

parade. Also, 200–400 spectator craft are expected. The resulting congestion of navigable channels creates an extra or unusual hazard in the navigable waters.

The regulated area will prohibit commercial vessels, jet skis, and vessels without propulsion from entering Hillsborough Bay during the parade, and will establish an idle speed no wake zone inside the regulated area.

In accordance with 5 U.S.C. 553, good cause exists for making these regulations effective in less than 30 days after **Federal Register** publication. A Notice of Proposed Rulemaking with a 60 day comment period was published in the **Federal Register** on September 21, 1998, with no negative comments received, and the parade is a well known annual event. Delaying its effective date would be contrary to national safety interests since immediate action is needed to minimize potential danger to the public as there is not sufficient time remaining to allow for a full 30 day delayed effective date prior to the event occurring in 1999 on February 6th.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of the order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This regulation will only be in effect for approximately five and one half hours in a limited area one day each year.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their field, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under section 605(b) that this rule will not have a significant effect upon a substantial number of small entities as these regulations will be in effect in a

limited area for five and one half hours only one day each year.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action and has determined pursuant to Figure 2–1, paragraph 34(h) of Commandant Instruction M16475.1C, that this action is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Final Regulations

In consideration of the foregoing, the Coast Guard amends Part 100 of Title 33, Code of Federal Regulations as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A new § 100.734 is added to read as follows:

§ 100.734 Annual Gasparilla Marine Parade; Hillsborough Bay, Tampa, FL

(a) *Regulated Area.* A regulated area is established consisting of all waters of Hillsborough Bay and its tributaries north of a line drawn along latitude 27–51.30N. The regulated area includes the following in their entirety: Hillsborough Cut "D" Channel, Sparkman Channel, Ybor Channel, Seddon Channel and the Hillsborough River south of the John F. Kennedy Bridge. Coordinates Reference Datum: NAD 1983.

(b) *Special Local Regulations.*

(1) Entry into the regulated area is prohibited to all commercial marine traffic from 9 a.m. to 2:30 p.m. EST on the first Saturday in February.

(2) The regulated area is an idle speed, "no wake" zone.

(3) All vessels within the regulated area shall stay clear of and give way to

all vessels in parade formation in the Gasparilla Marine Parade.

(4) When within the marked channels of the parade route, vessels participating in the Gasparilla Marine Parade may not exceed the minimum speed necessary to maintain steerage.

(5) Jet skis and vessels without mechanical propulsion are prohibited from the parade route.

(6) Northbound vessels in excess of 80 feet in length without mooring arrangements made prior to the first Saturday in February, are prohibited from entering Seddon Channel unless the vessel is officially entered in the Gasparilla Marine Parade. All northbound vessels in excess of 80 feet without prior mooring arrangements not officially entered in the Gasparilla Marine Parade, must use the alternate route through Sparkman Channel.

(c) *Dates.* This section becomes effective annually at 9 a.m. and terminates at 2:30 p.m. EST on the first Saturday in February.

Dated: January 15, 1999.

N.T. Saunders,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 99–1697 Filed 1–25–99; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX86–1–7351a; FRL–6207–4]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Reasonably Available Control Technology for Emissions of Volatile Organic Compounds (VOC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this action, EPA is approving demonstrations submitted by Texas on January 10, 1996, that Reasonably Available Control Technology (RACT) is in place on sources in the following source categories: Plastic Parts Coating in the Dallas/Fort Worth area, Volatile Organic Liquid (VOL) Storage and Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor and Distillation Processes. Also, EPA is approving revisions to the Texas Rules for the control of VOC emissions that the State submitted between 1995 and 1997. Finally, for most of the measures given limited approval in the May 22, 1997 **Federal Register** (62 FR 27964),

this approval action converts the limited approval to a full approval. The implementation of these measures will help ensure the attainment of the National Ambient Air Quality Standard (NAAQS) for ozone as required by the Clean Air Act (Act) as amended in 1990. **DATES:** This direct final rule is effective on March 29, 1999 unless EPA receives adverse comments by February 25, 1999. If EPA receives such comments, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), at the EPA Region 6 Office listed below.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency,
Region 6, Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, Dallas, 1445 Ross Avenue, Texas 75202-2733, telephone: (214) 665-7214.
Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78711-3087.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Guy R. Donaldson, Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone: (214) 665-7242.

SUPPLEMENTARY INFORMATION:

I. Background

A. Background of VOC RACT Requirements

Section 172(c) of the Act, entitled *Nonattainment Plan Provisions*, requires that States implement RACT rules for stationary sources of VOC in ozone nonattainment areas. Reasonably Available Control Technology is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility as defined in 44 **Federal Register** (FR)

53761 (September 17, 1979). In accordance with section 108 of the Act, EPA publishes Control Technique Guideline (CTG) documents to help the States develop RACT rules for source categories. The CTGs provide information on available air pollution control techniques and provide recommendations on what EPA considers the "presumptive norm" for RACT.

Section 182(b)(2) of the Act requires States to adopt RACT rules for three general groups of stationary sources of VOCs in ozone nonattainment areas classified as moderate or above. The first group consists of sources covered by a CTG issued after the enactment of the amended Act of 1990. These CTGs are referred to as "post-enactment" CTGs. The second group consists of sources covered by an existing CTG, i.e., a CTG issued before the enactment of the amended Act of 1990. The third group consists of major sources not covered by a CTG. These sources are referred to as "non-CTG" sources.

In areas with a moderate classification, Section 302(j) defines a major source as one emitting or having the potential to emit 100 tons/year or more. For serious areas, major sources are defined in section 182(c) as those that emit or have the potential to emit at least 50 tons/year and in severe areas major sources are defined in section 182(d) as those that emit or have the potential to emit 25 tons/year or more. Texas currently has four ozone nonattainment areas; Beaumont/Port Arthur (moderate), Dallas/Fort Worth (serious¹), El Paso (serious), and Houston (severe).

Under section 183, *Federal Ozone Measures*, the Act requires EPA to issue CTGs for 13 source categories by November 15, 1993. Section 183 lists two specific source categories, Aerospace coatings and solvents, and Shipbuilding operations. The other 11 categories are listed in 57 FR 18077 (April 28, 1992), and are as follows:

1. SOCOMI distillation
2. SOCOMI Reactors
3. wood Furniture
4. plastic parts business machines
5. plastic parts coating (other)
6. offset lithography
7. industrial wastewater
8. auto refinishing
9. SOCOMI batch processing
10. VOL storage tanks
11. clean up solvents

¹ Dallas/Fort Worth was reclassified to serious on February 18, 1998(63 FR 8128). Texas will have to affirm in a future SIP revision that RACT is being implemented on sources that emit or have a potential to emit 50 tons/year or more.

To date, EPA has published CTGs for five of the 13 source categories: SOCOMI distillation, SOCOMI reactors, wood furniture, aerospace coatings and solvents, and shipbuilding. As described in a January 20, 1994, memorandum from John Seitz, Director of Office of Air Quality Planning and Standards, EPA made available Alternative Control Technology (ACT) documents for the CTG source categories for which CTG documents have not yet been published. These ACT documents provide much of the same information as the CTG documents, however, instead of establishing a presumptive norm for RACT rule, these documents provide options for control. For the major sources in categories where EPA issued an ACT instead of CTG, the ACT provides information to determine if RACT is being implemented as required for "non-CTG" sources.

For post-enactment CTGs, the Act requires States to submit RACT rules according to the schedule specified in the corresponding CTG document. In Appendix E of the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," published on April 28, 1992, in 57 FR 18077, EPA interpreted the Act to allow a State to submit a non-CTG rule by November 15, 1992, or to defer submittal of a RACT rule for sources that the State anticipated would be covered by a post-enactment CTG based on the list of expected CTGs in Appendix E. Pursuant to Appendix E of the General Preamble, if EPA fails to issue a CTG by November 15, 1993 (which it did for 11 source categories), the responsibility shifts to the State to submit a non-CTG RACT rule for those sources by November 15, 1994.

A March 2, 1995, policy memorandum from the Assistant Administrator for Air, Mary Nichols, explained a policy to allow phased submittals of attainment demonstration. Under this policy, States were to submit a Phase I submittal by December 31, 1995, which would include RACT requirements, Rate of Progress (ROP) reductions, and commitments to complete the attainment demonstration by mid-1997.

II. State Submittal

On January 10, 1996, the State of Texas submitted to EPA a State Implementation Plan (SIP) revision intended to meet the requirements pertaining to RACT and commitments to complete the air quality plan as necessary for a Phase I submittal under the March 2, 1995 policy. Texas in separate submittals has provided SIP

revisions designed to meet the ROP requirements. In this action, EPA is approving only the portions of the January 10, 1996, SIP revision regarding RACT for SOCOMI Reactor and Distillation Processes, VOL Storage, and Plastic Parts coating for the Dallas/Fort Worth area. The EPA is taking no action on whether RACT is being implemented on other source categories included in the January 10, 1996, SIP revision, including industrial wastewater, batch processing, wood furniture coating, or shipbuilding operations. These categories will be addressed in future Federal Register actions. The EPA is also taking no action on other portions of the January 10, 1996, SIP revision submittal regarding commitments to continue air quality planning.

Also, in this action, EPA is approving revisions to the Texas rules for the control of VOCs submitted on January 11, 1995, July 12, 1995, November 10, 1995, March 13, 1996, August 9, 1996, and May 21, 1997.

III. Analysis of State Submittal

A. Plastic Parts Coating

The January 10, 1996, SIP revision explained that there was only one major source of VOC emissions in the plastic parts coating category in a nonattainment area in Texas. The facility, Peterbilt Motors Company is located in the Dallas/Fort Worth nonattainment area. The facility, which manufactures custom, heavy duty trucks, uses a catalytic oxidizer to control emissions from their painting operations. The EPA is approving these controls which are required by TNRCC permit as RACT.

B. SOCOMI Reactor and Distillation Processes

In August 1993, EPA published the CTG document titled *Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations Processes in the Synthetic Organic Chemical Manufacturing Industry*. As well as providing considerable information on emissions, controls, and costs, the CTG provided a model regulation representing RACT.

Texas rules for control of SOCOMI Reactor and distillation processes are contained in its rules for general vent gas control. Texas Natural Resource Conservation Commission (TNRCC) Chapter 115, Section 115.121-129. Texas revised these rules in November 1993 to include the requirements of the CTG. It should be noted that these changes were based on the draft CTG. Then, in January 1995, the State submitted a SIP revision that revised the

language dealing with the "once in always in" concept. Finally, on March 13, 1996, the State again revised the vent gas rule to allow exemptions for sources covered by other sections of TNRCC Chapter 115. Also, in the March 13, 1996 submittal, Texas revised the original rule to allow exemptions to be based on the total resource effectiveness (TRE) as RACT.

The Texas rules generally follow the approach contained in the CTG and the model rule. One difference between the Texas rule and the model approach is that Texas allows an exemption for streams of 0.011 standard cubic meters/min versus 0.0085 standard cubic meters/min in the model rule. This exemption is consistent with the New Source Performance Standard (NSPS). Another difference is that the Texas rule requires sources to use the equations contained in the NSPS for determining exemptions based on TRE rather than the equations contained in the CTG model rule. The NSPS equations set more stringent exemption levels than the equations included in the CTG. In combination, the Texas approach for determining exempt sources is more stringent than the CTG, so the rules are acceptable as RACT. C: Volatile Organic Liquid Storage: For this source category, EPA did not issue a CTG. Instead, EPA issued an Alternate Control Technique Document. An ACT does not identify a "presumptive norm" for RACT but instead provides cost information about potential control options. For VOL storage, EPA had previously published two CTGs for storage of petroleum liquids. These CTGs were:

Storage of Petroleum Liquids in Fixed Roof Tanks (EPA-450/2-77-036), December 1977.

Petroleum Liquid Storage in External Floating Roof Tanks (EPA-450/2-78-051), December 1978.

The VOL ACT recommends controls for all volatile organic liquids not just petroleum liquids. Texas has long regulated emissions from storage of all volatile organic liquids not just petroleum liquids. To ensure that the RACT is in place, EPA believes Texas must consider the new information provided in the ACT to see if additional controls may be technically or economically reasonable. Texas demonstrated that their existing rules provide nearly equivalent control to that provided by the most stringent control provided by the ACT.

Texas followed EPA's 5 percent policy that allows States to deviate from CTG requirements if the State rule results in nearly the same amount of control. This policy is articulated in a

June 30, 1978, memorandum from Richard Rhoads, Director Control Programs Development Division, to Allyn Davis, Director Air and Hazardous Materials Division, Region IX. Approving a State regulation that differs from the CTG is possible, if the impact on emissions differs imperceptibly (less than 5 percent) from that of the CTG.

Texas has included a detailed demonstration that their rules result in less than a 5 percent difference in emissions from the most stringent control options included in the ACT. The ACT suggests that the following upgrades to the Texas rule would be reasonable.

(1) Lowering the vapor pressure exemption to 0.5 or 0.75 psi.

(2) upgrading of vapor mounted primary seals on internal floating roof tanks.

(3) installation of secondary seals on external floating roof tanks.

(4) 95 percent control efficiency for add-on control devices.

(5) installation of gasketed seals.

The State submittal addresses each of these requirements in turn and estimates the increased emissions associated with continued compliance with the State rule versus compliance with the suggested additional ACT controls. The EPA has analyzed the State submittal and agrees that implementing the more stringent requirements of the ACT will result in less than a 5 percent decrease in the emissions from VOL storage tanks in Texas. The reason the State can make this demonstration is that the State rules control some VOL storage tanks that the ACT does not suggest controlling.

D. Miscellaneous Rule Revisions

The State has submitted several rule revisions during the period January 1995 to March 1997. What follows is a brief description of the most significant changes made in these SIP revisions. The Technical Support Document for this action contains a more detailed evaluation of these rules.

1. January 11, 1995 Revisions

In this SIP revision, the State made minor revisions to its General Rules and rules for the control of emissions from storage of VOCs, vent gas control, industrial wastewater, municipal solid waste landfills, and loading and unloading of VOCs. The most significant changes were:

Revisions to the rules for storage of VOCs (115.112-115.119) to add additional methods for determining true vapor pressure to include American Society for Testing and Materials Test Methods D323-89,

D2879, D4953, D5190 or D5191. These additional test methods are acceptable.

Revisions to Rules for Vent Gas Control (115.121–115.149) to clarify the applicability requirements to include once-in-always-in requirements. This means that vents that become subject to the control requirements remain subject to the control requirements even if the vent's throughput later falls below the applicability threshold. Texas has included a provision that a source can become exempt from the rule if the source institutes a project that would lower emissions below the level of emissions that would be achieved by control of the vent stream. It is not sufficient, however to control emissions to just the level of emissions to applicability level of the rule. The EPA believes these revisions are acceptable.

Revisions to the rules for the control of Industrial Wastewater to clarify the rules. These rules were revised to correct cross-references to other TNRCC rules and to clarify their use as contingency measures in Beaumont/Port Arthur. The EPA is giving these minor changes limited approval because they strengthen rules previously given limited approval.

Revisions to the rule for Control of emissions from Municipal Solid Waste Landfills to extend the compliance date from May 31, 1995 to November 15, 1996. These rules were submitted as part of the 15% Rate-of-Progress Plan. The rules were given limited approval on May 22, 1997 62 FR 27964 as a strengthening of the SIP. The EPA is taking no action on these revisions in this action. The EPA will determine whether these rules are fully approvable in its action on the State Plan for Municipal Waste Landfill emissions control as required by section 111 of the Act and 40 CFR part 60, subparts Cc and WWW.

2. July 12, 1995 Revisions to VOCs Loading and Unloading Rules (115.212–115.219)

These are revisions to rules that require control of emissions during the loading of VOCs into tanker trucks and rail cars. Texas previously revised these rules to prohibit any non-vapor tight conditions during loading. The revision to the rule allows non-vapor tight conditions during sampling and gauging provided that the loading of VOCs is discontinued. The EPA believes that this revision is an acceptable change that with the conditions imposed by the

State will result in only minor emissions and will facilitate operations.

3. November 10, 1995 Revisions to Requirements for Wastewater Separators

The State revised these rules that control emissions from oil/water separators to provide consideration for oil/water separators at oil and gas production facilities. The revision provides an exemption for oil/water separators at oil and gas facilities that emit less than 18 tons/year (100 pounds/day). The exemption is necessary because these facilities are at remote locations often without existing flare systems so the installation of controls is not considered cost effective.

The State required controls at oil and gas production facilities when the State made revisions required by 182(b)(2) which required existing RACT controls to be extended to the newly designated nonattainment counties. The extension of the rules to the counties surrounding the Houston/Galveston areas affected many oil and gas production facilities. Previously, when these measures applied only in the urban areas, most of the wastewater separators were located at refinery or chemical plants where flare systems to control emissions were available.

The EPA issued a pre-enactment CTG "Control of Refinery Vacuum Systems, Wastewater Separators and Process Unit Turnarounds" on which the Texas Wastewater Separator rules are based. The CTG only applies to separators at refineries. Therefore, the CTG does not cover oil/water separators at oil and gas production facilities. Further, by requiring oil/water separators that emit more than 100 pounds/day be controlled, Texas is ensuring that RACT is implemented at major sources. One hundred pounds/day translates to a maximum of about 18 tons/year which is well under the 25 tons/year major source definition in the Houston area. Finally, Texas has not projected emission reductions at oil and gas production facilities in its 15% planor attainment plans. For the above reasons, this revision to the SIP is acceptable.

4. March 13, 1996 Revisions

This SIP revision includes revisions adopted by the TNRCC on December 6, 1995, and February 14, 1996.

On December 6, 1995, TNRCC adopted revisions to its rules for control of emissions from consumer and commercial products (115.612). The change deletes the VOC content limits for Insect-Repellents-Aerosols. The previous requirements had not gained widespread consumer acceptance. The deletion of the requirements makes the

regulations in Texas consistent with other States' consumer products rules, and the final national consumer product rule (63 FR 48819). Texas used EPA estimates of the amount of emission reductions from the national rule to project emissions reductions from the State consumer/commercial product rules. Therefore, since this rule change is consistent with the national rulemaking, the EPA still expects the projected reductions to be achieved.

On February 14, 1996, Texas adopted changes to several of its rules for VOC control. The most significant are described below.

The State revised its definition of VOC to exclude acetone, parachlorobenzotrifluoride, and volatile methyl siloxanes. The EPA has ruled that these compounds have negligible photochemical reactivity and thus do not contribute to the formation of urban ozone (59 FR 50693 and 60 FR 31633). These changes to the definition of VOC make the TNRCC definition consistent with the Federal definition.

The State also clarified that a tank with a self-supporting fixed roof (typically a bolted aluminum geodesic dome) is considered to be an internal floating roof storage tank. These self-supporting roofs are effective in controlling emissions because support poles do not penetrate the floating cover.

The State revised its storage tank rules to establish separate inspection requirements for internal and external floating roof tanks. They also establish a repair schedule where repairs of tank controls will take place within 60 days of discovery. The modifications clarify that facilities that are exempt from control because they store low vapor pressure materials are not exempt from maintaining records of the vapor pressure of the materials stored to show that they qualify for the exemption.

The State revised its vent gas control rules (Sections 115.121–129) to clarify that these rules were designed to control vents from processes that were not otherwise controlled by the Texas VOC control rules. This clarifies a long standing interpretation of the rule.

The State revised its rules to control emissions from Volatile Organic Compound Transfer Operations (115.212 to 115.219) to delete the requirement for vacuum assisted vapor collection systems on gasoline loading racks. The TNRCC adopted this requirement because EPA proposed it to be part of the Maximum Available Control Technology standard for gasoline terminals. The EPA dropped the requirement in the final MACT rule because it does not result in meaningful

additional emission reductions. The EPA estimated that installing the technology results in only 1.3 percent improvement in capture efficiency. Thus, the emission reduction potentially lost by not installing this technology is considered to be negligible. In addition, vacuum assisted vapor collection systems are not called for by the CTG for gasoline loading operations so this requirement is not necessary for the rule to be acceptable as RACT.

The State revised the rules for control of emissions from Degreasing Processes (115.412-419) to remove the requirement for control of acetone, because this chemical has been added to the list of substances that are not considered photochemically reactive (June 15, 1995, 60 FR 31633).

The State has revised its rules for the control of emissions from Surface Coating Processes to change the units of the emission limits from pounds VOC/gallon of solids to pounds VOC/gallon of coating. While this change is acceptable, it is important that all equivalency calculations for sources using improved transfer efficiency or add-on control devices be made on a solids basis. Texas included provisions in its rule to make this clear, including formulas to translate VOC content to a solids basis.

Texas also included a revision to provide for registration of an innovative product just before its introduction into the Texas market. Innovative products are those that due to some characteristic of the product formulation, design, delivery systems, or other factors, the use of the product will result in equal or less VOC emissions as compared to products that comply with the VOC limits in the rule. Registration is a departure from the approach of requiring approval of the innovative product by the State and/or EPA before marketing. Texas has included in the rules a considerable deterrent to facilities marketing noncompliant innovative products. A company will be required to provide VOC emission reduction in each nonattainment area equivalent to twice the excess emissions determined to have occurred in the respective nonattainment area due to the marketing of the non-compliant product. The manufacturer will be required to reformulate or withdraw the noncompliant product.

The innovative product waiver procedure provides for alternate means of compliance with the SIP with less review than EPA would generally find acceptable. Generally, EPA only approves provisions in SIPs for alternate methods of compliance which include a

replicable procedure that will insure emission reductions equivalent to the underlying SIP provision. The EPA believes that the innovative product waiver procedure is acceptable, in this instance, because of the national rule for control of consumer product emissions (63 FR 48819). The national rule contains a procedure for obtaining innovative product waivers very similar to the procedure contained in the Texas Rule. Under the national rule, those regulated entities that have received innovative product waivers under State Regulations may submit the factual basis for the waiver to EPA as part of the documentation to receive an innovative product waiver from EPA. Also, the Texas rules provide for innovative product waivers from the Texas rules in a situation where the EPA has approved the waiver and the Federal standard is as stringent as the State. The TNRCC Executive Director will provide these waivers within 45 days of receipt.

5. August 9, 1996, Revisions to VOC Loading/Unloading (115.212-115.219) and Consumer Products Rules (115.616)

The State revised the requirement for quarterly instrument inspections for fugitive leaks at gasoline terminals to be replaced with monthly inspections using audio-visual-olfactory (AVO) methods. The requirement for instrument monitoring for fugitive leaks at gasoline terminals was originally added to achieve emission reductions as part of the State's 15% ROP plans. The State revised the rule to be consistent with Maximum Available Control Technology (MACT) rules (December 14, 1994, 59 FR 64303). The State referenced an American Petroleum Institute (API) study that showed that monthly AVO inspections at gasoline terminals achieved essentially the same amount (no statistical difference) of emission reductions as an instrument monitoring program. The EPA used this study in the issuance of the MACT standard. Based on the API study and the adopted MACT standard, these changes to the Texas rule are considered acceptable because the same emission reductions toward the 15% ROP plans should be achieved. The CTG for gasoline terminals does not require monitoring for fugitive leaks. Therefore, allowing AVO monitoring instead of instrument monitoring is acceptable to meet RACT requirements.

Texas also modified its consumer products rules to revise the labeling requirement to provide an option that rather than including the date of manufacture, the producer can put on the product label a statement that the product was manufactured after a

certain day, month, and year, so long as that date is after the compliance date of the rule of January 1, 1996. This change is acceptable because sufficient information is still available to determine if a product is subject to the rules.

6. May 21, 1997, Vent Gas, Fugitives and Miscellaneous Revisions to the VOC Rules

The State made a variety of changes to its rules for the control of VOC emissions. Most of the changes were minor clarifications. The most notable changes are:

Updating the definition of VOC to be consistent with EPA definition of VOC by adding three compounds (HCFC-225ca, HCFC-225cb and HFC 43-10mee) to the list of exempt chemicals because they have negligible photochemical reactivity. This action is consistent with EPA's definition (61 FR 52847, October 8, 1996).

The State revised the rules for the control of emissions from Marine Vessel Loading. These rules previously allowed only vessels certified as leak free to be loaded. Because many vessels, particularly from foreign ports could not provide the required certification, the State added the following alternatives: VOCs shall be loaded into the marine vessel with the vessel product tank at negative pressure; leak testing shall be performed using Method 21 during the final 20 percent of loading, or documentation of leak testing conducted during the last 12 months by Method 21. The above alternatives are consistent with the Marine Vessel Loading MACT, and should serve to limit leaks during the loading of VOCs to Marine Vessel loading operations.

The State deleted the requirement that repair of valves be accompanied by the simultaneous use of an organic vapor analyzer. This is known as directed maintenance. This requirement was added as part of the new leak detection and repair rules developed as part of the 15% ROP plan. Directed maintenance is not required by any CTG, so it is not needed to insure that RACT is in place. The State also did not project additional emission reductions because of the inclusion of directed maintenance, and there is some question whether additional emission reductions occur by requiring this practice. Therefore it is acceptable to remove this provision.

V. Final Action

By this action, EPA is approving the revisions to the Texas SIP submitted on January 10, 1996, concerning RACT for VOCs for the following source categories: plastic parts coating in the Dallas/Fort Worth area, SOCOMI distillation processes, SOCOMI reactor processes and VOL storage.

With the approval of these rules, the applicable requirements relating to RACT for eight of the 13 CTG source categories have been met. No action has been taken with respect to whether RACT has been implemented for the industrial wastewater, batch processing, wood furniture, ship building operations, or aerospace coatings categories.

Texas submitted rules for the control of emissions from wood coating operations as part of their November 13, 1993, SIP revision. The EPA granted these rules limited approval on May 22, 1997. Texas has submitted revised rules to control emissions from wood furniture coating and new rules for ship building operations on April 13, 1998. The EPA will take action on these revisions and new rules in separate **Federal Register** notices. Also, the EPA has issued a CTG for aerospace coating. Texas is beginning the process of developing rules based on the aerospace CTG. Finally, Texas proposed in their January 10, 1996, SIP revision that existing TNRCC rules represented RACT for industrial wastewater and batch processing. For batch processing, the State claimed that the existing vent gas rule represented RACT for batch processing. The EPA will evaluate the State's demonstrations for industrial wastewater and batch processing in future **Federal Register** actions.

In addition, EPA is approving as RACT revisions to the Texas rules for the control of VOCs submitted on January 11, 1995 (except for the industrial wastewater revisions and the municipal solid waste landfill revisions), July 12, 1995, November 10, 1995, March 13, 1996, August 9, 1996, and March 21, 1997. No action is being taken on the revisions to the municipal solid waste landfill rules. See the following discussion for EPA action on the revisions to the industrial wastewater rules.

Limited Approval of VOC Control Measures

On November 13, 1993, May 9, 1994, and August 3, 1994, Texas submitted a number of revisions to its rules for VOC control as part of its plan to meet the 15% ROP requirements of the Act. On May 22, 1997 (62 FR 27964), EPA

published a limited approval of these control measures in the Texas 15% ROP plan. The EPA gave these rules limited approval because they strengthened the SIP. The rules could not receive full approval because the rules had not been demonstrated to meet the underlying requirements of the Act, such as the requirement to implement RACT. In this action, the limited approval of rules in the November 13, 1993, May 9, 1994, and August 3, 1994 submittals is converted to a full approval with the exception of the rules for the control of emissions from industrial wastewater, wood furniture, municipal waste landfills, and bakeries which retain their limited approval. These latter rules status as RACT will be addressed in separate actions.

Also, in today's action, the EPA is giving limited approval to the revisions to the industrial wastewater rules submitted on January 11, 1995, because the rules strengthen the SIP by clarifying the requirements.

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on March 29, 1999 without further notice unless we receive adverse comment by February 25, 1999. If EPA receives adverse comment, 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 at this time.

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.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility

The Regulatory Flexibility Act (RFA), 5 U.S.C. 600 *et seq.*, generally requires

an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. See *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the Comptroller General

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. The 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

F. Executive Order 13084 Consultation and Coordination With Indian Tribal Governments

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds

necessary to pay the direct compliance costs incurred by the tribal governments or EPA consults with those governments. If the EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

G. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 29, 1999. 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, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 10, 1998.

Sam Becker,

Acting Regional Administrator, Region 6.

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

PART 52—[AMENDED]

1. The authority citation of 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 paragraphs (c)(105) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(105) Revisions to the Texas State Implementation Plan, submitted to EPA in letters dated January 11, 1995; July 12, 1995; November 10, 1995; January 10, 1996; March 13, 1996; August 9, 1996 and May 21, 1997. Sections 115.122(a)(3), 126(a)(4), 126(a)(5), 127(a)(5) and 129(2)–129(5) pertaining to bakeries, 115.140–115.149 pertaining to Industrial Wastewater, 115.421(a)(13) pertaining to wood coating, and 115.152–115.159 pertaining to municipal waste landfills retain their limited approval as revised in these SIP revisions because they strengthen the SIP. All other sections of these SIP revisions receive full approval.

(i) Incorporation by Reference

(A) Revisions to the General Rules as adopted by the Texas Natural Resources Conservation Commission (Commission) on January 4, 1995, effective January 27, 1995, Section 101.10(a)(1).

(B) Revisions to Regulation V, as adopted by the Commission on January 4, 1995, effective on January 27, 1995, Sections 115.112(c), 115.112(c)(2)(A), 115.112(c)(3), 115.113(a), 115.113(b), 115.113(c), 115.115(a)(7), 115.115(b)(7), 115.116(a)(2), 115.116(a)(2)(A)–115.116(a)(2)(J), 115.117(c), 115.119 introductory paragraph, 115.121(b), 115.122(a)(4)(B), 115.123(a)(1), 115.127(a)(5)(C), 115.127(b)(2)(A), 115.127(b)(2)(B), 115.143 introductory paragraph, 115.147(6), 115.149(a), 115.149(b), 115.159(a), 115.219(c).

(C) Certification dated January 4, 1995 that copies of revisions to General Rules and Regulation V adopted by the Commission on January 4, 1995, and submitted to EPA on January 11, 1995, are true and correct copies of documents on file in the permanent records of the Commission.

(D) Revisions to Regulation V, as adopted by the Commission on May 24, 1995, effective June 16, 1995, Sections 115.212(a)(1), 115.212(a)(2), 115.212(a)(5)(A)(i), 115.212(a)(5)(A)(ii), 115.212(a)(5)(C), 115.212(a)(5)(C)(i), 115.212(a)(5)(C)(ii), 115.212(a)(5)(D), 115.212(a)(10)(C), 115.212(a)(10)(C)(i), 115.212(a)(10)(C)(ii), 115.212(a)(12)(B), 115.212(b)(1), 115.212(b)(3)(A), 115.212(b)(3)(A)(i), 115.212(b)(3)(A)(ii), 115.212(b)(3)(C), 115.212(c)(1), 115.212(c)(2), 115.212(c)(3)(A), 115.212(c)(3)(A)(i), 115.212(c)(3)(A)(ii), 115.212(c)(3)(C), 115.213(a), 115.213(b), 115.213(c), 115.214(a)(3), 115.214(a)(4), 115.214(a)(4)(A)–115.214(a)(4)(E), 115.214(a)(5), 115.215(a)(7), 115.215(b)(7), 115.216(a)(3)(A), 115.215(a)(3)(B), 115.216(a)(4)(A), 115.216(a)(4)(B), 115.216(a)(5)(A), 115.216(a)(6)(C), 115.217(a)(3), 115.217(a)(4), 115.217(a)(6)(A)–115.217(a)(6)(D), 115.217(b)(2), 115.217(b)(4), 115.217(b)(4)(D), 115.217(b)(5)(C), 115.217(c)(2), 115.217(c)(4)(D), 115.217(c)(5)(C), 115.219 introductory paragraph, 115.219(1), 115.219(2), 115.219(3), 115.219(4), 115.219(5).

(E) Certification dated May 24, 1995, that the copy of revisions to Regulation V adopted by the Commission on May 24, 1995, and submitted to EPA on July 12, 1995, is a true and correct copy of the document on file in the permanent records of the Commission.

(F) Revisions to Regulation V, as adopted by the Commission on October 25, 1995, effective November 20, 1995, Sections 115.131(a), 115.131(c), 115.132(c), 115.133(a), 115.133(b), 115.133(c), 115.135(a), 115.135(a)(5), 115.135(b), 115.135(b)(5), 115.137(a)(1), 115.137(a)(2), 115.137(a)(3), 115.137(c), 115.137(c)(4), 115.139 introductory paragraph.

(G) Certification dated October 25, 1995, that the copy of revisions to Regulation V adopted by the Commission on October 25, 1995, and submitted to EPA on November 10, 1995, is a true and correct copy of the document on file in the permanent records of the Commission.

(H) Revisions to Regulation V, as adopted by the Commission on December 6, 1995, effective December 28, 1995, Section 115.612(a)(1) (Table III).

(I) Certification dated December 6, 1995, that the copy of revisions to Regulation V adopted by the Commission on December 6, 1995, and submitted to EPA on March 13, 1996, is a true and correct copy of the document on file in the permanent records of the Commission.

(J) Revisions to the General Rules as adopted by the Texas Natural Resource Conservation Commission on February 14, 1996, effective March 7, 1996, Section 101.1, definitions of Automotive basecoat/clearcoat system (used in vehicle refinishing (body shops)), Automotive precoat (used in vehicle refinishing (body shops)), Automotive pretreatment (used in vehicle refinishing (body shops)), Automotive primer or primer surfacers (used in vehicle refinishing (body shops)), Automotive sealers (used in vehicle refinishing (body shops)), Automotive specialty coatings (used in vehicle refinishing (body shops)), Automotive three-stage system (used in vehicle refinishing (body shops)), Automotive wipe-down solutions (used in vehicle refinishing (body shops)), Cold solvent cleaning, Conveyorized degreasing, Gasoline bulk plant, Gasoline terminal, High-bake coatings, Low-bake coatings, Mechanical shoe seal, Open-top vapor degreasing, Remote reservoir cold solvent cleaning, Vehicle refinishing (body shops), Volatile organic compound.

(K) Revisions to Regulation V, as adopted by the Commission on February 14, 1996, effective March 7, 1996, Section 115.1, definitions of Automotive basecoat/clearcoat system (used in vehicle refinishing (body shops)), Automotive precoat (used in vehicle refinishing (body shops)), Automotive pretreatment (used in vehicle refinishing (body shops)), Automotive primer or primer surfacers (used in vehicle refinishing (body shops)), Automotive sealers (used in vehicle refinishing (body shops)), Automotive specialty coatings (used in vehicle refinishing (body shops)), Automotive three-stage system (used in vehicle refinishing (body shops)), Automotive wipe-down solutions (used in vehicle refinishing (body shops)), Cold solvent cleaning, Conveyorized degreasing, External floating roof, Gasoline bulk plant, Gasoline terminal, High-bake coatings, Internal floating cover, Low-bake coatings, Mechanical shoe seal, Open-top vapor degreasing, Remote reservoir cold solvent cleaning, Vehicle refinishing (body shops), Volatile organic compound, sections 115.112(a)(2), 115.112(a)(2)(A), 115.112(a)(2)(B), 115.112(a)(2)(D), 115.112(b)(2), 115.112(b)(2)(A),

115.112(b)(2)(B), 115.112(b)(2)(D), new 115.114, 115.116(a)(1), 115.116(b)(1), 115.117(a)(1), 115.117(a)(4), 115.117(a)(6), 115.116(a)(6)(A), 115.117(a)(7), 115.117(a)(7)(A), 115.117(b)(1), 115.117(b)(4), 115.117(b)(6)(A), 115.117(b)(7)(A), 115.117(c), 115.117(c)(1), 115.121(a)(1)–115.121(a)(4), 115.121(c), 115.122(a)(1)–115.122(a)(3), 115.122(a)(3)(C), 115.122(a)(3)(D), 115.122(c), 115.123(c), 115.126(a)(1), 115.126(a)(5), 115.126(a)(5)(A), 115.127(a)(1), 115.127(a)(2), 115.127(a)(2)(A)–115.127(a)(2)(E), 115.127(a)(3), 115.127(a)(3)(A)–115.127(a)(3)(C), 115.127(a)(4), 115.127(a)(4)(A)–115.127(a)(5)(E), 115.127(a)(5), 115.127(a)(6), 115.127(a)(7), 115.127(b)(2), 115.127(b)(3), 115.127(b)(4), 115.127(c), 115.127(c)(2)(B), 115.127(c)(3), 115.127(c)(4), 115.129(1)–115.129(5), 115.212(a)(11), 115.219 introductory paragraph, 115.219(5), 115.219(5)(A)–115.219(5)(C), 115.412(a), 115.413(a), 115.413(b), 115.416(a), 115.417(a)(3), 115.417(a)(4), 115.417(b)(5), 115.419 introductory paragraph, 115.421(a), 115.421(a)(1)–115.421(a)(8), 115.421(a)(8)(B), 115.421(a)(8)(B)(i)–115.421(a)(8)(B)(ix), 115.421(a)(8)(C), 115.421(a)(9)(A)(i)–115.421(a)(9)(A)(v), 115.421(a)(12)(A), 115.421(a)(12)(A)(i), 115.421(a)(12)(A)(ii), 115.421(b), 115.421(b)(1)–115.421(b)(8), 115.421(b)(8)(A), 115.421(b)(8)(A)(i)–115.421(b)(8)(A)(iv), 115.422(1), 115.422(2), 115.423(a)(1), 115.423(a)(2), 115.423(b), 115.423(b)(1), 115.423(b)(2), 115.423(b)(4), 115.425(a)(1)(C), 115.425(b)(1)(C), 115.426(a)(1)(B), 115.427(a)(1)(A)–115.427(a)(1)(D), 115.427(a)(3), 115.427(a)(5), 115.427(b)(2), 115.427(b)(2)(B)–115.427(b)(2)(D), 115.427(b)(3), 115.429(a), 115.429(b), 115.433(a), 115.433(b), 115.435(a)(5), 115.435(b)(5), 115.436(a), 115.436(b), 115.437(a)(1), 115.437(a)(2), 115.439(b), 115.439(c), 115.442(1)(F)(i), 115.422(1)(F)(ii), 115.443 introductory paragraph, 115.445(5), 115.446(7), 115.512(1), 115.512(2), 115.513 introductory paragraph, 115.517(1), 115.541(a)(2)(C), 115.541(2)(E), 115.541(b), 115.541(b)(5), 115.542(a)(1), 115.542(a)(2), 115.542(a)(5), 115.542(b), 115.542(b)(1), 115.542(b)(2), 115.542(b)(4), 115.543 introductory paragraph, 115.546(1)(A), 115.547 introductory paragraph, 115.547(2), 115.547(4), 115.547(5), 115.549(a)–115.549(c), 115.600 introductory paragraph and definitions of Consumer product, Pesticide, Sections 115.614(a), 115.614(c), 115.614(c)(1), 115.614(c)(1)(A)–115.614(c)(1)(F), 115.614(c)(2),

115.614(c)(2)(A)–115.614(c)(2)(F), 115.614(d), 115.614(e), 115.614(f), 115.617(h).

(L) Certification dated February 14, 1996, that copies of revisions to General Rules and Regulation V adopted by The Commission on February 14, 1996, and submitted to EPA on March 13, 1996, are true and correct copies of documents on file in the permanent records of the Commission.

(M) Revisions to Regulation V, as adopted by the Commission on July 24, 1996, effective August 16, 1996, Sections 115.214(a)(4), 115.214(a)(4)(E), 115.214(a)(5), 115.216(a), 115.216(a)(7), 115.216(a)(7)(A)–115.216(a)(7)(G), 115.616(a), 115.616(a)(1)–115.616(a)(3).

(N) Certifications dated July 24, 1996, that the copy of revisions to Regulation V adopted by the Commission on July 24, 1996, and submitted to EPA on August 9, 1996, is a true and correct copy of the document on file in the permanent records of the Commission.

(O) Revisions to the General Rules as adopted by the Commission on April 30, 1997, effective May 22, 1997, Section 101.1, introductory paragraph and definitions of Component, Leak, Synthetic Organic Chemical Manufacturing Industry (SOCMI) batch distillation operation, Synthetic Organic Chemical Manufacturing Industry (SOCMI) batch process, Synthetic Organic Chemical Manufacturing Industry (SOCMI) distillation operation, Synthetic Organic Chemical Manufacturing Industry (SOCMI) distillation unit, Synthetic Organic Chemical Manufacturing Industry (SOCMI) reactor process, Tank-truck tank, Vehicle refinishing (body shops), Volatile organic compound (introduction paragraph).

(P) Revisions to Regulation V, as adopted by the Commission on April 30, 1997, effective May 22, 1997, Section 115.10, introductory paragraph and definitions of Fugitive emission, Leak, Synthetic Organic Chemical Manufacturing Industry (SOCMI) batch distillation operation, Synthetic Organic Chemical Manufacturing Industry (SOCMI) batch process, Synthetic Organic Chemical Manufacturing Industry (SOCMI) distillation operation, Synthetic Organic Chemical Manufacturing Industry (SOCMI) distillation unit, Synthetic Organic Chemical Manufacturing Industry (SOCMI) reactor process, Tank-truck tank, Vehicle refinishing (body shops), Volatile organic compound (introduction paragraph), and Sections 115.112(a)(2), 115.112(a)(2)(F), 115.112(b)(2), 115.112(b)(2)(F), 115.114(a), 115.114(a)(1), 115.114(a)(2), 115.114(a)(4), 115.114(b), 115.114(b)(1),

115.114(b)(2), 115.114(a)(4), 115.114(c), 115.114(c)(1), 115.114(c)(2), 115.115(a)(6), 115.115(b)(6), 115.116(a)(5), 115.116(b)(5), 115.119(a), 115.119(b), 115.121(a)(1), 115.121(a)(2), 115.121(a)(2)(A)–115.121(a)(2)(E), 115.121(a)(3), 115.121(b), 115.121(c), 115.121(c)(1), 115.121(c)(2), 115.121(c)(3), 115.121(c)(4), 115.122(a)(1), 115.122(a)(1)(A), 115.122(a)(1)(B), 115.122(a)(1)(C), 115.122(a)(2), 115.122(a)(2)(A), 115.122(a)(2)(B), 115.122(a)(3), 115.122(a)(4), 115.122(a)(4)(A), 115.122(a)(4)(B), 115.122(b), 115.122(b)(1), 115.122(b)(2), 115.122(b)(3), 115.122(c), 115.122(c)(1), 115.122(c)(1)(A)–115.122(c)(1)(C), 115.122(c)(2), 115.122(c)(2)(A), 115.122(c)(2)(B), 115.122(c)(3), 115.122(c)(3)(A), 115.122(c)(3)(B), 115.122(c)(4), 115.122(c)(4)(A), 115.122(c)(4)(B), 115.123(a)(1), 115.123(b), 115.123(c), 115.126(a), 115.126(a)(3), 115.126(a)(4)(A), 115.126(a)(4)(B), 115.126(a)(4)(C), 115.126(a)(5)(A)–115.126(a)(5)(C), 115.126(b), 115.126(b)(3), 115.127(a)(2), 115.127(a)(2)(C), 115.127(a)(2)(D), 115.127(a)(2)(E), 115.127(a)(3), 115.127(a)(4), 115.127(a)(4)(A)–115.127(a)(4)(E), 115.127(a)(5), 115.127(c), 115.127(c)(1), 115.127(c)(1)(A)–115.127(c)(1)(C), 115.127(c)(2), 115.129(1)–115.129(5), 115.132(a)(1), 115.132(a)(4)(A), 115.132(a)(4)(B), 115.132(b)(1), 115.132(c), 115.132(c)(1), 115.136(a)(4), 115.136(b)(4), 115.137(a)(3), 115.137(b)(5), 115.137(c), 115.137(c)(4), 115.146(5), 115.147(5)(A), 115.147(5)(B), 115.147(5)(C), 115.149(b), 115.153 introductory paragraph, 115.156(3)(E)(i), 115.159(a), 115.159(b), 115.159(c), 115.211(a)(1), 115.211(a)(3), 115.212(a)(1), 115.212(a)(2), 115.212(a)(3), 115.212(a)(3)(A), 115.212(a)(3)(A)(i), 115.212(a)(3)(A)(ii), 115.212(a)(3)(B), 115.212(a)(3)(C), 115.212(a)(3)(C)(i), 115.212(a)(3)(C)(ii), 115.212(a)(3)(D), 115.212(a)(4), 115.212(a)(5), 115.212(a)(6), 115.212(a)(6)(A), 115.212(a)(6)(B), 115.212(a)(6)(C), 115.212(a)(7), 115.212(a)(7)(A)–115.212(a)(7)(D), 115.212(a)(8), 115.212(a)(8)(A), 115.212(a)(8)(B), 115.212(a)(8)(B)(i), 115.212(a)(8)(B)(ii), 115.212(a)(8)(B)(iii), 115.212(a)(8)(C), 115.212(a)(8)(C)(i), 115.212(a)(8)(C)(ii), 115.212(a)(9), 115.212(a)(10), 115.212(a)(10)(A), 115.212(a)(10)(B), 115.214(a)(4), 115.214(a)(4)(E), 115.214(a)(5), 115.215(a)(8), 115.216(a), 115.216(a)(1), 115.216(a)(6), 115.216(b), 115.216(b)(1), 115.217(a)(1), 115.217(a)(2), 115.217(a)(3), 115.217(a)(4), 115.217(a)(4)(A), 115.217(a)(4)(B),

115.217(a)(5), 115.217(a)(6), 115.217(a)(6)(A)–115.217(a)(6)(D), 115.217(a)(7), 115.217(a)(7)(A)–115.217(a)(7)(E), 115.217(a)(8), 115.217(a)(8)(A)–115.217(a)(8)(C), 115.217(a)(9), 115.217(b)(2), 115.217(b)(4)(A)–115.217(b)(4)(D), 115.217(b)(5), 115.217(c)(2), 115.217(c)(4), 115.217(c)(4)(A)–115.217(c)(4)(D), 115.217(c)(5), 115.219(1), 115.219(4), 115.221 introductory paragraph, 115.222(7), 115.223 introductory paragraph, 115.226 introductory paragraph, 115.226(1), 115.253 introductory paragraph, 115.256 introductory paragraph, 115.311(a)(1), 115.311(a)(2), 115.311(b)(1)–115.311(b)(2), 115.312(a)(2), 115.312(a)(2)(A)–115.312(a)(2)(C), 115.312(b)(2), 115.312(b)(2)(A)–115.312(b)(2)(C), 115.313(a), 115.313(b), 115.319 introductory paragraph, 115.322 introductory paragraph, 115.322(1)–15.322(5), 115.323 introductory paragraph, 115.323(1), 115.323(2), new 115.324, 115.325 introductory paragraph, 115.325(1)–115.325(3), 115.326 introductory paragraph, 115.326(1), 115.326(2), 115.326(2)(A)–115.326(2)(I), 115.326(3), 115.324(4), 115.327 introductory paragraph, 115.327(1), 115.327(1)(A)–115.327(1)(C), 115.327(2)–115.327(6), 115.329 introductory paragraph, 115.352(1), 115.352(2), 115.352(9), 115.353 introductory paragraph, 115.354(1)(C), 115.354(4)–115.354(7), 115.354(7)(A), 115.354(7)(B), 115.354(8), 115.356(1)(I), 115.356(3), 115.357(2), 115.357(8), 115.421(a), 115.421(a)(13)(A), 115.422(3)(A), 115.422(3)(B), 155.424(a)(1), 115.424(a)(2), 115.424(b)(1), 115.426(a)(1)(D), 115.426(a)(2)(C), 115.426(b)(1)(D), 115.426(b)(2)(C), 115.427(a)(5), 115.427(a)(6), 115.442(1)(B)–115.442(1)(D), 155.446(8), 115.449(a), 115.449(b), 115.449(c), 115.532(a)(5), 115.532(a)(5)(A), 115.532(a)(5)(B), 115.533(a), 115.533(b), 115.536(a)(5), 115.536(b)(5), 115.537(a)(5), 115.539 introductory paragraph, 115.552(b)(1), 115.522(b)(2), 115.533 introductory paragraph, 115.559(a)–115.559(d), and repeal of Sections 115.332, 115.333, 115.334, 115.335, 115.336, 115.337, 115.339, 115.342, 115.343, 115.344, 115.345, 115.346, 115.347, 115.349.

(Q) Certification dated April 30, 1997, that copies of revisions to General Rules and Regulation V adopted by the Commission on April 30, 1997, and submitted to EPA on May 21, 1997, are true and correct copies of documents on file in the permanent records of the Commission.

(R) Texas Natural Resource Conservation Commission order adopting amendments to the SIP; Docket Number 95-1198-RUL, issued December 19, 1995.

(ii) Additional Material

(A) TNRCC certification letter dated December 13, 1995, and signed by the Chief Clerk, TNRCC that the attached are true and correct copies of the SIP revision adopted by the Commission on December 13, 1995.

(B) The following portions of the SIP narrative entitled Post-1996 Rate of Progress Plan for the Beaumont/Port Arthur and Houston/Galveston Ozone Nonattainment Areas Dated December 13, 1995: The section pertaining to Storage Tanks (pp. 17-37), the section pertaining to SOCOMI Reactor and Distillation (p. 40), the Section pertaining to Plastic Parts Coating (pp. 54-55).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 102-0120; FRL-6220-2a]

Final Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing limited approval and limited disapproval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on November 6, 1998. This limited approval and limited disapproval action will incorporate portions of Rules 1, 2 and 4 of Regulation 2—Permits, for the Bay Area Air Quality Management District (BAAQMD or the "District") into the federally approved State Implementation Plan (SIP).

The intended effect of finalizing this limited approval and limited disapproval of these rules is to strengthen the federally approved SIP by incorporating these updated provisions and to satisfy Federal requirements for an approvable nonattainment area NSR SIP for the District.

Thus, EPA is finalizing simultaneous limited approval and limited disapproval as a revision into the California SIP under provisions of the

Act regarding EPA action on SIP submittals, and general rulemaking authority. While strengthening the SIP, this revision contains deficiencies which the BAAQMD must address before EPA can grant full approval under Section 110(k)(3).

DATES: This action is effective on February 25, 1999.

ADDRESSES: Copies of the state submittal and other supporting information used in developing the final action are available for public inspection (Docket Number CA102-0120) at EPA's Region IX office during normal business hours and at the following locations:

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT: John Walser, Permits Office [AIR-3], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1257.

SUPPLEMENTARY INFORMATION:

I. Applicability

The following rules are being approved for limited approval and limited disapproval into the California SIP: District Regulation 2 Permits, Rule 1 General Requirements, Rule 2 New Source Review, and Rule 4 Emissions Banking. Rules 2 and 4 were submitted by the California Air Resources Board on behalf of the District to EPA on September 28, 1994. Rule 1 was submitted by the California Air Resources Board on behalf of the District to EPA on December 31, 1990.

II. Background

On November 6, 1998, in 63 FR 59924, EPA proposed limited approval and limited disapproval for BAAQMD Regulation 2 Permits, Rules 1, 2 and 4. The BAAQMD adopted Rule 1 on November 1, 1989, and Rules 2 and 4 on June 15, 1994. Submitted Rule 1 was found to be complete on February 28, 1991, and submitted Rules 2 and 4 were found to be complete on November 22, 1994,¹ pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51, Appendix V.² These rules were

¹ The proposed action on November 6, 1998 mistakenly identified the submittal and completeness date for Rule 1 as the same date as Rules 2 and 4.

² EPA adopted completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

proposed for limited approval and limited disapproval. A detailed discussion of the background for these rules and EPA's evaluation is provided in the November 6, 1998 Proposed Rulemaking Notice (NPRM) cited above.

III. Response to Comments

A 30 day public comment period was provided in 63 FR 59924. EPA received one public comment on the proposal from the California Council for Environmental and Economic Balance (CCEEB), and is responding to that comment in this document.

CCEEB commented that EPA should specifically exclude Section 2-4-304.3 of Regulation 2, Rule 4 from any final SIP approval of all or portions of Rule 4. Section 2-4-304.3 of Rule 4 states that "emission reduction credits may not be used to exempt a source from any other air pollution control requirements whatsoever of federal, State, or District laws, rules and regulations." CCEEB is concerned that Section 2-4-304.3 addresses State law issues, and is not necessary to meet Federal Clean Air Act requirements. In addition, CCEEB commented that the California Health and Safety Code Section 39602 provides that the California SIP "shall include only those provisions necessary to meet the requirements of the Clean Air Act."

Section 2-4-304.3 was not a section of Regulation 2, Rule 4 that EPA identified as a SIP-approvability issue in 63 FR 59924. As written, Section 2-4-304.3 of Rule 4 is not inconsistent with federal requirements or EPA policy and does not present any SIP-approvability issues. If CCEEB believes the language is inconsistent with state law, its remedy is at the state and local level. The District, if in agreement with CCEEB, would need to revise the rule and submit the rule modification to the California Air Resources Board as a SIP submittal. EPA does not have the authority to revise the rule language as requested, or exclude Section 2-4-304.3 from final SIP approval.

IV. EPA Evaluation and Final Action

BAAQMD Regulation 2 clarifies the terms and requirements that apply to the District's NSR regulation and emissions banking program. BAAQMD Regulation 2 was originally adopted as part of BAAQMD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone. For EPA's detailed evaluation of BAAQMD Regulation 2, Rules 1, 2 and 4, please refer to the NPRM at 63 FR 59924, November 6, 1998.

EPA has evaluated District Rules 1, 2 and 4 of Regulation 2 and has determined that the rules contain