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6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R06-OAR-2015-0027; FRL- 9930-79-Region-6]**

**Approval and Promulgation of Implementation Plans; Texas; Low Reid Vapor Pressure  
Fuel Regulations**

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is taking a direct final action to approve revisions to the Texas State Implementation Plan (SIP) related to Low Reid Vapor Pressure (RVP) Fuel Regulations that were submitted by the State of Texas on January 5, 2015. The EPA evaluated the SIP submittal from Texas and determined these revisions are consistent with the requirements of the Clean Air Act (Act or CAA). The EPA is approving this action under the federal CAA.

**DATES:** This direct final rule is effective on **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]** without further notice, unless the EPA receives relevant adverse comment by **[INSERT DATE 30 DAYS AFTER PUBLICATION]**

**IN THE FEDERAL REGISTER**. If the EPA receives such comment, the EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R06-OAR-2015-0027, by one of the following methods:

- (1) [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions.
- (2) E-mail: Ms. Tracie Donaldson at [donaldson.tracie@epa.gov](mailto:donaldson.tracie@epa.gov).
- (3) Mail or Delivery: Ms. Tracie Donaldson, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

*Instructions:* Direct your comments to Docket ID No. EPA-R06-OAR-2015-0027. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, 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 <http://www.regulations.gov> or e-mail, if you believe that it is CBI or otherwise protected from disclosure. The <http://www.regulations.gov> website is an "anonymous access" system, which means that the 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 the EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD-ROM submitted. If the EPA cannot read your comment due to technical

difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI).

**FOR FURTHER INFORMATION CONTACT:** Ms. Tracie Donaldson, (214) 665-6633, [donaldson.tracie@epa.gov](mailto:donaldson.tracie@epa.gov). To inspect the hard copy materials, please schedule an appointment with Ms. Donaldson or Mr. Bill Deese at 214-665-7253.

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

## **I. Background**

### **A. CAA and SIPs**

Section 110 of the CAA requires states to develop and submit to the EPA a SIP to ensure that state air quality meets National Ambient Air Quality Standards (NAAQS). The NAAQS currently address six criteria pollutants: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. Each federally-approved SIP protects air quality primarily

by addressing air pollution at its point of origin through air pollution regulations and control strategies. The EPA-approved SIP provisions and control strategies are federally enforceable. States revise the SIP as needed and submit revisions to the EPA for review and approval.

*B. SIP Revision Submitted on January 5, 2015*

On September 10, 2014, Texas Commission on Environmental Quality (TCEQ) adopted revisions to 30 Texas Administrative Code (TAC) Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter H. *Low Emission Fuels*, Division 1. *Gasoline Volatility*. This review will determine if the changes to the Texas SIP are consistent with the requirements of the Clean Air Act and EPA's policy and guidance.

**II. EPA's Evaluation**

As detailed in the Technical Support Document (TSD) accompanying this action, the TCEQ submitted a SIP revision to the Low RVP Fuels regulations. In this adoption, TCEQ amended sections 114.306, 114.307, 114.309 and deleted section 114.304. The amendments to the Regional Low RVP Gasoline Regulations remove obsolete requirements that provide no benefit to the state and are not necessary for the implementation and enforcement of the primary gasoline volatility control requirements of the rule. In addition, the proposal would provide regulatory consistency between the Chapter 114 gasoline volatility requirements and the El Paso Low RVP Gasoline requirements, specified in the 30 TAC Chapter 115 regulations in §§115.252, 115.253, 115.255 - 115.257, and 115.259, which do not prohibit the use of MTBE and do not require registration and annual reporting.

In addition, pursuant to section 110(k)(6) of the CAA, 30 TAC section 114.306(c) is being removed from the SIP. This section was inadvertently approved into the SIP by a previous

action. In its April 25, 2000 SIP submittal, Texas specifically asked us to not include 114.306(c) into the SIP, but we included it in the SIP on April 26, 2001 (66 FR 20927, 20931). Our action today corrects this error by removing section 114.306(c) from the SIP.

The amendments remove the prohibition on the increased use of methyl-tertiary-butyl-ether (MTBE) in gasoline to conform to the low RVP gasoline requirements; remove the requirements for gasoline producers and importers that supply low RVP gasoline to the affected counties; remove annual reporting and certification requirements on the use of MTBE in low RVP gasoline; and make other non-substantive clarifying changes as needed for accuracy and consistency.

### **III. Final Action**

For the reasons stated above and in the TSD, the EPA is taking direct final action to approve revisions to the Texas SIP pertaining to Low RVP Fuel regulations. We are approving the revisions to the Texas SIP under section 110 of the Act. Each revision to an implementation plan submitted by a State under this chapter shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress. We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no relevant adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on **INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION** without further notice unless we receive relevant adverse

comment by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION]**. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### **IV. Incorporation by Reference**

In this direct final rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Texas low RVP fuel requirements described in the Final Action section above. The EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the EPA Region 6 office.

#### **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state

law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Incorporation by reference,  
Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 7, 2015.

**Ron Curry**  
*Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

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

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

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

**Subpart SS – Texas**

2. In §52.2270(c), the table titled “EPA Approved Regulations in the Texas SIP” is amended by removing the entry for section 114.304 and revising the entries for sections 114.306, 114.307 and 114.309 to read as follows:

**§52.2270 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**EPA APPROVED REGULATIONS IN THE TEXAS SIP**

State citation	Title/Subject	State approval/Submittal date	EPA approval date	Explanation
* * * * *				
Chapter 114 – Control of Air Pollution From Motor Vehicle Fuels				
* * * * *				
Subchapter H - Low Emission Fuels				
Division 1: Gasoline Volatility				
* * * * *				
114.306	Recordkeeping Requirements	4/25/2000	4/26/2001, 66 FR 20927	Not in SIP: 114.306(c)
114.307	Exemptions	9/10/2014	<b>[Insert date of publication in the Federal Register], [Insert Federal Register citation]</b>	
114.309	Affected Counties	9/10/2014	<b>[Insert date of publication in the Federal Register], [Insert Federal Register citation]</b>	
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