Wednesday, May 7
37 Friday, May 16	Wednesday, May 7	Monday, May 12	Monday, May 12
38 Tuesday, May 20	Monday, May 12	Wednesday, May 14	Wednesday, May 14

<b>FOR ISSUE PUBLISHED ON:</b>	<b>DEADLINES FOR RULES BY 10 A.M.</b>	<b>DEADLINES FOR MISCELLANEOUS DOCUMENTS BY 10 A.M.</b>	<b>DEADLINES FOR OPEN MEETINGS BY 10 A.M.</b>
39 Friday, May 23	Wednesday, May 14	Monday, May 19	Monday, May 19
40 Tuesday, May 27	Monday, May 19	Wednesday, May 21	Wednesday, May 21
Friday, May 30	<i>No Issue Published</i>		
41 Tuesday, June 3	*Friday, May 23	Wednesday, May 28	Wednesday, May 28
42 Friday, June 6	Wednesday, May 28	Monday, June 2	Monday, June 2
43 Tuesday, June 10	Monday, June 2	Wednesday, June 4	Wednesday, June 4
44 Friday, June 13	Wednesday, June 4	Monday, June 9	Monday, June 9
45 Tuesday, June 17	Monday, June 9	Wednesday, June 11	Wednesday, June 11
46 Friday, June 20	Wednesday, June 11	Monday, June 16	Monday, June 16
47 Tuesday, June 24	Monday, June 16	Wednesday, June 18	Wednesday, June 18
48 Friday, June 27	Wednesday, June 18	Monday, June 23	Monday, June 23
49 Tuesday, July 1	Monday, June 23	Wednesday, June 25	Wednesday, June 25
50 Friday, July 4	Wednesday, June 25	Monday, June 30	Monday, June 30
51 Tuesday, July 8	Monday, June 30	Wednesday, July 2	Wednesday, July 2
Friday, July 11	<i>Second Quarterly Index</i>		
52 Tuesday, July 15	Monday, July 7	Wednesday, July 9	Wednesday, July 9
53 Friday, July 18	Wednesday, July 9	Monday, July 14	Monday, July 14
54 Tuesday, July 22	Monday, July 14	Wednesday, July 16	Wednesday, July 16
55 Friday, July 25	Wednesday, July 16	Monday, July 21	Monday, July 21
56 Tuesday, July 29	Monday, July 21	Wednesday, July 23	Wednesday, July 23
57 Friday, August 1	Wednesday, July 23	Monday, July 28	Monday, July 28
58 Tuesday, August 5	Monday, July 28	Wednesday, July 30	Wednesday, July 30
59 Friday, August 8	Wednesday, July 30	Monday, August 4	Monday, August 4
60 Tuesday, August 12	Monday, August 4	Wednesday, August 6	Wednesday, August 6

<b>FOR ISSUE PUBLISHED ON:</b>	<b>DEADLINES FOR RULES BY 10 A.M.</b>	<b>DEADLINES FOR MISCELLANEOUS DOCUMENTS BY 10 A.M.</b>	<b>DEADLINES FOR OPEN MEETINGS BY 10 A.M.</b>
61 Friday, August 15	Wednesday, August 6	Monday, August 11	Monday, August 11
62 Tuesday, August 19	Monday, August 11	Wednesday, August 13	Wednesday, August 13
63 Friday, August 22	Wednesday, August 13	Monday, August 18	Monday, August 18
64 Tuesday, August 26	Monday, August 18	Wednesday, August 20	Wednesday, August 20
65 Friday, August 29	Wednesday, August 20	Monday, August 25	Monday, August 25
66 Tuesday, September 2	Monday, August 25	Wednesday, August 27	Wednesday, August 27
67 Friday, September 5	Wednesday, August 27	*Friday, August 29	*Friday, August 29
68 Tuesday, September 9	*Friday, August 29	Wednesday, September 3	Wednesday, September 3
69 Friday, September 12	Wednesday, September 3	Monday, September 8	Monday, September 8
70 Tuesday, September 16	Monday, September 8	Wednesday, September 10	Wednesday, September 10
71 Friday, September 19	Wednesday, September 10	Monday, September 15	Monday, September 15
72 Tuesday, September 23	Monday, September 15	Wednesday, September 17	Wednesday, September 17
73 Friday, September 26	Wednesday, September 17	Monday, September 22	Monday, September 22
74 Tuesday, September 30	Monday, September 22	Wednesday, September 24	Wednesday, September 24
75 Friday, October 3	Wednesday, September 24	Monday, September 29	Monday, September 29
Tuesday, October 7	<i>Third Quarterly Index</i>		
76 Friday, October 10	Wednesday, October 1	Monday, October 6	Monday, October 6
77 Tuesday, October 14	Monday, October 6	Wednesday, October 8	Wednesday, October 8
78 Friday, October 17	Wednesday, October 8	Monday, October 13	Monday, October 13
79 Tuesday, October 21	Monday, October 13	Wednesday, October 15	Wednesday, October 15
80 Friday, October 24	Wednesday, October 15	Monday, October 20	Monday, October 20
81 Tuesday, October 28	Monday, October 20	Wednesday, October 22	Wednesday, October 22
82 Friday, October 31	Wednesday, October 22	Monday, October 27	Monday, October 27
83 Tuesday, November 4	Monday, October 27	Wednesday, October 29	Wednesday, October 29

<b>FOR ISSUE PUBLISHED ON:</b>	<b>DEADLINES FOR RULES BY 10 A.M.</b>	<b>DEADLINES FOR MISCELLANEOUS DOCUMENTS BY 10 A.M.</b>	<b>DEADLINES FOR OPEN MEETINGS BY 10 A.M.</b>
84 Friday, November 7	Wednesday, October 29	Monday, November 3	Monday, November 3
85 Tuesday, November 11	Monday, November 3	Wednesday, November 5	Wednesday, November 5
Friday, November 14	<i>No Issue Published</i>		
86 Tuesday, November 18	Monday, November 10	Wednesday, November 12	Wednesday, November 12
87 Friday, November 21	Wednesday, November 12	Monday, November 17	Monday, November 17
88 Tuesday, November 25	Monday, November 17	Wednesday, November 19	Wednesday, November 19
89 Friday, November 28	Wednesday, November 19	Monday, November 24	Monday, November 24
Tuesday, December 2	<i>No Issue Published</i>		
90 Friday, December 5	Wednesday, November 26	Monday, December 1	Monday, December 1
91 Tuesday, December 9	Monday, December 1	Wednesday, December 3	Wednesday, December 3
92 Friday, December 12	Wednesday, December 3	Monday, December 8	Monday, December 8
93 Tuesday, December 16	Monday, December 8	Wednesday, December 10	Wednesday, December 10
94 Friday, December 19	Wednesday, December 10	Monday, December 15	Monday, December 15
95 Tuesday, December 23	Monday, December 15	Wednesday, December 17	Wednesday, December 17
96 Friday, December 26	Wednesday, December 17	Monday, December 22	Monday, December 22
Tuesday, December 30	<i>No Issue Published</i>		



## How to Use the Texas Register

**Information Available:** The 13 sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

**Governor** - Appointments, executive orders, and proclamations.

**Attorney General** - summaries of requests for opinions, opinions, and open records decisions.

**Secretary of State** - opinions based on the election laws.

**Texas Ethics Commission** - summaries of requests for opinions and opinions.

**Emergency Rules** - sections adopted by state agencies on an emergency basis.

**Proposed Rules** - sections proposed for adoption.

**Withdrawn Rules** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

**Adopted Rules** - sections adopted following a 30-day public comment period.

**Texas Department of Insurance Exempt Filings** - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

**Texas Department of Banking** - opinions and exempt rules filed by the Texas Department of Banking.

**Tables and Graphics** - graphic material from the proposed, emergency and adopted sections.

**Open Meetings** - notices of open meetings.

**In Addition** - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

**How to Cite:** Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 21 (1996) is cited as follows: 21 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "21 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 21 TexReg 3."

**How to Research:** The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online through the Internet. The address is: <http://www.sos.state.tx.us>. The *Register* is available in a plain text version as well as a .pdf (portable document format) version through the Internet. In addition to the Internet version, the *Texas Register* is available online through a dialup bulletin board and as ASCII files on diskette. For subscription information, see the back cover or call the Texas Register at (800) 226-7199.

### Texas Administrative Code

The *Texas Administrative Code (TAC)* is the official

compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*. West Publishing Company, the official publisher of the *TAC*, publishes on an annual basis.

The *TAC* volumes are arranged into Titles (using Arabic numerals) and Parts (using Roman numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

To purchase printed volumes of the *TAC* or to inquire about WESTLAW access to the *TAC* call West: 1-800-328-9352.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

**How to Cite:** Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

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#### TITLE 40. SOCIAL SERVICES AND ASSISTANCE

##### Part I. Texas Department of Human Services

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