

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2006-1029; FRL - _____]

**Approval and Promulgation of Air Quality Implementation Plans; Texas; Control of Air
Pollution from Volatile Organic Compounds**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Texas. This revision, adopted by Texas on November 15, 2006, and submitted to EPA on December 13, 2006, extends requirements to reduce volatile organic compound (VOC) emissions in the Dallas-Fort Worth (DFW) area. Specifically, this revision extends requirements for control of VOC emissions to the five counties that were added to the DFW nonattainment area under the 1997 8-hour ozone standard designation: Ellis, Johnson, Kaufman, Parker, and Rockwall, and the affected VOC sources will be subject to the same emission limitation, control, monitoring, testing, recordkeeping, and recording requirements already in effect in Collin, Dallas, Denton, and Tarrant counties. As a result of this action, these new VOC control requirements will be consistent for all nine counties in the DFW ozone nonattainment area. This revision meets statutory and regulatory requirements, and is consistent with EPA's guidance. EPA is approving this revision pursuant to section 110, 116 and part D of the Federal Clean Air Act (CAA).

DATES: This direct final rule will be effective **[Insert date 60 days from date of publication in the Federal Register]** without further notice, unless EPA receives relevant adverse comments by **[Insert date 30 days from date of publication in the Federal Register]**. If EPA receives such comment, EPA will publish a timely withdrawal of the direct final rule 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-2006-1029, 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. Guy Donaldson at *donaldson.guy@epa.gov*. Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- Fax: Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.
- Mail: Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.
- Hand or Courier Delivery: Mr. Guy Donaldson, 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 8:00am and 4:00pm 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-2006-1029. 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*, 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* or e-mail. The *www.regulations.gov* website 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* 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 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* 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 8:30am and 4:30pm 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: Ellen Belk, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-2164; fax number 214-665-7263; e-mail address belk.ellen@epa.gov.

SUPPLEMENTARY INFORMATION

I. General Information

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

II. Rulemaking Information

This section is organized as follows:

- A. What Action is EPA Taking?
- B. What Are the Requirements of Texas' New Regulation?
- C. Why is EPA Approving Texas' Regulation?
- D. What is the Process for EPA to Approve This SIP Revision?

A. What Action is EPA Taking?

EPA is approving Texas' Chapter 115 "Control of Air Pollution from Volatile Organic Compounds" amendments to §§115.10, 115.119, 115.129, 115.139, 115.149, 115.219, 115.239, 115.319, 115.359, 115.419, 115.439, 115.449, 115.519, and 115.539 which subject VOC-emitting sources located in Ellis, Johnson, Kaufman, Parker, and Rockwall Counties to the same emission limitation, control, monitoring, testing, recordkeeping, and recording requirements in effect in Collin, Dallas, Denton, and Tarrant Counties, the other four counties in the DFW 8-hour ozone nonattainment area. The revisions were adopted by Texas on November 15, 2006, and submitted to EPA on December 13, 2006.

B. What Are the Requirements of Texas' New Regulation?

The DFW area is classified as a moderate nonattainment area for the 1997 8-hour ozone standard. This rule will affect VOC-emitting facilities in five counties of the DFW 8-hour ozone nonattainment area. Table 1 lists the affected Texas Counties:

Table 1
Counties Affected by this Rulemaking

Counties in DFW 8-hour ozone Nonattainment Area Affected by this Rulemaking
Ellis

Johnson
Kaufman
Parker
Rockwall

Texas' Chapter 115 regulations control VOC emissions for many categories of sources.

In particular, this rulemaking affects the TAC Subchapters and Divisions listed in Table 2:

Table 2
Texas Administrative Code (TAC) Chapter 115
Subchapters Affected by this Rulemaking

Chapter 115 Subchapter	Section
A Definitions	115.10
B General VOC Sources	
Division 1 Storage of VOCs	115.119
Division 2 Vent Gas Control	115.129
Division 3 Water Separation	115.139
Division 4 Industrial Wastewater	115.149
C VOC Transfer Operations	
Division 1 Loading and Unloading of VOCs	115.219
Division 3 Control of VOC Leaks from Transport Vessels	115.239
D Petroleum Refining, Natural Gas Processing, and Petrochemical Processes	
Division 1 Process Unit Turnaround and Vacuum-Producing Systems in Petroleum Refineries	115.319
Division 3 Fugitive Emission Control in Petroleum Refining, Natural Gas / Gasoline Processing, and Petrochemical Processes in Ozone Nonattainment Areas	115.359
E Solvent-Using Processes	
Division 1 Degreasing Processes	115.419
Division 3 Flexographic and Rotogravure Printing	115.439
Division 4 Offset Lithographic Printing	115.449
F Miscellaneous Industrial Sources	
Division 1 Cutback Asphalt	115.519
Division 2 Pharmaceutical Manufacturing Facilities	115.539

To determine whether a specific facility in one of the above counties will be affected by one or more of the above revisions, see Texas' associated rule revisions included in the docket.

This rule requires compliance with the specified VOC control requirements by March 1, 2009.

C. Why is EPA Approving Texas' Revisions?

On May 23, 2007, the Texas Commission on Environmental Quality (TCEQ or Texas) approved revisions to the SIP for the DFW 8-hour ozone nonattainment area. The SIP revisions were submitted to EPA on May 30, 2007. Extending requirements for control of VOC emissions to the additional counties will help to attain and maintain the 8-hour ozone standard in the DFW area. Our approval of the revised Texas regulations will make them federally enforceable. EPA is evaluating Texas' analysis for Reasonable Available Control Technology (RACT) for NO_x and VOC in actions which are separate from this one.

EPA has evaluated the Chapter 115 revisions and finds they enhance the SIP by extending existing VOC control requirements to additional counties. The specific requirements for the regulation and EPA's evaluation of these requirements are detailed in the Technical Support Document (TSD), which is available in the docket supporting this action. Also, Texas' Chapter 115 revisions are included in the docket.

D. What is the Process for EPA to Approve This SIP Revision?

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate documents that will serve as the proposal to approve the SIP revision should adverse comments be filed. This

action will be effective **[Insert date 60 days from date of publication in the Federal Register]** without further notice, unless EPA receives relevant adverse comments by **[Insert date 30 days from date of publication in the Federal Register]**.

If EPA receives such comment, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that this rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on **[Insert date 60 days from date of publication in the Federal Register]** and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Final Action

EPA is approving Texas' Chapter 115 Control of Air Pollution from Volatile Organic Compounds amendments to §§115.10, 115.119, 115.129, 115.139, 115.149, 115.219, 115.239, 115.319, 115.359, 115.419, 115.439, 115.449, 115.519, and 115.539 which extend requirements for control of VOC emissions to sources located in Ellis, Johnson, Kaufman, Parker, and Rockwall Counties, and incorporating this regulation into the Texas SIP.

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 (Public Law 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. Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Because this rule merely proposes to approve a state rule implementing a Federal standard, EPA lacks the discretionary authority to modify today’s regulatory decision on the basis of environmental justice considerations.

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 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. section 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. section 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 **FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register**. 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

40 CFR part 52

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

JUL 01 2008



Dated:

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. 7401 *et seq.*

Subpart SS – Texas

2. The table in section 52.2270(c) entitled “EPA Approved Regulations in the Texas SIP” is amended under Chapter 115 (Reg 5) – Control of Air Pollution from Volatile Organic Compounds by:

a. Revising the entries for Sections 115.10, 115.119, 115.129, 115.139, 115.149, 115.219, 115.239, 115.319, 115.359, 115.419, 115.439, 115.449, 115.519, and 115.539;

b. Correcting the title of Division 3 under Subchapter B to read “Division 3: Water Separation”.

The revisions and correction 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				
Subchapter A – Definitions				
Section 115.10.	Definitions	11/15/06	[Insert date of FR publication] [Insert FR page number where	

			document begins]	
Subchapter B – General Volatile Organic Compound Sources				
Division 1: Storage of Volatile Organic Compounds				
* * * * *				
Section 115.119.	Counties and Compliance Schedules.	11/15/06	[Insert date of FR publication] [Insert FR page number where document begins]	
Division 2: Vent Gas Control				
* * * * *				
Section 115.129.	Counties and Compliance Schedules.	11/15/06	[Insert date of FR publication] [Insert FR page number where document begins]	
Division 3: Water Separation				
* * * * *				
Section 115.139.	Counties and Compliance Schedules.	11/15/06	[Insert date of FR publication] [Insert FR page number where document begins]	
Division 4: Industrial Wastewater				
* * * * *				
Section 115.149.	Counties and Compliance Schedules.	11/15/06	[Insert date of FR publication] [Insert FR page number where document begins]	
* * * * *				
Subchapter C – Volatile Organic Compound Transfer Operations				
Division 1: Loading and Unloading of Volatile Organic Compounds				
* * * * *				
Section 115.219.	Counties and Compliance Schedules.	11/15/06	[Insert date of FR publication] [Insert FR page number where document begins]	
* * * * *				
Division 3: Control of Volatile Organic Compound Leaks From Transport Vessels				
* * * * *				
Section 115.239.	Counties and Compliance	11/15/06	[Insert date of FR publication]	

	Schedules.		[Insert FR page number where document begins]	
* * * * *				
Subchapter D – Petroleum Refining, Natural Gas Processing, and Petrochemical Processes				
Division 1: Process Unit Turnaround and Vacuum-Producing Systems in Petroleum Refineries				
* * * * *				
Section 115.319.	Counties and Compliance Schedules.	11/15/06	[Insert date of FR publication] [Insert FR page number where document begins]	
* * * * *				
Division 3: Fugitive Emission Control in Petroleum Refining, Natural Gas/Gasoline Processing, and Petrochemical Processes in Ozone Nonattainment Areas				
* * * * *				
Section 115.359.	Counties and Compliance Schedules.	11/15/06	[Insert date of FR publication] [Insert FR page number where document begins]	
Subchapter E – Solvent-Using Processes				
Division 1: Degreasing Processes				
* * * * *				
Section 115.419.	Counties and Compliance Schedules.	11/15/06	[Insert date of FR publication] [Insert FR page number where document begins]	
* * * * *				
Division 3: Flexographic and Rotogravure Printing				
* * * * *				
Section 115.439.	Counties and Compliance Schedules.	11/15/06	[Insert date of FR publication] [Insert FR page number where document begins]	
Division 4: Offset Lithographic Printing				
* * * * *				
Section 115.449.	Counties and Compliance Schedules.	11/15/06	[Insert date of FR publication] [Insert FR page	

			number where document begins]	
Subchapter F – Miscellaneous Industrial Sources				
Division 1: Cutback Asphalt				
* * * * *				
Section 115.519.	Counties and Compliance Schedules.	11/15/06	[Insert date of FR publication] [Insert FR page number where document begins]	
Division 2: Pharmaceutical Manufacturing Facilities				
* * * * *				
Section 115.539.	Counties and Compliance Schedules.	11/15/06	[Insert date of FR publication] [Insert FR page number where document begins]	
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