

(i) \* \* \*

(B) Rule 100, Section 504 adopted on November 16, 1992.

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■ 3. Section 52.122 is amended by adding paragraph (a)(1)(ii) to read as follows:

**§ 52.122 Negative declarations.**

(a) \* \* \*

(1) \* \* \*

(ii) Fiberglass Boat Manufacturing was adopted on March 24, 2004 and submitted on April 21, 2004.

\* \* \* \* \*

[FR Doc. 05-2520 Filed 2-9-05; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R06-OAR-2005-TX-0001; FRL-7871-7]

#### Approval and Promulgation of Air Quality Implementation Plans; Texas; Revisions To Control Volatile Organic Compound Emissions From Consumer Related Sources

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve Texas State Implementation Plan (SIP) revisions. The revisions pertain to regulations to control volatile organic compound (VOC) emissions from consumer related sources. The control of VOC emissions will help to attain and maintain national ambient air quality standards for ozone in Texas. This approval will make the revised regulations Federally enforceable.

**DATES:** This rule is effective on April 11, 2005 without further notice, unless EPA receives adverse comment by March 14, 2005. 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 Regional Materials in EDocket (RME) ID No. R06-OAR-2005-TX-0001, by one of the following methods:

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

- Agency Web site: <http://docket.epa.gov/rmepub/>. Regional Materials in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the

system, select "quick search," then key in the appropriate RME Docket identification number. Follow the online 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 email 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 RME ID No. R06-OAR-2005-TX-0001. EPA's policy is that all comments received will be included in the public file without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through Regional Materials in EDocket (RME), [regulations.gov](http://regulations.gov) or e-mail if you believe that it is CBI or otherwise protected from disclosure. The EPA RME Web site and the Federal [regulations.gov](http://regulations.gov) Web site are "anonymous access" systems, 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 RME or [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public file 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 and any form of encryption, and should be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the Regional Materials in EDocket (RME) index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, i.e., 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 materials relevant to this rulemaking are available either electronically in RME or in the official file, which is available 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:** Carl Young, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone 214-665-6645; fax number 214-665-7263; e-mail address [young.carl@epa.gov](mailto:young.carl@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. What Is the Effect of This Action?
- IV. Final Action
- V. Statutory and Executive Order Reviews

## I. What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards (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 State Implementation Plan (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?

EPA is taking direct final action to approve revisions to the Texas ozone SIP (Texas SIP) that pertain to regulations which control VOC emissions from consumer related sources. The regulations can be found in the Texas Administrative Code, title 30, chapter 115, subchapter G. The revisions were adopted by the Texas Commission on Environmental Quality (TCEQ) and submitted to EPA. One revision was adopted on January 28, 2004 and submitted on February 13, 2004. Another revision was adopted on October 27, 2004 and submitted on November 16, 2004.

On May 4, 1994 Texas adopted a VOC emissions regulation for consumer products sold or distributed in Texas. The regulation was approved by EPA on May 22, 1997 (62 FR 27964). On September 11, 1998 EPA issued a national regulation for VOC emissions from consumer products similar to that adopted by Texas (63 FR 48819). The national regulation can be found at 40 CFR part 59 subpart C. The national regulation adopted a less stringent VOC standard for automotive windshield wiper fluid than that found in the Texas regulation. The national standard is a limit of 35% VOC content by weight, while the Texas standard is 23.5%. Texas revised the state VOC regulation on January 28, 2004 and submitted it to EPA on February 13, 2004. This revision removed state VOC standards for all

consumer products except automotive windshield washer fluid sold or distributed in Texas because national standards are now in place. Texas retained the state VOC standard for windshield washer fluid because a more restrictive state standard would help attain national ambient air quality standards for ozone in Texas. EPA is approving this change because equivalent emission reduction will continue to be achieved.

The revision adopted on October 27, 2004 set requirements for portable fuel containers and spouts sold or distributed in Texas that are manufactured on or after December 31, 2004. The purpose of this revision is to lower VOC emissions in Texas from portable fuel containers that spill or leak. EPA is approving this revision as it strengthens the SIP.

## III. What Is the Effect of This Action?

This action approves revisions to the Texas SIP that pertain to regulations to control VOC emissions from consumer related sources. This approval will make these revised regulations Federally enforceable. Enforcement of the regulations in a State SIP before and after it is incorporated into the federally approved SIP is primarily a state responsibility. However, after the regulations are Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the Clean Air Act.

The revisions (1) removed state VOC emission standards for all consumer products except automotive windshield washer fluid sold or distributed in Texas because national standards are in place, and (2) set requirements for portable fuel containers and spouts sold or distributed in Texas. Consumer products sold or distributed in Texas must meet national VOC emission standards found in 40 CFR part 59 subpart C and Texas standards for windshield wiper fluid and portable fuel containers found in the Texas Administrative Code, title 30, chapter 115, subchapter G.

Portable fuel containers and spouts sold or distributed in Texas that are manufactured on or after December 31, 2004 must comply with new requirements. Portable fuel containers must have only one opening in the vessel. Spouts for these containers must (1) have an automatic shutoff device to prevent spilling, (2) automatically close and seal when removed from the fuel tank, and (3) seal without leakage when affixed to the portable fuel container vessel. The requirements do not apply

to (1) containers with a capacity less than or equal to one quarter, or greater than ten gallons, (2) safety cans when their use is required by the Occupational Safety and Health Administration under 29 CFR 1926.155(l), and (3) containers filled with fuel by the manufacturer prior to sale to consumers and that are not intended for reuse as portable fuel containers.

## IV. Final Action

EPA is approving revisions to the Texas SIP pertaining to control of VOC emissions from consumer related sources.

We have evaluated the State's submittal and have determined that it meets the applicable requirements of the Clean Air Act and EPA air quality regulations, and is consistent with EPA policy. Therefore, we are approving revisions to the Texas SIP which amend and add regulations to control VOC emissions from consumer related sources.

EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no 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 adverse comments are received. This rule will be effective on April 11, 2005 without further notice unless we receive adverse comment by March 14, 2005. If we receive 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.

## V. 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 Clean Air Act. 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 Clean Air Act. 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 Clean Air Act. 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 11, 2005. 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: January 31, 2005.

**Richard E. Greene,**

*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. 7402 *et seq.*

#### Subpart SS—Texas

■ 2. The table in § 52.2270(c) entitled "EPA Approved Regulations in the Texas SIP" under Chapter 115 (Reg 5) is amended as follows:

- a. Under the heading "Subchapter G: Consumer-Related Sources," by removing the entry for Section 115.600 to 115.619, Consumer Products;
- b. Immediately following the centered heading "Subchapter G: Consumer-Related Sources," by adding a new centered heading "Division 1: Automotive Windshield Washer Fluid" followed by entries for Sections 115.600, 115.610, 115.612, 115.613, 115.615, 115.616, 115.617, and 115.619, immediately followed by a new centered heading "Division 2: Portable Fuel Containers" immediately followed by new entries for Sections 115.620, 115.621, 115.622, 115.626, 115.627, and 115.629, 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
*	*	*	*	*
Chapter 115 (Reg 5)—Control of Air Pollution from Volatile Organic Compounds				

## EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
*	*	*	*	*
<b>Subchapter G: Consumer-Related Sources</b>				
<b>Division 1: Automotive Windshield Washer Fluid</b>				
Section 115.600 .....	Consumer Products Definitions ..	01/28/04	02/10/05	[Insert date of FR publication].
Section 115.610 .....	Applicability .....	01/28/04	02/10/05	[Insert date of FR publication].
Section 115.612 .....	Control Requirements .....	01/28/04	02/10/05	[Insert date of FR publication].
Section 115.613 .....	Alternate Control Requirements ..	01/28/04	02/10/05	[Insert date of FR publication].
Section 115.615 .....	Testing Requirements .....	01/28/04	02/10/05	[Insert date of FR publication].
Section 115.616 .....	Recordkeeping and Reporting Requirements.	01/28/04	02/10/05	[Insert date of FR publication].
Section 115.617 .....	Exemptions .....	01/28/04	02/10/05	[Insert date of FR publication].
Section 115.619 .....	Counties and Compliance Schedules.	01/28/04	02/10/05	[Insert date of FR publication].
<b>Division 2: Portable Fuel Containers</b>				
Section 115.620 .....	Definitions .....	10/27/04	02/10/05	[Insert date of FR publication].
Section 115.621 .....	Applicability .....	10/27/04	02/10/05	[Insert date of FR publication].
Section 115.622 .....	Performance Standards and Testing Requirements.	10/27/04	02/10/05	[Insert date of FR publication].
Section 115.626 .....	Labeling .....	10/27/04	02/10/05	[Insert date of FR publication].
Section 115.627 .....	Exemptions .....	10/27/04	02/10/05	[Insert date of FR publication].
Section 115.629 .....	Affected Counties and Compliance Schedules.	10/27/04	02/10/05	[Insert date of FR publication].
*	*	*	*	*

[FR Doc. 05-2616 Filed 2-9-05; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180**

[OPP-2005-0025; FRL-7690-6]

**Pesticides; Removal of Expired Time-limited Tolerances for Emergency Exemptions****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA is amending 40 CFR part 180 to remove time-limited tolerances for several pesticides that were originally established to support emergency exemptions issued under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). These time-limited tolerances are being removed from 40 CFR part 180 because they have since expired. The expired time-limited tolerances are obsolete and therefore unnecessary and are being removed with this final rule to ensure that the regulatory listings of tolerances is properly updated.

**DATES:** This regulation is effective February 10, 2005. Objections and requests for hearings must be received on or before April 11, 2005.

**ADDRESSES:** EPA has established a docket for this action under Docket ID number OPP-2005-0025. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., 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 electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Dan Rosenblatt, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington,

DC 20460; telephone number: (703) 308-9366; and e-mail address: [rosenblatt.dan@epa.gov](mailto:rosenblatt.dan@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. General Information***A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.