

Dated: April 10, 1995.

**Patrick M. Tobin,**

*Acting Regional Administrator.*

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

**PART 52—[AMENDED]**

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

**Authority:** 42.U.S.C. 7401-7671q.

**Subpart S—Kentucky**

2. Section 52.920, is amended by adding paragraph (c)(71) to read as follows:

**§ 52.920 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(71) The Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet submitted revisions to the Kentucky State Implementation Plan on January 15, 1993. These revisions address the requirements of section 507 of title V of the CAA and establish the Small Business Stationary Source Technical and Environmental Assistance Program (PROGRAM).

(i) Incorporation by reference.

(A) Revision to the Kentucky State Implementation Plan to incorporate document titled "Kentucky Small Business Stationary Source Technical Environmental Assistance Program" which was approved by the Kentucky Natural Resources and Environmental Protection Cabinet effective on July 15, 1993.

(ii) Additional Material. None.

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BILLING CODE 6560-50-P

**40 CFR Part 52**

[TX-37-1-6323a; FRL-5161-9]

**Approval and Promulgation of Air Quality Implementation Plans; Texas; Alternative Emission Control Plan For Shell Oil Company, Deer Park, TX**

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

**ACTION:** Direct final rule.

**SUMMARY:** In this action, the EPA is approving the alternative emission reduction (bubble) plan for the Shell Oil Company's Deer Park manufacturing complex as a revision to the Texas State Implementation Plan (SIP). The bubble plan uses the emission reduction credit (ERC) from volatile organic compound (VOC) reductions at an analyzer vent in

lieu of controlling VOC emissions from three vacuum vents. The bubble plan was reviewed for consistency with the EPA's Emissions Trading Policy Statement (ETPS) published in the **Federal Register** on December 4, 1986.

**DATES:** This action will become effective on August 18, 1995 unless adverse or critical comments are received by July 19, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Written comments on this action should be addressed to Mr. Guy Donaldson, Acting Chief, Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least twenty-four hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T-A), 1445 Ross Avenue, suite 700, Dallas, TX 75202-2733.

U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, S.W., Washington, DC 20460.

Texas Natural Resource Conservation Commission, 12124 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Ms. Leila Yim Surratt or Mr. Herb Sherrow, Planning Section (6T-AP), Air Programs Branch, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7214.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On July 26, 1993, the Governor of Texas submitted a request to revise the Texas SIP to include an alternative emission reduction plan for the Shell Oil Manufacturing Complex located in Deer Park, Texas.

Due to VOC Reasonably Available Control Technology (RACT) fix-up changes required by the 1990 Clean Air Act (CAA), the Texas Air Control Board (TACB), which is now known as the Texas Natural Resource Conservation Commission, adopted revisions to its Regulation V on May 10, 1991, eliminating the exemption of sources with emissions of less than 100 pounds per day from RACT requirements. As a result of this action, Shell was required to install a 90 percent control technology on three vacuum vents. These vents emit a total of 36 pounds of VOC per year (0.018 tons per year (TPY)). The vast majority of the vent

stream emissions are composed of steam and air. Instead of controlling emissions from these three vents, Shell proposed to use an emission reduction from an analyzer vent located at its Alkylation Plant. The analyzer vent reduction is not required by any State or Federal rule, regulation, permit condition, board order, or court order. 1.05 TPY of VOC emission reduction was achieved from the analyzer vent by physically limiting the maximum flow rate through the vent from 4.2 TPY of VOC to 3.15 TPY. The reduced flow was made permanent by replacing the metering valves and adding flow restrictors.

**II. Applicable EPA Policies**

On December 4, 1986 (51 FR 43814), the EPA issued the final ETPS, containing the criteria by which emissions trades will be evaluated. As indicated in the ETPS, it is the policy of the EPA to encourage emissions trades to achieve more flexible, rapid, and efficient attainment of the National Ambient Air Quality Standards. It describes emissions trading, sets out general principles that the EPA uses to evaluate emissions trades under the CAA, and expands opportunities for States and industry to use these less costly control approaches. A source may secure ERCs by meeting each of the applicable requirements of the final ETPS. Generally, only reductions which are surplus, enforceable, permanent, and quantifiable can qualify as ERCs. In addition, the ETPS lays out more stringent baseline and additional 20 percent emission reduction requirements if the trade occurs in a nonattainment area needing but lacking an approved attainment demonstration.

On April 7, 1994 (59 FR 16710), the EPA issued the final Economic Incentive Program (EIP) rule which sets forth general principles for a broad range of EIPs which States may pursue. Through the EIP rule, the Agency encourages the development of EIPs that will assist States in meeting air quality management goals through flexible approaches which allow for less costly control strategies, and which provide stronger incentives for the development and implementation of innovative emission reduction technology. In the preamble to the EIP rule (59 FR 16690), the EPA addresses the relationship between the EIP and the ETPS. The preamble clarifies that the provisions of the ETPS which apply to trading between existing sources represent one particular model for how States could design an EIP. Therefore, an application for an emissions trade or bubble that meets the requirements of the ETPS,

will be deemed to meet the requirements of the EIP.

Shell Oil Company's Deer Park Manufacturing bubble application was developed to meet the requirements of the ETPS. Therefore, the EPA has evaluated the emissions trade against the ETPS requirements.

### III. Analysis

The following items are the basis for approval of the Texas SIP revision. Please refer to the EPA's Technical Support Document and the Texas SIP submittal for more detailed information.

#### A. Valid Emission Reduction Credits

As required by the ETPS, to be valid for trading purposes, an emission reduction must be surplus, enforceable, permanent, and quantifiable. The EPA believes the emission reduction from the analyzer vent meets these criteria.

First, the emission reduction from the analyzer vent is surplus. The analyzer vent is not subject to any State or Federal regulation. The emissions rate of 4.2 TPY is low enough to be exempt from the State's vent gas rule.

Second, the emission reduction was made enforceable through State Board Order number 93-11 which specifies the terms of the emissions trade.

Third, the emission reduction is permanent since the flow through the analyzer vent was physically reduced by changing the metering valves and adding flow restrictors.

Finally, the emission reduction is quantifiable. The annual emissions for the analyzer vent were from the 1991 Air Emissions Inventory Reportable Quantities based on information from historical flow settings. The annual emissions from the three vacuum vents were based on engineering estimates and measurements.

Because the emission reduction from the analyzer vent is surplus, enforceable, permanent, and quantifiable, the EPA believes that the emission reduction associated with this bubble is valid for use as an ERC.

#### B. More Stringent Baseline and 20 Percent Reduction Requirements

As discussed above, the ETPS also requires more stringent baselines and an additional 20 percent emission reduction if the trade occurs in a nonattainment area needing but lacking an approved attainment demonstration. This trade occurs in the Houston-Galveston severe ozone nonattainment area, which does not currently have an approved attainment demonstration which is required under section 182(c)(2)(A) of the CAA. This trade complies with the more stringent

baseline and the 20 percent additional emission reduction requirements. As described more fully in the Technical Support Document, the 1.05 TPY emission reduction from the analyzer vent more than compensates for the 0.016 TPY emission reduction that was required from the three uncontrolled vacuum vents.

#### C. Procedural Background

The CAA requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to the EPA. Section 110(a)(2) of the CAA provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.<sup>1</sup> Section 110(l) of the CAA similarly provides that each revision to an implementation plan submitted by a State under the CAA must be adopted by such State after reasonable notice and public hearing. Public notice on the proposed Shell bubble was published in the Houston ozone nonattainment area in accordance with the State of Texas' public notice requirements. The State held a public hearing on the proposed regulations on March 9, 1993. The Shell bubble was adopted by the State on June 18, 1993, and was submitted through the Governor to the EPA on July 26, 1993, as a proposed revision to the SIP.

#### IV. Final Action

In this action, the EPA is approving the alternative emission reduction (bubble) plan for the Shell Oil Company's Deer Park Manufacturing Complex, which was adopted by the TACB on June 18, 1993, in Board Order 93-11, and submitted to the EPA by the Governor of Texas in a letter dated July 26, 1993.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. Thus, this action will be effective August 18, 1995 unless, by July 19, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this

action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective August 18, 1995.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D, of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of State action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(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 August 18, 1995. Filing a petition for reconsideration of this final rule by the Administrator does not affect the finality of this rule for purposes of judicial review; nor does it extend the time within which a petition for judicial review may be filed, or postpone the effectiveness of this action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

<sup>1</sup> Also Section 172(c)(7) of the CAA requires that plan provisions for nonattainment areas meet the applicable provisions of Section 110(a)(2).

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

Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Note:** Incorporation by reference of the SIP for the State of Texas was approved by the Director of the Federal Register on July 1, 1982.

Dated: February 9, 1995.

**William B. Hathaway,**  
*Acting Regional Administrator.*

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. 7401–7671q.

**Subpart SS—Texas**

2. Section 52.2270 is amended by adding paragraph (c)(95) to read as follows:

**§ 52.2270 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(95) Alternative emission reduction (bubble) plan for the Shell Oil Company's Deer Park manufacturing complex submitted to the EPA by the Governor of Texas in a letter dated July 26, 1993.

(i) Incorporation by reference.

(A) TACB Order 93–11, as adopted by the TACB on June 18, 1993.

(B) SIP narrative entitled, "Site-Specific State Implementation Plan," section IV.H.1.b., attachment (4), entitled, "Alternate Emission Reduction ("Bubble") Plan Provisions for Uncontrolled Vacuum-Producing Vents, Shell Oil Company, Deer Park Manufacturing Complex, HG–0659–W," adopted by the TACB on June 18, 1993.

(ii) Additional material.

(A) SIP narrative entitled, "Site-Specific State Implementation Plan," section IV.H.1.b., adopted by the TACB on June 18, 1993.

(B) TACB certification letter dated July 5, 1993, and signed by William R. Campbell, Executive Director, TACB.

[FR Doc. 95–14852 Filed 6–16–95; 8:45 am]

BILLING CODE 6560–50–P

**40 CFR Parts 52 and 81**

[OH50–3–7070; FRL–5222–9]

**Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio**

**AGENCY:** United States Environmental Protection Agency.

**ACTION:** Final rule; withdrawal.

**SUMMARY:** On May 2, 1995, the United States Environmental Protection Agency (USEPA) published a proposed rule (60 FR 21490) and a direct final rule (60 FR 21456) approving a request by Ohio to redesignate the Toledo ozone nonattainment area to attainment of the National Ambient Air Quality Standard for ozone, and also approving the State's maintenance plan for this area. Because comments adverse to the rulemaking were received, USEPA is withdrawing the direct final rule. In a final rule, USEPA will summarize and respond to the comments received and announce final rulemaking action on the redesignation request and maintenance plan as revisions to Ohio's State Implementation Plan. The approval of the maintenance plan for the Toledo area was also included in the codification in a direct final rule concerning the redesignation and maintenance plan approval for the Dayton area, published on May 5, 1995, (60 FR 22289). That codification of the Toledo maintenance plan approval is also withdrawn.

**EFFECTIVE DATE:** June 19, 1995.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 5, Regulation Development Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Angela Lee, Regulation Development Section, Air Enforcement Branch (AE–17J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Telephone: (312) 353–5142.

**List of Subjects**

**40 CFR Part 52**

Air pollution control, Carbon monoxide, Environmental protection, Hydrocarbons, Nitrogen dioxide, Ozone, Reporting and record keeping requirements, Volatile organic compounds.

**40 CFR Part 81**

Air pollution control, Environmental protection, National parks, Wilderness areas.

Dated: June 7, 1995.

**Valdas V. Adamkus,**  
*Regional Administrator.*

Title 40 of the Code of Federal Regulations, Chapter I, Parts 52 and 81, are amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

**Authority:** 42 U.S.C. 7401–7671q.

2. The amendments to add § 52.1870(c)(105) and § 52.1885(b)(5), published on May 2, 1995, at 60 FR 21463, are withdrawn.

3. The amendment to revise § 52.1885(b)(5) published on May 5, 1995, at 60 FR 22295, is withdrawn.

**PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

4. The authority citation for part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7671q.

5. The amendment to revise the entry in the ozone table in § 81.336, published on May 2, 1995, at 60 FR 21463, is withdrawn.

[FR Doc. 95–14850 Filed 6–16–95; 8:45 am]

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**40 CFR Parts 61, 704, 710, 712, 762, 763, 766, 790, 795, 796, 797, 798, and 799]**

[OPPTS–00168; FRL–4955–2]

**Chemical Substances; Deletion of Certain Chemical Regulations; Technical Amendments to the Code of Federal Regulations**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is removing several provisions from the Code of Federal Regulations (CFR) that pertain to the Toxic Substances Control Act. These provisions are being removed from the CFR because they have no current legal effect. The removal of these provisions from the CFR and the technical changes that are being made are necessary to clarify the current status of the provisions for both the regulated