(vi) Preliminary amendments;

(2) Respond to Office actions, including requests for reconsideration of a final Office action, within two months of the mailing date, except that a notice of appeal under section 20 of the Act may be filed within six months of the mailing date. Responses must address all issues raised in the Office action;

(3) Receive communications from the Office by electronic mail; and

(4) File the following additional communications through TEAS *if the application has a section 1(b) basis:*

(i) Amendment to allege use under section 1(c) of the Act or statement of use under section 1(d) of the Act;

(ii) Request(s) for extensions of time to file a statement of use under section 1(d) of the Act; and

(iii) Request to delete section 1(b) basis.

(b) If an application does not meet the requirements of paragraph (a) of this section, the applicant must pay the fee required by § 2.6(a)(1)(iv).

5. Amend § 2.53 to revise paragraph (a) to read as follows:

§ 2.53 Requirements for drawings filed through the TEAS.

* * * * *

(a)(1) *Standard character drawings in TEAS Plus applications filed under § 2.22:* If an applicant is filing a standard character drawing, the applicant must enter the mark in the appropriate field.

(2) *Standard character drawings in all other TEAS submissions:* If an applicant is filing a standard character drawing, the applicant must enter the mark in the appropriate field or attach a digitized image of the mark to the TEAS submission that meets the requirements of paragraph (c) of this section.

* * * * *

6. Revise § 2.62 to read as follows:

§ 2.62 Period for response.

(a) To avoid abandonment, an applicant has six months from the date of mailing to respond to an Office action (*see* § 2.65).

(b) In a TEAS Plus application filed under § 2.22, an applicant must file a response that addresses all issues raised in an Office action within two months of the mailing date (except that a notice of appeal under section 20 of the Act may be filed within six months of the mailing date). If a response is incomplete or is not received within two months of the mailing date of the Office action, the applicant must pay the fee required by § 2.6(a)(1)(iv).

PART 7—RULES OF PRACTICE IN FILINGS PURSUANT TO THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARK

7. The authority citation for 37 CFR part 7 continues to read as follows:

Authority: 15 U.S.C. 1123, 35 U.S.C. 2, unless otherwise noted.

8. Amend § 7.25 to revise paragraph (a) to read as follows:

§ 7.25 Sections of part 2 applicable to extension of protection.

(a) Except for §§ 2.22–2.23, 2.130–2.131, 2,160–2.166, 2.168, 2.173, 2.175, 2.181–2.186 and 2.197, all sections in part 2 and all sections in part 10 of this chapter shall apply to an extension of protection of an international registration to the United States, including sections related to proceedings before the Trademark Trial and Appeal Board, unless otherwise stated.

* * * * *

Dated: April 1, 2005.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 05–6947 Filed 4–6–05; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R06–OAR–2004–TX–0014; FRL–7896–3]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Rules for the Control of Highly Reactive Volatile Organic Compounds in the Houston/Galveston (HGA) Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We are proposing to approve rules adopted by the Texas Commission on Environmental Quality (TCEQ) for the control of highly reactive Volatile Organic Compounds (HRVOCs) in the Houston/Galveston ozone nonattainment area. These rules for the control of HRVOCs supplement Texas' existing rules for controlling volatile organic compounds (VOC) by providing more extensive requirements for certain equipment in HRVOC service. These additional controls of HRVOC emissions will help to attain and maintain the national ambient air quality standards (NAAQS) for ozone in HGA. Inhaling even low levels of ozone can trigger a variety of health problems including chest pains, coughing, nausea, throat irritation, and congestion. It can also worsen bronchitis, asthma and reduce lung capacity.

DATES: Comments must be received on or before May 9, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID No. R06–OAR–2004–TX–0014, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- Agency Web site: *http://docket.epa.gov/rmepub/* Regional Material in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.
- U.S. EPA Region 6 ''Contact Us'' Web site: *http://epa.gov/region6/r6coment.htm*. Please click on ''6PD'' (Multimedia) and select ''Air'' before submitting comments.
- E-mail: Mr. Thomas Diggs at *diggs.thomas@epa.gov*. Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- Fax: Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), at fax number 214–665–7263.
- Mail: Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- Hand or Courier Delivery: Mr. Thomas Diggs, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Regional Material in EDocket (RME) ID No. R06–OAR–2004–TX–0014. EPA's policy is that all comments received will be included in the public file without change, and may be made available online at *http://docket.epa.gov/rmepub/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information

the disclosure of which is restricted by statute. Do not submit information through Regional Material in EDocket (RME), regulations.gov, or e-mail if you believe that it is CBI or otherwise protected from disclosure. The EPA RME website and the Federal regulations.gov are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public file and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. Guidance on preparing comments is given in the **SUPPLEMENTARY INFORMATION** section of this document under the General Information heading.

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

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

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

FOR FURTHER INFORMATION CONTACT: Guy R. Donaldson, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7242; fax number 214–665–7263; e-mail address *donaldson.guy@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

What Action Are We Taking?

We are proposing to approve portions of revisions to the SIP submitted by the State of Texas in letters dated January 23, 2003, November 7, 2003, March 26, 2004, and December 17, 2004. We are approving the portions of these revisions that pertain to the control of HRVOCs. These rules, which are codified at 30 TAC Chapter 115, Subchapter H, apply to facilities in the Houston/Galveston ozone nonattainment area. We are also proposing to approve the associated revisions to the definitions section of 30 Texas Administrative Code (TAC) 115.10. We are not proposing any action, at this time, regarding the other revisions that were submitted in these letters. We are approving these additional rules pursuant to sections 110, 116 and part D of the Federal Clean Air Act (the Act).

What General Requirements Do the Rules Establish?

The rules establish improved monitoring requirements for flares, cooling towers, process vents and pressure relief valves. For sources in Harris county, the source monitoring provides the information necessary for sources to demonstrate compliance with annual and short term caps on emissions of HRVOCs from cooling tower, process vents, pressure relief devices and flares. The annual cap for each facility will be established based on processes outlined in 30 TAC chapter 101. The short term cap is 1200 lbs/hr.

Because of the difficulty in their quantification, fugitive emissions are not included in the long and short term cap. Instead, the current work practice rules have been made more comprehensive and more stringent to achieve additional reduction in HRVOCs.

Why Are We Approving These Rules?

The addition of these rules for the control of HRVOCs will supplement Texas' existing rules controlling volatile organic compounds (VOC) and provide improvements to the Texas SIP's VOC Reasonably Available Control Technology (RACT) rules. These additional controls of HRVOC emissions will help to attain and maintain the national ambient air quality standards (NAAQS) for ozone in HGA. Today's proposal, when finally approved, will make the revised regulations Federally enforceable.

What Are Highly Reactive VOCs?

First, Volatile Organic Compounds are a class of compounds that react in the atmosphere with oxides of nitrogen and oxygen in the presence of sunlight to form ozone. HRVOC is a term used to refer to chemicals that because of their very high propensity to form ozone have been targeted for additional control beyond the level of control that has been established for controlling VOCs in general. These HRVOCs have been found to contribute a disproportionate amount to the formation of ozone in the HGA. Further, ambient measurements from both airplanes and ground based monitors have shown that current emissions estimates for HRVOCs are substantially underestimated. Therefore, there is a need to improve the emissions estimates of HRVOCs through better source monitoring.

HRVOCs have been defined in chapter 115.10 as:

In Harris County, one or more of the following volatile organic compounds (VOCs): 1,3-butadiene; all isomers of butene (*e.g.*, isobutene (2-methylpropene or isobutylene), alpha-butylene (ethylethylene), and beta-butylene (dimethylethylene, including both cis- and trans-isomers)); ethylene; and propylene.

In Brazoria, Chambers, Fort Bend, Galveston, Liberty, Montgomery and Waller Counties, one or more of the following VOCs: ethylene and propylene.

What Processes Will Be Impacted by These Rules?

TCEQ has targeted the following emission sources with these rules: Flares, process vents, cooling tower heat exchange systems and fugitive emissions. These sources are believed to generate the greatest amount of HRVOC emissions. Also, flares, cooling towers and fugitive emissions are believed to

suffer the greatest error in reported emissions. The improved source monitoring requirements included in the rules will greatly enhance the accuracy of the source emissions estimates.

What Are the Requirements for Flares?

Flares are used in a wide variety of applications both for the control of continuous vent emissions and for the control of intermittent emissions during start up, shutdowns and malfunctions. The ability of flares to safely handle a wide range of flow rates and chemicals makes them a popular choice for vent gas disposal. Because flares are not enclosed combustion devices, it is extremely difficult to measure the exhaust emissions from flares. EPA has established requirements for the proper operation of flares for its New Source Performance Standards at 40 Code of Federal Regulations (CFR) 60.18. Texas has adopted, by reference, these performance requirements for flares in HRVOC service. The requirements establish limits for the minimum heating value for the inlet gas to a flare and for maximum gas velocity at the flare tip.

In addition, the Texas rules establish flow and composition monitoring requirements for flares that facilities will use to show compliance with the flare operation requirements of 40 CFR 60.18. Also, using the flow data and an assumed destruction efficiency for a properly operated flare, a company can estimate the HRVOC emission rate to be used for determining compliance with the short and long term caps. Flares in compliance with 40 CFR 60.18 are allowed to assume a 98% destruction efficiency for most VOCs and a 99% destruction efficiency for ethylene and propylene. Flares not operated in compliance with 40 CFR 60.18 are required to assume a destruction efficiency of 93%. Texas has based these assumed destruction efficiencies on EPA studies of flare destruction efficiencies.

For flares that are used as a continuous control device, the monitoring requirements call for continuous flow and hydrocarbon monitoring of the streams being sent to the flare. For flares that are used more intermittently such as flares for control of loading operations, emergency flares or flares used only for control during start up/shutdown and maintenance, the Texas rules allow various alternative practices that are described in the rule. We have reviewed the monitoring requirements for flares and believe they will be adequate to establish compliance with the requirements of 40 CFR 60.18, the annual cap and the short term cap. For a more complete description of the requirements, see the technical support document for this action available in the RME.

What Are the Monitoring Requirements for Cooling Towers?

Facilities are required to continuously monitor the flow and concentration of VOCs to cooling towers. The samples must be collected before the water comes in contact with the atmosphere and must be taken in a location that insures the rate all of the HRVOCs going into the cooling tower is measured. Streams containing only non-highly reactive VOCs are not required to be sampled. If the concentration in the stream exceeds 50ppb total VOCs, the company is required to collect an additional sample to determine speciated and total HRVOC. These additional samples must be taken each day until the concentration of strippable VOC is reduced below 50 ppb. Cooling towers with capacities less than 8000 gallons/minute are required to monitor flow continuously, but only have to take samples at least twice per week with an interval of at least 48 hours between samples.

EPA has reviewed the monitoring requirements for cooling tower heat exchange systems and believes them sufficient to demonstrate compliance with the annual and short term cap. For a more complete description of the cooling tower requirements, see the technical support document for this action available in the RME.

What Are the Monitoring Requirements for Process Vents?

For process vents, facilities are required to establish a maximum potential emission rate using a performance test. During the performance test, a process parameter or parameters is to be identified that is affected by the emission rate from the process vent. The performance test must establish an operational limit for the process parameter(s). For every hour the process parameter(s) remains within it its operational limit, a facility would report the maximum potential emission rate for determining compliance with the annual and short term cap. Instead of assuming the maximum potential emission rate, sources have the option of installing continuous emission monitors and flow monitors to directly determine emissions. During time periods when the process parameter is outside the operational limit, companies must use engineering estimates and process information to determine emissions for compliance with the annual and short term caps. Texas has made clear that time periods outside the operational limits are violations of the rule. We have reviewed the monitoring requirements for vents and believe that they will provide sufficient information to determine compliance with the annual and short term caps. For a more complete description of the process vent requirements, see the technical support document for this action available in the RME.

What Is the Short Term Cap?

As mentioned previously, these rules establish a limit of 1200 lbs/hr of HRVOCs in Harris County. This limit has been established because recent modeling information indicates that releases of this magnitude in the right place at the right time can impact peak ozone levels 1–2 parts per billion.

What Are the Monitoring Requirements for Fugitive Emissions?

TCEQ, for a number of years, has implemented a leak detection and repair program as part of its program to control volatile organic compounds. When TCEQ determined that additional reductions of HRVOCs were needed, they established a number of new requirements for their leak detection and repair. These include among other things:

- Inclusion of connectors in the program.
- Inclusion of other non-traditional potential leak sources such as heat exchanger heads and man way covers.
- Elimination of allowances for skipping leak detection periods for valves.
- Requirement for third party audits to help insure that effective leak survey and repairs are conducted.
- Requirement that ''extra-ordinary'' efforts be used to repair valves before putting them on the delay of repair list.

EPA has reviewed the additional requirements for control of HRVOC fugitive emissions and determined these measures will result in additional emission reductions of HRVOCs.

Final Action: EPA is proposing to approve for inclusion in the federally enforceable State Implementation Plan the rules contained in 30 TAC Chapter 115, Subchapter H for the control of HRVOCs, first submitted in a letter dated January 23, 2003 and revised in letters dated November 7, 2003, March 26, 2004 and December 17, 2004. We are also approving revisions to the definition section in the State Rules 30 TAC 115.10 as the definitions are necessary for the implementation of the rules. We are proposing to approve these rules because they strengthen the

State Implementation Plan by improving monitoring requirements and reducing emissions of HRVOCs in the Houston area. EPA is proposing to approve these revisions to the HGA SIP under part D of the Act because they supplement and improve the existing SIP-approved VOC rules and they are consistent with the RACT requirements and guidance for ozone nonattainment areas. Reductions achieved by these rules will contribute to attainment of the ozone standard.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This proposed 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 proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed 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.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: March 24, 2005.

Lawrence Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. 05–6944 Filed 4–6–05; 8:45 am]

BILLING CODE 6560–50–P