

§ 201.40 Exemption to prohibition against circumvention.

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(b) *Classes of copyrighted works.* Pursuant to the authority set forth in 17 U.S.C. 1201(a)(1)(C) and (D), and upon the recommendation of the Register of Copyrights, the Librarian has determined that during the period from November 27, 2006 through October 27, 2009, the prohibition against circumvention of technological measures that effectively control access to copyrighted works set forth in 17 U.S.C. 1201(a)(1)(A) shall not apply to persons who engage in noninfringing uses of the following six classes of copyrighted works:

(1) Audiovisual works included in the educational library of a college or university's film or media studies department, when circumvention is accomplished for the purpose of making compilations of portions of those works for educational use in the classroom by media studies or film professors.

(2) Computer programs and video games distributed in formats that have become obsolete and which require the original media or hardware as a condition of access, when circumvention is accomplished for the purpose of preservation or archival reproduction of published digital works by a library or archive. A format shall be considered obsolete if the machine or system necessary to render perceptible a work stored in that format is no longer manufactured or is no longer reasonably available in the commercial marketplace.

(3) Computer programs protected by dongles that prevent access due to malfunction or damage and which are obsolete. A dongle shall be considered obsolete if it is no longer manufactured or if a replacement or repair is no longer reasonably available in the commercial marketplace.

(4) Literary works distributed in ebook format when all existing ebook editions of the work (including digital text editions made available by authorized entities) contain access controls that prevent the enabling either of the book's read-aloud function or of screen readers that render the text into a specialized format.

(5) Computer programs in the form of firmware that enable wireless telephone handsets to connect to a wireless telephone communication network, when circumvention is accomplished for the sole purpose of lawfully connecting to a wireless telephone communication network.

(6) Sound recordings, and audiovisual works associated with those sound

recordings, distributed in compact disc format and protected by technological protection measures that control access to lawfully purchased works and create or exploit security flaws or vulnerabilities that compromise the security of personal computers, when circumvention is accomplished solely for the purpose of good faith testing, investigating, or correcting such security flaws or vulnerabilities.

(c) *Definition.* "Specialized format," "digital text" and "authorized entities" shall have the same meaning as in 17 U.S.C. 121.

Dated: November 20, 2006

**James H. Billington,**

*The Librarian of Congress,*

[FR Doc. E6-20029 Filed 11-24-06; 8:45 am]

**BILLING CODE 1410-30-S**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2006-0016; FRL-8248-3]

### Approval and Promulgation of Air Quality Implementation Plans; Texas; Revisions to Reid Vapor Pressure Requirements for Gasoline

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action approving Texas State Implementation Plan (SIP) revisions. The revisions pertain to Reid Vapor Pressure (RVP) requirements for gasoline. The revisions add exemptions to RVP requirements for research laboratories and academic institutions, competition racing, and gasoline that is being stored or transferred that is not used in the affected counties. The revisions also reduce recordkeeping requirements for retail gasoline dispensing outlets in the affected counties, and correct a typographical error. We are approving the revisions pursuant to section 110 and part D of the Federal Clean Air Act (CAA).

**DATES:** This rule is effective on January 26, 2007 without further notice, unless EPA receives adverse comment by December 27, 2006. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2006-0016, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- EPA Region 6 "Contact Us" Web site: <http://epa.gov/region6/r6coment.htm>. Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

- E-mail: Mr. Thomas Diggs at [diggs.thomas@epa.gov](mailto:diggs.thomas@epa.gov). Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- Fax: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

- Mail: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- Hand or Courier Delivery: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R06-OAR-2006-0016. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form

of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Alima Patterson, State/Oversight Section (6PD-O), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7247; fax number 214-665-7263; e-mail address [patterson.alima@epa.gov](mailto:patterson.alima@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

Throughout this document, whenever “we”, “us”, or “our” is used, we mean the EPA.

#### **Outline**

- I. What Is a SIP?
- II. What Action Is EPA Taking?
- III. Final Action
- IV. Statutory and Executive Order Reviews

#### **I. What Is a SIP?**

Section 110 of the CAA requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the NAAQS established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are:

Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state which contains areas that are not attaining the NAAQS must submit these regulations and control strategies to us for approval and incorporation into the federally-enforceable SIP.

Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

#### **II. What Action Is EPA Taking?**

We are taking direct final action to approve revisions to the Texas SIP that pertain to regulations on gasoline RVP submitted by the State on October 4, 2001. The Texas RVP regulations were originally approved into the SIP by EPA on April 26, 2001 (66 FR 20927). The regulations are part of the State strategy to achieve the NAAQS for ozone in the Houston/Galveston and Dallas/Fort Worth nonattainment areas. The regulations reduce volatile organic compound emissions by requiring conventional gasoline in a 95-county area of central and eastern Texas to be limited to maximum RVP of 7.8 pounds per square inch from May 1 through October 1 of each year. The 95 Texas counties are: Anderson, Angelina, Aransas, Atascosa, Austin, Bastrop, Bee, Bell, Bexar, Bosque, Bowie, Brazos, Burleson, Caldwell, Calhoun, Camp, Cass, Cherokee, Colorado, Comal, Cooke, Coryell, De Witt, Delta, Ellis, Falls, Fannin, Fayette, Franklin, Freestone, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Harrison, Hays, Henderson, Hill, Hood, Hopkins, Houston, Hunt, Jackson, Jasper, Johnson, Karnes, Kaufman, Lamar, Lavaca, Lee, Leon, Limestone, Live Oak, Madison, Marion, Matagorda, McLennan, Milam, Morris, Nacogdoches, Navarro, Newton, Nueces, Panola, Parker, Polk, Rains, Red River, Refugio, Robertson, Rockwall, Rusk, Sabine, San Jacinto, San Patricio, San Augustine, Shelby, Smith, Somervell, Titus, Travis, Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Washington, Wharton, Williamson, Wilson, Wise, and Wood. Texas developed this fuel requirement as part of a strategy to reduce emissions of volatile organic compounds and achieve the NAAQS for ozone in the Houston-Galveston and Dallas-Fort Worth nonattainment areas.

The revised regulations being approved are Sections 114.307 and 114.309 of Title 30 of the Texas Administrative Code, Chapter 114. The revisions add exemptions to RVP requirements for research laboratories and academic institutions, competition racing, and gasoline that is being stored or transferred that is not used in the affected counties. The exemptions are similar to those in place for Texas low emission diesel fuel approved by EPA on November 14, 2001 (66 FR 57196). It is expected that the emissions that would occur from the exempted sources would be insignificant in comparison with emissions from sources covered by the regulation. Because of this the revisions are not expected to have a significant impact on air quality. The revisions also reduce record keeping requirements for retail gasoline dispensing outlets in the affected counties, and correct a typographical error relating to the name of Smith County. Retail gasoline dispensing outlets in the affected counties no longer have to keep records of the RVP of all the gasoline they store or sell. These records will be maintained by the provider of the gasoline to the retail outlet. The retail outlets will have to keep records documenting that the gasoline they sell is certified as meeting the Texas RVP regulations.

#### **III. Final Action**

We are approving the revisions to the Texas SIP that pertain to regulations on gasoline RVP submitted by the State on October 4, 2001 pursuant to section 110 and part D of the CAA. The revisions add exemptions to RVP requirements for research laboratories, competitive racing, and gasoline that is being stored or transferred that is not used in the affected counties. The revisions to RVP requirements are not expected to have a significant impact on air quality. The State's revisions will not interfere with any applicable requirement concerning attainment or any other applicable requirement of the CAA. As such, EPA's approval of the revisions complies with the requirements of section 110(I) of the CAA. Under section 110(I) EPA may not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment or any other applicable requirement of the CAA. This approval will make the revised regulations federally enforceable.

EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no relevant adverse comments. However, in the proposed rules section of this **Federal Register**

publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on January 26, 2007 without further notice unless we receive relevant adverse comment by December 27, 2006. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a

substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a

report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under Section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 26, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental Relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 9, 2006.

**Lawrence E. Starfield,**

*Acting Regional Administrator, Region 6.*

■ 40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

#### Subpart SS—Texas

■ 2. In § 52.2270 (c), the table entitled “EPA APPROVED REGULATIONS IN THE TEXAS SIP” is amended under Chapter 114 (Reg 4)—Control of Air Pollution from Motor Vehicles by revising the entries for sections 114.307 and 114.309 to read as follows:

#### § 52.2270 Identification of plan.

*	*	*	*	*
(c)	*	*	*	

## EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
*	*	*	*	*
<b>Chapter 114 (Reg 4)—Control of Air Pollution From Motor Vehicles</b>				
*	*	*	*	*
<b>Subchapter H—Low Emission Fuels Division 1: Gasoline Volatility</b>				
*	*	*	*	*
Section 114.307 .....	Exemptions .....	10/04/01	11/27/06 [Insert <i>FR</i> page number where document begins].	
Section 114.309 .....	Affected Counties .....	10/04/01	11/27/06 [Insert <i>FR</i> page number where document begins].	

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[FR Doc. E6-19991 Filed 11-24-06; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 122

[OW-2003-0063; FRL-8248-1]

RIN 2040-AE79

### Application of Pesticides to Waters of the United States in Compliance With FIFRA

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** Today, EPA is issuing a regulation stating that the application of a pesticide in compliance with relevant requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) does not require a National Pollutant Discharge Elimination System (NPDES) permit in two specific circumstances. The first circumstance is when the application of the pesticide is made directly to waters of the United States to control pests that are present in the water. The second circumstance is when the application of the pesticide is made to control pests that are over, including near, waters of the United States. This rulemaking is based on the Agency's

interpretation of the definition of the term "pollutant" under the Clean Water Act (CWA) as not including such pesticides.

This final rulemaking replaces EPA's previously published Interim and Final Interpretive Statements on the Application of Pesticides to Waters of the United States in Compliance with FIFRA. EPA's Interpretive Statement, published February 1, 2005, described the Agency's interpretation of the CWA with regard to the application of pesticides regulated under FIFRA that are applied to or over, including near, waters of the United States. On August 13, 2003, EPA provided public notice of and solicited public comment on an Interim Statement and incorporated that input into the Interpretive Statement. On February 1, 2005, EPA published the Interpretive Statement and proposed to codify its substance in EPA's NPDES regulations and solicited comment on that proposed action. Today's final rule is the result of this process.

**DATES:** These final regulations are effective on January 26, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. OW-2003-0063. All documents in the docket are listed online at <http://www.regulations.gov>. Although listed in the online docket, some information is not publicly available, i.e., Confidential Business Information (CBI) or other

information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either online or in hard copy at the Water Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426.

**FOR FURTHER INFORMATION CONTACT:** For additional information, contact Jeremy Arling, Water Permits Division, Office of Wastewater Management (4203M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202-564-2218, e-mail address: [arling.jeremy@epa.gov](mailto:arling.jeremy@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

##### A. Does This Action Apply to Me?

You may be affected by this action if you apply pesticides to or over, including near, water. Potentially affected entities may include, but are not limited to:

TABLE 1.—ENTITIES POTENTIALLY REGULATED BY THIS RULE

Category	NAICS	Examples of potentially affected entities
Agriculture parties—General agricultural interests, farmers/producers, forestry, and irrigation.	111 Crop Production .....	Producers of crops mainly for food and fiber including farms, orchards, groves, greenhouses, and nurseries.
	113110 Timber Tract Operations ..	The operation of timber tracts for the purpose of selling standing timber.