

received will be addressed in a subsequent final rule based on this rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** Written comments must be received on or before June 8, 2005.

**ADDRESSES:** Comments may be submitted by mail to: Scott M. Martin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in the direct final rule, **ADDRESSES** section which is published in the Rules Section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Scott M. Martin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9036. Mr. Martin can also be reached via electronic mail at [martin.scott@epa.gov](mailto:martin.scott@epa.gov).

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the Rules section of this **Federal Register**.

Dated: April 29, 2005.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 05-9214 Filed 5-6-05; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R06-OAR-2005-TX-0022; FRL-7909-1]

#### Limited Approval and Promulgation of Implementation Plans; Texas; Excess Emissions During Startup, Shutdown, and Malfunction Activities

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to grant limited approval of revisions to the Texas State Implementation Plan (SIP) through the parallel processing mechanism. Specifically, we are proposing to grant limited approval of revisions to 30 TAC Chapter 101, General Air Quality Rules concerning

excess emissions during startup, shutdown, and malfunction (SSM) activities. The action will have the effect of extending the expiration date of certain provisions from June 30, 2005 to no later than June 30, 2006. Texas is making this change to allow for additional time before these provisions expire from the SIP to submit a revised excess emissions rule for our approval into the SIP. See sections 2 and 3 of this document for more information.

**DATES:** Comments must be received on or before June 8, 2005.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID No. R06-OAR-2005-TX-0022, 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](mailto: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 RME ID No. R06-OAR-2005-TX-0022. The 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 RME, [regulations.gov](http://regulations.gov), or e-mail if you believe that it is CBI or otherwise protected from disclosure. The EPA RME Web site and the Federal [regulations.gov](http://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](http://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, we recommend that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the 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 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air

Agency listed below during official business hours by appointment:

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

**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Shar, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733 at (214) 665-6691, or [shar.alan@epa.gov](mailto:shar.alan@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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**I. Background**

*1. What Action Are we Taking in This Document?*

On April 5, 2005, we received a letter from the Executive Director of the TCEQ requesting us to parallel process SIP revisions to 30 TAC, General Air Quality Rule 101, Subchapter F, subsections 101.221(g), 101.222(h), and 101.223(e). See section 2 of this document for more information on parallel processing. These subsections state that sections 101.221, 101.222 and 101.223, which address excess emissions resulting from SSM related activities, will expire by their own terms on June 30, 2005. The EPA has interpreted those provisions to mean the sections will expire from state law and from the approved SIP on that date. The proposed revision will delete the existing SIP provisions and add revised versions of those sections. The proposed provisions state,

“This section expires on January 15, 2006, unless the commission submits a revised version of this section to the Environmental Protection Agency (EPA) for review and approval into the Texas state implementation plan. If the commission submits a revised version of this section, this section expires on June 30, 2006.”

The change will, in effect, extend the expiration date of the affected subsections from June 30, 2005, to January 15, 2006, unless the State submits a revised version of sections 101.221–101.223 to EPA for review and approval into the Texas SIP, which would have the effect of extending the expiration date in the SIP to June 30, 2006.

The EPA believes it is important to explain our interpretation of the phrase in the State’s rule, “submits a revised version of this section.” If we receive a complete SIP submission of the revised version of the specified sections prior to January 15, 2006, we will make a preliminary determination of whether the rule is consistent with the Clean Air Act (the Act), EPA policy and guidance, and therefore approvable. We will interpret the June 30 date in the approved SIP to be effective, if the State submits a complete SIP revision prior to January 15, 2006, that, after our preliminary review, we determine can be fully approved. The EPA intends to work with the State during its rulemaking on the revised version of the rule to identify any issues that would prevent our approval of the rule.

Although we cannot prejudge our ultimate decision on the SIP submission prior to our review of public comments, we will make clear through our public comments during the State’s rulemaking and discussions with the State whether there are obvious problems which would prevent our approval of the revised rule, and hence, trigger the earlier January 15, 2006, date for the existing rule to expire from the Texas SIP. If we determine that the June 30, 2006, expiration date has become effective, the provisions will expire from the SIP on that date whether or not EPA has taken final action on the SIP submission. In sum, the proposed rule revision will extend the expiration date of affected subsections from June 30, 2005, to no later than June 30, 2006. Absent final action by EPA to approve this revision, sections 101.221, 101.222, and 101.223 will expire from the Texas SIP by their own terms on June 30, 2005, without further action by EPA. Due to the concerns expressed in our limited approval of March 30, 2005 (70 FR 16129), we will not extend limited approval of the expiration date of the affected subsections beyond the currently proposed June 30, 2006.

Today, we are proposing to grant limited approval of the deletion of existing SIP subsections 101.221(g), 101.222(h), and 101.223(e) and the addition of revised subsections 101.221(g), 101.222(h), and 101.223(e) into the Texas SIP. Specifically, we are seeking only those comments relevant to the date extension aspect of the proposed rule. Texas’ rulemaking also seeks comments on the only proposed expiration date changes and does not intend to make changes to any other sections of Chapter 101. We will evaluate any future rule revisions or other components of the 30 TAC,

General Air Quality Rule 101 independently in a separate **Federal Register** publication for consistency with the requirements of the Act, and EPA guidance and policy.

*2. What Is Parallel Processing of a SIP Submittal?*

We are proposing limited approval of this revision to the Texas SIP using the parallel processing mechanism of concurrent state and federal rulemaking actions. Parallel processing means that EPA proposes rulemaking action on a rule revision before the state regulation becomes final under state law. See 40 CFR part 51, appendix V, section 2.3. Parallel processing generally saves total processing time and makes the SIP revision effective in a shorter period of time than our normal review process. Under parallel processing, EPA will take final action on its proposal if the final version of the adopted state submission remains substantially unchanged from the submission on which the proposed rulemaking was based. If there are significant changes in the State’s final submission, EPA could not take final action on this proposal.

*3. What Is the Basis for a Limited, Rather Than a Full, Approval?*

We are proposing to grant limited, rather than full, approval of this SIP submittal. We are proposing limited approval of this rule because we granted limited approval of the regulations which are modified by this revision. We are similarly proposing limited approval of these provisions. If finalized, this action will have the effect of extending the limited approval which we published on March 30, 2005 (70 FR 16129). For more information on the basis for our limited approval of revisions to 30 TAC, General Air Quality Rule 101, Subchapter A and Subchapter F concerning excess emissions during SSM activities, see sections 3 and 5 of our March 30, 2005 **Federal Register** publication. Today’s action does not affect the position we expressed in that rulemaking action.

*4. What Areas in Texas Will the Proposed SIP Submittal Affect?*

The proposed SIP submittal will affect all sources of air emissions operating within the State of Texas.

**II. Proposed Action**

Today, we are proposing to grant limited approval of the deletion of existing SIP subsections 101.221(g), 101.222(h), and 101.223(e), and the addition of revised subsections 101.221(g), 101.222(h), and 101.223(e) into the Texas SIP.

### III. 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 (Public Law 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.*).

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

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

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 29, 2005.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

[FR Doc. 05–9216 Filed 5–6–05; 8:45 am]

**BILLING CODE 6560–50–P**

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 76

[MB Docket No. 05–181; FCC 05–92]

#### Implementation of Section 210 of the Satellite Home Viewer Extension and Reauthorization Act of 2004 To Amend Section 338 of the Communications Act

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, the Commission proposes rules to implement section 210 of the Satellite Home Viewer Extension and Reauthorization Act of 2004 (“SHVERA”). The Satellite Home Viewer Extension and Reauthorization Act of 2004 (SHVERA) was enacted on December 8, 2004 as title IX of the “Consolidated Appropriations Act, 2005.” This proceeding to implement section 210 of SHVERA is one of a number of Commission proceedings that will be required to implement SHVERA.

**DATES:** Comments for this proceeding are due on or before June 8, 2005; reply comments are due on or before June 23,

2005. Written comments on the proposed information collection requirements contained in this document must be submitted by the public, the Office of Management and Budget (OMB), and other interested parties on or before July 8, 2005.

**ADDRESSES:** You may submit comments, identified by MB Docket No. 05–181, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Federal Communications Commission’s Web site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** For additional information on this proceeding, contact Eloise Gore, [Eloise.Gore@fcc.gov](mailto:Eloise.Gore@fcc.gov) of the Media Bureau, Policy Division, (202) 418–2120. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this *NPRM*, contact Cathy Williams, Federal Communications Commission, 445 12th St, SW., Room 1–C823, Washington, DC 20554, or via the Internet to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov). If you would like to obtain or view a copy of this revised information collection, OMB Control Number 3060–0980, you may do so by visiting the FCC PRA Web page at: <http://www.fcc.gov/omd/pra>.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s *Notice of Proposed Rulemaking (NPRM)*, FCC 05–92, adopted on April 29, 2005, and released on May 2, 2005. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission’s copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats