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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: September 27, 2005.

**Richard Greene,**

*Regional Administrator, Region 6.*

[FR Doc. 05–19994 Filed 10–4–05; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[R06–OAR–2005–TX–0033; FRL–7981–2]**

### Approval and Promulgation of Air Quality Implementation Plans; Texas; Highly Reactive Volatile Organic Compound Emissions Cap and Trade Program for the Houston/Galveston/ Brazoria Ozone Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Texas State Implementation Plan concerning the Highly Reactive Volatile Organic Compound Emissions Cap and Trade Program for the Houston/Galveston/ Brazoria ozone nonattainment area. These revisions were adopted by the Texas Commission on Environmental Quality on December 01, 2004, as new sections 101.390–101.394, 101.396, 101.399–101.401, and 101.403, and submitted to EPA as a SIP revision on December 17, 2004. In related rulemakings today, EPA is also proposing approval of additional revisions to the Texas State Implementation Plan.

**DATES:** Comments must be received on or before November 4, 2005.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID No. R06–OAR–2005–TX–0033, 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/.* 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. David Neleigh at *neleigh.david@epa.gov.* Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- Fax: Mr. David Neleigh, Chief, Air Permitting Section (6PD–R), at fax number 214–665–6762.
- Mail: Mr. David Neleigh, Chief, Air Permitting Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- Hand or Courier Delivery: Mr. David Neleigh, Chief, Air Permitting Section (6PD–R), 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–0033. 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, 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 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 the disclosure of which 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 Permitting Section (6PD–R), 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 am and 4:30 pm 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, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Ms. Adina Wiley, Air Permitting Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–2115; fax number

214–665–6762; e-mail address *wiley.adina@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

**Outline**



## I. Highly-Reactive Volatile Organic Compound Emissions Cap and Trade Program

### *A. What action is EPA proposing?*

EPA is proposing approval of the Highly Reactive Volatile Organic Compound Emissions Cap and Trade (HECT) Economic Incentive Program (EIP), published at Texas Administrative Code (TAC) Title 30, Chapter 101 General Air Quality Rules, Subchapter H, Division 6, Sections 101.390–101.394, 101.396, 101.399–101.401, and 101.403. These revisions were submitted to EPA on December 17, 2004. Once approved, the HECT EIP will be an element of the Texas State Implementation Plan (SIP) for the Houston/Galveston/Brazoria (HGB) ozone nonattainment area.

### *B. HECT Program Summary*

#### 1. Why did Texas develop the HECT?

The HECT program was adopted as a State regulation on December 01, 2004. The Texas Commission on Environmental Quality (TCEQ) developed the program as part of its mid-course review of the 1-hour ozone attainment plan for the HGB ozone nonattainment area. The mid-course review showed that ozone reductions comparable to those achieved by the 90 percent reduction in industrial nitrogen oxide ($NO_X$) emissions required in the November 2001 (66 FR 57160) approved SIP could be achieved through a combination of 80 percent reduction in industrial $NO_X$ emissions and additional targeted control of certain highly-reactive volatile organic compounds (HRVOCs). TCEQ has chosen to revise its attainment strategy accordingly, decreasing the emphasis on $NO_X$ control and requiring additional reductions of HRVOCs. The HECT program is part of TCEQ's plan for achieving those additional HRVOC reductions.

#### 2. How do HRVOCs lead to ozone problems in the HGB area?

Ground-level ozone forms when volatile organic compounds (VOCs) react with $NO_X$ compounds in the presence of sunlight. Some VOCs react more quickly in the photochemical reaction than other VOCs; which can result in rapid spikes of ozone formation. TCEQ has identified a number of VOCs in the HGB nonattainment area that behave in this manner: ethylene; propylene; all isomers of butene, alpha-butylene, and beta-butylene; and 1,3-butadiene. These VOCs are now classified by TCEQ as HRVOCs in 30 TAC Chapter 115.

#### 3. How is this document related to the HGB ozone attainment demonstration?

The HECT program is part of the revised Texas plan to reduce ozone levels through the reduction of HRVOCs. The purpose of this document is to explain our proposed action on the HECT and why we believe the HECT is consistent with the Clean Air Act and with our policies on trading programs. In this document, we are not reviewing the impact on the HGB ozone attainment demonstration of the State's request to change from 90 percent to 80 percent $NO_X$ control. We are evaluating that change in strategy and its relationship to section 110(l) of the Clean Air Act in our review of the revisions to the overall attainment demonstration (RME Docket R06–OAR–2005–TX–0018). When we take final action on the attainment demonstration, we will also take final action on the HECT, in a separate rule.

#### 4. How does the HECT work?

The HECT program is similar to the multi-source emissions cap-and-trade program described in EPA's EIP Guidance ''Improving Air Quality with Economic Incentive Programs'' (EPA–452/R–01–001, January 2001). A multi-source emissions cap-and-trade program is designed to limit the total emissions from a certain category or group of sources to a level needed for an area to attain or maintain a national ambient air quality standard (NAAQS) and to allow sources flexibility in complying with their emission limits. In the HECT, TCEQ has established an annual HRVOC cap at the level relied on for attainment of the NAAQS for 1-hour ozone in 2007 in the revised attainment demonstration. As noted above, we are evaluating the merits of that demonstration in a separate rule (RME Docket R06–OAR–2005–TX–0018).

Under the HECT, in Harris County TCEQ has defined an HRVOC as one or more of the following VOCs: 1,3-butadiene; all isomers of butene, alpha-butylene, and beta-butylene; ethylene; and propylene. In Brazoria, Chambers, Fort Bend, Galveston, Liberty, Montgomery, and Waller Counties, an HRVOC is defined as ethylene and propylene. These compounds were identified based on their reactivity and prevalence in the HGB emissions inventory.

The HECT applies to each site in the HGB area that is subject to requirements in 30 TAC Chapter 115, Subchapter H, Division 1 for Vent Gas Control or Division 2 for Cooling Tower Heat Exchange Systems. EPA proposed approval of these HRVOC controls at 70 FR 17640, April 07, 2005. The HECT rule, at 30 TAC section 101.391, incorporates the definition of ''site'' at 30 TAC section 122.10: ''the total of all stationary sources located on one or more contiguous or adjacent properties, which are under common control or the same person (or persons under common control).'' Any HRVOC-emitting vent gas streams, flares, and cooling tower heat-exchange systems at these sites will be subject to the HECT and considered covered facilities. A site can have one covered facility or any combination of covered facilities. Each site that meets these requirements, or elected to opt in by April 30, 2005, will always be subject to the HECT.

Sites in the HGB area that have the potential to emit ten tons per year or less of HRVOCs from all covered facilities at the site are exempt from the HECT. These exempt sites had the opportunity to opt in to the HECT by notifying the TCEQ Executive Director in writing by April 30, 2005. Two sites in the HGB area submitted the opt-in notification to the TCEQ. No additional exempt sites will be eligible to opt in.

Additionally, all sites in Brazoria, Chambers, Fort Bend, Galveston, Liberty, Montgomery, and Waller Counties (the ''seven surrounding counties'') are exempt from all HECT requirements other than the Level of Activity Certification requirements of 30 TAC section 101.401. When TCEQ proposed the HECT program, industry commented that the representations for HRVOC emissions in their air permits were significantly lower than the HRVOC cap that would be imposed on the seven county area. Sites in these seven surrounding counties agreed to take enforceable permit limits on propylene and/or ethylene instead of participating in the cap and trade program. In responding to comments on the proposal, TCEQ stated that it would only consider retaining the exemption if each site with a potential to emit more than 10 tpy of HRVOC established enforceable limits. The documentation establishing such enforceable limits was due to TCEQ by April 30, 2005. TCEQ will review these Level of Activity Certifications for sites in these counties to ensure that the enforceable limits achieve reductions comparable to those that would occur under the cap. Section 101.392 allows TCEQ to end this exemption by issuing public notice of its revocation.

The cap consists of allowances allocated by the TCEQ Executive Director to each facility in the HECT by January 1 of each year, beginning with January 1, 2007. Allocations are determined based on a site's contribution to overall level of activity and the area cap for HRVOCs. An allowance is the authorization to emit one ton of HRVOC emissions during a control period; the control period is the calendar year. The initial HECT control period begins January 1, 2007. A facility can choose to operate at, above, or below its allowance budget. A source operating below its allowance budget can bank or trade its allowances for use only in the next control period. A source operating above its allowance budget must purchase excess allowances from another source to demonstrate compliance with the cap. Beginning March 1, 2008, and no later than March 1 following the end of every control period, each facility must hold a quantity of allowances in its compliance account that is equal to or greater than the total emissions of HRVOCs emitted during the control period just ending. If a facility's actual emissions of HRVOCs during a control period exceed the amount of allowances held in the compliance account on March 1, allowances for the next control period will be reduced by an amount equal to the emissions exceeding the allowances in the compliance account, plus an additional 10 percent. This deduction does not preclude any additional enforcement action by the TCEQ. Additionally, if the site's compliance account does not contain sufficient allowances to cover this deduction, the TCEQ Executive Director may issue a notice of deficiency to the owner or operator. The owner or operator will then have 30 days from the notice of deficiency to purchase or transfer sufficient allowances to cover its compliance obligation. The HECT includes a provision to allow a facility to use emission reduction credits (ERCs) of less-reactive VOCs generated under the Texas Emission Credit Banking and Trading program (the ''ERC rule'') in lieu of HECT allowances if the ERCs are generated in the HGB area and the generating facility meets additional monitoring and reporting requirements. The HECT also includes a provision that exempts HRVOC emissions that are above the short-term HRVOC limit established in 30 TAC Chapter 115 from being counted towards a site's annual cap.

*C. EPA's Analysis*

1. How did EPA review and evaluate the HECT EIP?

Generally, SIP rules must be enforceable and must not interfere with attainment, reasonable further progress or any applicable requirement of the Clean Air Act. See Clean Air Act sections 110(a), 110(l), and 193.

A guidance document that we used to define evaluation criteria is ''Improving Air Quality with Economic Incentive Programs'' (EPA–452/R–01–001, January 2001) (EIP Guidance). This guidance applies to discretionary EIPs adopted by a State as part of a SIP to attain national ambient air quality standards (NAAQS) for criteria pollutants, but the EIP Guidance is not EPA's final action on discretionary EIPs. Final action as to any such EIP occurs when EPA acts on it after its submission as a SIP revision. Because the EIP Guidance is non-binding and does not represent final agency action, EPA is using the Guidance as an initial screen to determine whether potential approvability issues arise. A more detailed review of the HECT program as compared to the EIP Guidance is in the Technical Support Document (TSD) for the TCEQ Highly Reactive Volatile Organic Compound Emissions Cap and Trade Program for the HGB Nonattainment Area. The TSD is available at the location given in the **ADDRESSES** section of this document.

2. What criteria did EPA use to analyze the HECT EIP?

As described in detail in the EIP Guidance, EPA has identified three fundamental principles that apply to all EIPs: (1) Integrity (meaning that credits are based on emission reductions that are surplus, enforceable, quantifiable, and permanent), (2) equity, and (3) environmental benefit. The fundamental principles can apply to an EIP in its entirety (the programmatic level) or to individual sources (the source-specific level). EPA evaluated the HECT EIP against these three fundamental principles, specific concerns applicable to multi-source cap-and-trade programs, and applicable Clean Air Act requirements. Our complete analysis of the HECT EIP is contained in the TSD for this action.

3. What is EPA's analysis of the fundamental principle of integrity?

The integrity principle consists of the qualities of surplus, enforceable, quantifiable, and permanent.

*Integrity Element One—Surplus.* The first element of integrity is to determine whether the emissions reductions targeted by the EIP are surplus. Emission reductions are surplus if they are not otherwise relied on by the State in any other air quality-related programs including: the SIP, SIP-related requirements such as transportation conformity, other adopted TCEQ measures not in the SIP, and Federal rules that focus on reducing precursors of criteria pollutants such as new source performance standards. Additionally, if the multi-source emission cap-and-trade program is claiming reductions, the State must demonstrate that the cap on all emissions is below the threshold that would have been set for the affected sources before the program was implemented. The surplus element does not apply to the individual sources participating in a multi-source emission cap-and-trade program because sources have the option of making reductions or purchasing unused allowances from other facilities in the cap-and-trade program.

At the programmatic level, EPA has determined that the HECT program satisfies the integrity element of surplus. TCEQ established the cap on HRVOC emissions based on historical activity levels, air quality data, and modeling completed during the mid-course SIP review. To address uncertainty in the HRVOC inventory, TCEQ included a five percent buffer in the cap. The development of the cap level and the 5

percent buffer ensures that the cap will result in overall HRVOC emission reductions in the HGB area. Section 101.393 of the HECT specifically requires that reductions be surplus in a programmatic sense, by stating that allowances under the HECT may only be used for the purposes described in the rule.

The VOC ERCs eligible for conversion into HECT allowances must also meet the surplus criteria of the ERC rule at 30 TAC Chapter 101, Subchapter H, Division 1. EPA is not evaluating the ERC rule in this document. For further discussion of how the Division 1 ERCs are surplus, please refer to our separate action on the ERC Rule at RME Docket R06–OAR–2005–TX–0006.

For the above reasons, and as further explained in the TSD, EPA has concluded that the HECT is consistent with Clean Air Act requirements and EPA Guidance expectations for the integrity element of surplus.

*Integrity Element Two—Enforceable.* The generation and use of emission reductions and other required actions in the EIP are enforceable on a programmatic basis if they are independently verifiable and if the EIP defines program violations and identifies those liable for violations. For enforceability, both the State and EPA should have the ability to apply penalties and secure appropriate corrective actions where applicable. Citizens should also have access to all the emissions-related information obtained from the source so that citizens can file suits against sources for violations. Required actions must be practicably enforceable. At the source-specific level, the source must be liable for violations; the liable party must be identifiable; and the State, the public, and EPA must be able to independently verify a source's compliance. Additionally, EIPs that involve trading must incorporate provisions for assessing liability, provisions to assess penalties against participating sources, and provisions for sources with Title V permits. In multi-source emission cap-and-trade EIPs, each source owner or operator must be responsible for owning enough allowances to cover its emissions for the given time period and for providing clear title to the allowances it transfers.

EPA has determined that the HECT program is enforceable. The monitoring and testing protocols established in 30 TAC Chapter 115 are adequate for independent verifications of emission reductions and for demonstrating practicable enforceability. Additionally, the VOC ERCs that are eligible for conversion into HECT allowances must be quantified using the monitoring and testing methods under sections 115.725 or 115.764 and must meet the recordkeeping and reporting requirements under sections 115.726 and 115.766. An owner or operator can violate the HECT by either not having enough allowances to cover its actual emission level for a control period or by failing to submit an Annual Compliance Report on time, as defined at sections 101.394(e) and 101.400(b). The liable party is either the owner or operator of a subject facility. Information to be made available to the public is addressed at sections 101.399(b)(3), 101.399(c)(3), 101.399(d)(3), 101.403(a)(3), and 101.403(b). The allowance banking and trading provisions in section 101.399 also provide clear title to the allowances transferred.

Penalties, corrective action, and citizen filing of lawsuits are not addressed in the HECT rules but are in separate State laws and regulations. In particular, Texas Water Code section 7.051 provides for the assessment of administrative penalties by TCEQ, and section 7.032 provides for injunctive relief by TCEQ. The TCEQ enforcement rule at 30 TAC section 70.5 incorporates remedies found in the state statutes (Texas Water Code and the Texas Health and Safety Code), and permits referrals to EPA for civil, judicial or administrative action. It is our conclusion the TCEQ has adequate legal authority to enforce the HECT program. Once we approve the HECT rule into the SIP, EPA will be able to enforce it under section 113 of the Clean Air Act. Recordkeeping requirements specific to the HECT program are set forth at section 101.400.

For the above reasons, and as further explained in the TSD, EPA has concluded that the HECT is consistent with Clean Air Act requirements and EPA Guidance expectations for the integrity element of enforceability.

*Integrity Element Three—Quantifiable.* On a programmatic basis, emissions and emission reductions attributable to an EIP are quantifiable if the source can reliably and replicably measure or determine them. The generation or use of emission reductions by a source or group of sources is quantifiable on a source-specific basis if the sources can reliably calculate the amount of emissions and/or emission reductions occurring during the implementation of the program, and replicate the calculations. Additionally, individual sources participating in a multi-source emission cap-and-trade program must also quantify total emissions per unit of time. All EIPs should incorporate provisions for predicting results, addressing uncertainty, approving quantification protocols, and emission quantification methods.

EPA has determined that the HECT program addresses the necessary provisions for quantifiability. Emissions and/or emission reductions under the HECT follow the monitoring and testing protocols in Chapter 115, thus satisfying the need to be reliably and replicably measured. Sections 115.725 and 115.764 require sites to install and operate continuous monitoring systems. Sources subject to the HECT will quantify total emissions per unit time by submitting the required Annual Compliance Report detailing actual HRVOC emissions during the control period.

*Integrity Element Four—Permanent.* To satisfy the permanence element of the integrity principle, a compliance flexibility EIP must ensure that no emission increases (compared to emissions if there was no EIP) occur over the time defined in the SIP. For a programmatic reduction EIP, the emissions reductions are permanent if the State is able to ensure that the reductions occur over the duration of the EIP, and for as long as the reductions are relied on in the SIP.

EPA has determined that the HECT program meets the definition of a compliance flexibility EIP because it provides sites with flexibility in meeting existing SIP requirements and lowers the cost of implementing a SIP. The HECT also meets the definition of a programmatic reduction EIP because the cap is established at a level that will achieve emission reductions beyond what are currently in the SIP. The HECT rules and other elements of the HGB attainment demonstration are designed to ensure that programmatic reductions occur over the duration of the HECT program, and for as long as they are relied on in the SIP. The TCEQ Executive Director will allocate allowances (the authorization to emit one ton of HRVOC) each year on January 1, starting January 1, 2007. The integrity element of permanence does not apply to individual sources participating in the HECT because sources have the option to make reductions or purchase unused allowances from other sources program. We conclude that the HECT EIP satisfies the integrity element of permanence.

4. What is EPA's analysis of the fundamental principle of equity?

*Equity Element One—General Equity.* General equity means that an EIP ensures that all segments of the population are protected from public

health problems and no segment of the population receives a disproportionate share of a program's disbenefits.

The HECT EIP is designed to benefit all communities in the HGB area. The cap in Harris County permanently caps emissions of four HRVOCs—ethylene, propylene, 1,3-butadiene, and all isomers of butenes. Not only will the HECT reduce the amount of ozone precursors emitted in Harris County, it permanently caps emissions of a hazardous air pollutant. The enforceable limits in the seven surrounding counties for ethylene and propylene, which are the result of permit limits agreed to between TCEQ and the affected sites, will also reduce emissions of ozone precursors. Additionally, section 101.394(e) requires an owner or operator of a facility that emits more HRVOCs than its allowance holding to surrender an amount of allowances equal to the exceedance plus an additional 10 percent as an environmental benefit. We conclude that the HECT meets the requirements for general equity.

*Equity Element Two—Environmental Justice.* The environmental justice element applies if the EIP covers VOCs and could disproportionately impact communities populated by racial minorities, people with low incomes, and/or Tribes. EIPs that include hazardous air pollutants (HAPs) must also satisfy the expectations of Appendix 16.2 of the EIP Guidance, which addresses prevention and/or mitigation of impacts from potential or actual trades involving HAPs, ensuring that sufficient information is made available for meaningful review and participation, public participation, and periodic program evaluations.

The HECT is designed to permanently cap emissions of four HRVOCs, including one HAP (1,3-butadiene). EPA has evaluated the HECT with respect to the HAP Framework and EIP Guidance and determined that the environmental justice element of equity has been met.

Compliance with the HAP Framework element for the prevention and/or mitigation of localized impacts from potential or actual trades involving HAPs is demonstrated through the HECT audit program established in section 101.403. Under this section, the TCEQ Executive Director may limit or discontinue trading of allowances as a remedy for problems resulting from trading in a localized area of concern. Additionally, the TCEQ Executive Director must approve all trades of HECT allowances.

Compliance with the HAP Framework element for sufficient information is demonstrated further by section 101.399, which provides that all information regarding price and quantity of allowances trades must be available to the public. Additionally, the required annual compliance reports and periodic program audits must be available to the public.

The HECT program satisfies the HAP Framework element for public participation in the development, implementation, and evaluation of the program. In the development of the HECT rules, TCEQ held public hearings in Austin, Beaumont, and Houston. TCEQ also has an extensive stakeholder list of approximately 150 contacts who receive copies of all TCEQ rulemaking actions for comment and participation in development. During the implementation of the HECT EIP, the public has the opportunity to view the Annual Compliance Reports submitted by each source and the end of year reports prepared by the TCEQ in accordance with section 101.403(b). Public participation is incorporated into the evaluation of the HECT EIP at section 101.403(a)(3), which provides for public participation in the audit of the HECT rule.

The final element of the HAP Framework, program evaluations, is satisfied at section 101.403, which establishes the HECT audit program. The rule requires a program audit every three years, with emphasis on the impact on attainment and compliance by the participants. The audit results must be available for public inspection.

As an added measure that demonstrates general equity and environmental justice, TCEQ has developed the Toxicological Risk Assessment (TARA) Effects Evaluation Procedure. Under this process, which is authorized under section 382.0518(b)(2) of the Texas Health and Safety Code, TCEQ may not grant a permit to a facility and a facility may not begin operating unless it is demonstrated that emissions will not have an adverse impact on public health and welfare. This demonstration is accomplished by (1) establishing off-property ground-level-air concentrations of constituents resulting from the proposed emissions, and (2) evaluating these concentrations for the potential to cause adverse health or welfare effects. The TARA Effects Evaluation is used to evaluate the use of HECT allowances in an air permit. The TCEQ guidance document ''How to Determine the Scope of Modeling and Effects Review for Air Permits'' (RG–324, Oct. 2001) has a detailed discussion of the TARA Effects Evaluation procedures.

5. What is EPA's analysis of the fundamental principle of environmental benefit?

All EIPs must be environmentally beneficial. The HECT demonstrates an environmental benefit by setting a cap on HRVOCs that will help the HGB area in achieving attainment of the NAAQS as expeditiously as practicable. Additionally, the HECT places a cap on emissions of a HAP (1,3-butadiene), thereby lowering the emissions of this toxic chemical in the HGB area. Sources that emit more HRVOCs than they have allowances will also be required to surrender the amount equal to the exceedance plus 10 percent as an environmental benefit.

6. Does the HECT EIP violate the integrity of other programs?

In addition to determining the programmatic and source-specific integrity elements for an EIP, it is important to determine whether the EIP generates emission reductions in a manner consistent with other EIPs functioning in the same area. One feature of the HECT combines two of the State of Texas' Emissions Banking and Trading Programs, in that it allows a participating facility to convert reductions of less-reactive VOCs, generated and banked according to the 30 TAC Chapter 101, Subchapter H, Division 1 Emission Credit Banking and Trading rule, into a yearly HECT allocation. The site's owner or operator quantifies the VOC emission reduction credits (ERCs) by performing the expanded monitoring and testing methods under 30 TAC sections 115.725 or 115.764 and using the recordkeeping and reporting outlined in 30 TAC sections 115.726 and 115.766. ERCs eligible for this conversion must be generated from a reduction at a site in the HGB area; from a reduction strategy implemented after December 31, 2004; and from a reduction in VOC species other than those defined as HRVOCs under 30 TAC Chapter 115.10. Additionally, the VOC ERCs must be real, quantifiable, surplus, enforceable, and permanent as specified in the ERC rule at section 101.302 at the time the ERC is converted. Section 101.399 of the HECT specifies that VOC reductions from the installation of best available control technology do not qualify for conversion into HRVOC allocations. This restriction on ERC generation is in addition to the surplus requirements of section 101.302. To satisfy the criteria of the ERC program, the reductions must be surplus to required local, State, and Federal programs such as the application of maximum achievable

control technology, new source performance standards, or lowest achievable emission rate.

The conversion of less-reactive VOC ERCs into HRVOC allowances is limited to five percent of the site's initial HRVOC allocation, and is based on VOC to HRVOC conversion ratios specified by the Maximum Incremental Reactivity (MIR) scale. The MIR scale is based on research by Dr. William Carter and others at University of California at Riverside, who sought a method of quantifying the reactivity differences among VOCs (Carter, 1995; Carter *et al.*, 1995). The MIR is a measure of the number of grams of ozone that can be formed from one gram of the subject VOC, under ideal conditions. To determine the relative importance of different VOCs from a reactivity perspective, reactivity-weighted concentrations of specific compounds or groups of compounds were calculated. Reactivity-weighted concentrations take into consideration the substances' capability to form ozone as well as their measured ambient concentrations.

As further discussed in the TSD for this rule and in the attainment demonstration TSD, the program feature allowing generation of HRVOC allowances using reductions in less-reactive VOCs does not prevent approval of the program, because the expected impact on the attainment demonstration is expected to be minimal. Texas is making an allowance for a small increase in HRVOCs (up to 5 percent) to be offset with larger reductions in less-reactive VOCs. Modeling sensitivity analyses were performed by the University of Texas and documented in a report, titled ''Survey of Technological and Other Measures to Control HRVOC Event Emissions.'' In this report, trades of less-reactive VOCs much larger than would be allowed with the 5 percent cap were considered. In the sensitivity runs, the impacts ranged from a 2.1 ppb increase to a 3 ppb decrease in the peak ozone, depending on the episode day and the assumptions made about the less-reactive chemical that was reduced. The researchers looked at the impact of adding between 15 and 33 tpd of HRVOC to the model while removing the requisite amount of less-reactive VOCs. Under the rule, capping trades at a 5 percent increase in highly-reactive VOCs, an increase of less than 2 tpd of HRVOCs would be all that could be allowed. Therefore, the impact of the actual program is expected to be minimal.

In addition, for sources that participate in the program, this feature will have the advantage of implementing additional source monitoring on less-reactive VOCs. EPA proposed approval of the monitoring and testing methods in 30 TAC sections 115.725 and 115.764 and the recordkeeping and reporting requirements in 30 TAC sections 115.726 and 115.766 on April 07, 2005 (70 FR 17640). Based on the above modeling that indicates that this limited conversion of less-reactive VOCs will have a minimal impact on ozone levels, EPA concludes that even with this feature, the HECT program provides compliance flexibility and a significant strengthening of the SIP by contributing to reduced ozone levels in the HGB area.

Our proposed approval does not represent a general endorsement of the use of the MIR scale for use in SIPs that contain EIPs. In this instance, with the aforementioned technical support, we believe this is an acceptable approach, which is consistent with EPA's recently issued ''Interim Guidance on the Control of Volatile Organic Compounds in Ozone State Implementation Plans'' (August 25, 2005). EPA will continue to investigate how best to incorporate reactivity concepts and consider changes to existing policy.

7. What is EPA's analysis of the interaction between the annual HRVOC cap and the short-term HRVOC limit?

Texas has included features in the adopted HRVOC rules defining the interaction between the annual cap and short-term limit (established at 30 TAC Chapter 115, Subchapter H) that are unique to the HECT. Typically, all emissions during the year would be counted toward compliance with an annual cap. In establishing a cap-and-trade system for the petrochemical industry in the HGB area, TCEQ felt it necessary to consider the possibility of major upsets. TCEQ believed that non-routine emissions from process upsets, while likely to occur, are not predictable and therefore could make management of emissions under an annual cap difficult. Therefore, TCEQ established in its rule that emissions above the 1200 lb/hr short-term limit are not counted toward compliance with the annual cap but rather are expected to be controlled by the short-term limit. TCEQ was particularly concerned about the potential situation where a single large release could force a smaller source to shut down for the remainder of the year because its allowances had been exhausted.

Although EPA agrees that a forced shutdown of smaller sources is possible, it believes that many upsets can be avoided by a source through the development and implementation of operation and maintenance plans that address start-up, shutdown and malfunction of process equipment and application of good air pollution control practices such as required by 40 CFR 60.18(d). EPA notes that application of these procedures would significantly reduce the emissions associated with such start-up, shutdown, and malfunction events and could avoid the need for a forced shutdown. In addition, planning and management of emissions by the source, including participation in the allowance market, should also avoid a forced shutdown while ensuring compliance with the annual cap.

Emissions above the short-term limit would still be subject to enforcement as a violation of the short-term limit, but only 1200 lbs would be reported for compliance with the annual cap during those hours where emissions exceed 1200 lbs. It is our expectation that the root cause of the conditions giving rise to the emissions above the short-term cap will be identified and corrected. Moreover, the source is still required to use good air pollution control practices consistent with the applicable NSPS (40 CFR 60.11(d)) and MACT standards or other applicable Federal or State programs.

The structure of the Texas HECT program, which does not require emissions above the short-term limit to be counted against the annual cap, is a significant departure from past practices for cap-and-trade programs such as the Title IV Acid Rain program and the Houston $NO_X$ cap-and-trade program. EPA's EIP Guidance regarding multi-source emissions cap-and-trade programs indicates that all sources in the program must account for all of their emissions. See section 7.4 of the EIP Guidance. We believe, in this instance, that the approach of not counting emissions above the short-term limit toward the annual cap has both advantages and disadvantages as discussed below. We are inviting comment on the appropriateness of approving a program with this structure, as we remain concerned about excess emissions resulting from poor operation or poor maintenance.

We believe that the structure of the HECT rule has the advantage of establishing a clear procedure for how emissions during non-routine events will be handled. For every hour during a large emissions event, the source will include 1200 lbs toward meeting its annual cap. This will avoid disputes about the validity of data during large emission events, when monitoring may be less reliable. The rule clearly defines the procedures to be followed during an emission event. Sources will have no

choice but to ensure that at the end of the compliance period they have sufficient allowances to cover all of the emissions up to the 1200 lb limit, or else face deductions from their compliance account and other potential penalties. In addition, emissions above that level would be subject to enforcement under the short-term limit.

On the other hand, the structure of the rule has the disadvantage that some of the incentive to prevent large releases is lost by excluding emissions above the short-term limit from the annual cap. In addition, some of the incentive for reducing the size of large events, when they occur, may also be lost. With the annual cap-and-trade program's exclusion of emissions above the hourly (short-term) limit, it is probable that fewer violations of the annual cap will occur than if the exclusion had not been provided. For sources that would have violated the annual cap if emissions above the short-term limit were considered, it may be harder to promote systemic changes at those sources to reduce overall emissions.

Having looked at the advantages and disadvantages, we are proposing approval of the HECT program. We are proposing approval because, even though it provides an exclusion for non-routine emissions above the short-term limit from the annual cap, it provides new enforceable limits that are an improvement on the status quo. We believe the annual cap in conjunction with the short-term limit will achieve the goals of the attainment demonstration as indicated by the modeling analysis. The annual cap should result in the necessary reductions in routine emissions and the short-term limit should result in a reduction in the amount and frequency of non-routine emission events. We note that the program rules require TCEQ to audit the HECT program every three years, and facilities have to provide compliance reports annually, so it will be readily apparent if the goals of the HECT program are being achieved.

We believe the program will achieve the necessary reductions in routine emissions because the size of the short-term limit is such that only truly non-routine emissions will not be counted toward the annual cap. Based on evaluation of the emission rates that were modeled in the January 2003 SIP, the 1200 lb/hour limit is expected to be about ten times larger than the average hourly emission rate at the largest sources of HRVOCs. This order of magnitude difference between the short-term limit and the average annual hourly emissions ensures that sources will not routinely operate near or above the short-term limit, thus achieving the goal of reducing routine emissions.

Also, while the structure of the HRVOC rules anticipates that emission events will not be completely eliminated, EPA believes that it provides sufficient disincentives that sources will sufficiently reduce the frequency and magnitude of large emissions events such that emission events would not be expected to frequently impact peak ozone levels. The University of Texas report ''Variable Industrial VOC Emissions and Their Impact on Ozone Formation in the Houston Galveston Area,'' April 16, 2004, estimated from historic information that it is probable that at least one event will occur annually at a time and location to impact peak ozone. This indicates that while emission events are frequent in the Houston area, emission releases at the place and time that impact peak ozone do not occur nearly as frequently. It is necessary to reduce the frequency of emission events so that emission events do not interfere with attainment of the 1-hour NAAQS, which only allows an average of one exceedence per year. Based on the study, we believe the hourly emission limit will achieve this goal. After the institution of the short-term limit, EPA expects that emissions events impacting peak ozone levels will be reduced in frequency to fewer than one per year. While other events may occur that impact ozone levels at other locations than where the peak ozone level occurs, these events, because they are occurring in areas with lower ozone levels, would not be expected to impact attainment of the 1-hour NAAQS.

Again, EPA recognizes that the approach of providing this partial exclusion for emissions above the short-term limit is a departure from past practice and our EIP Guidance. We currently believe this approach is only warranted in consideration of the HGB area's unique situation that combines an extensive petrochemical complex and the availability of the extensive data and analysis. Consideration of this novel approach is warranted to balance the need to reduce both routine and upset emissions of HRVOC, but also recognizes that large upset emissions may never be completely eliminated in the petrochemical industry. Because of the uniqueness of this approach, however, we invite comment on of our proposed approval of this facet of the Texas plan.

8. What is EPA's analysis of the HECT program with respect to section 110(l) of the Clean Air Act?

Section 110(l) of the Clean Air Act states:

> Each revision to an implementation plan submitted by a State under this Act 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 (as defined in section 171), or any other applicable requirement of this Act.

As a general matter, the satisfaction of the environmental benefit principle and the other integrity principles applicable to trading programs will tend to demonstrate that a trading program will be consistent with section 110(l). In the case of the HECT program, we are proposing approval of a new set of measures instituting new controls on a class of VOCs that are more stringent than previous controls on VOCs. The HECT rules being proposed for approval provide no relief from any previously approved VOC rule or any other applicable requirement. Therefore, the proposed approval of the HECT rules is consistent with section 110(l).

Here, however, as previously noted, the revisions to the HECT are a part of a revised ozone attainment strategy for the HGB area. In addition, we are reviewing the limited use of ERCs in the HECT. The revised strategy's reduced level of industrial $NO_X$ control and the effect of the use of ERCs in the HECT are being evaluated separately in the HGB attainment demonstration for the 1-hour ozone standard. The section 110(l) analysis for our action on the HECT therefore relies on the analysis conducted for the HGB attainment demonstration. Based on our analysis of the attainment demonstration, we conclude that the HECT, in conjunction with all other controls in the attainment demonstration, satisfies section 110(l).

*D. Conclusion*

EPA reviewed the HECT SIP submittal with respect to the expectations of the EIP Guidance document and the requirements of the Clean Air Act. EPA has concluded after review and analysis that the HECT EIP is approvable. EPA is proposing to approve the new sections 101.390–101.394, 101.396, 101.399, 101.401, and 101.403 submitted by TCEQ on December 17, 2004, for rule log number 2004–0058–101–AI. These rules provide new requirements that will reduce emissions of HRVOCs in the HGB ozone nonattainment area.

We will not take final action on these rules until we finally approve the

attainment demonstration. Additionally, the HECT program cannot be finally approved until the EPA finalizes approval of the 30 TAC Chapter 115 HRVOC rules that provide the enforceable monitoring and recordkeeping requirements sufficient to demonstrate practicable enforceability and quantifiability. Provisions allowing ERC use in the HECT program will also not be fully approved until the rules for ERC generation and use have been approved. The attainment demonstration and the Chapter 115 and ERC rules are being considered in separate **Federal Register** notices.

## II. General Information

### *A. Tips for Preparing Your Comments*

When submitting comments, remember to:

1. Identify the rulemaking by File ID number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

### *B. Submitting Confidential Business Information (CBI)*

Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official file. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

## III. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, ''Regulatory Planning and Review.'' (58 FR 51735 (October 4, 1993)). This proposed rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. 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, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments in the aggregate, or on the private sector, in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments in accordance with section 203 of UMRA.

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, ''Consultation and Coordination with Indian Tribal Governments'' (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, ''Federalism'' (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)). EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it approves a state program.

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (15 U.S.C. 272 note) requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical. In reviewing a SIP submission, EPA has no authority under the Clean Air Act, in the absence of a prior existing requirement for the State to use VCS, to disapprove a SIP submission for failure to use VCS. Thus, it would be inconsistent with applicable law for EPA to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act and further consideration of VCS is not required. Under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), OMB must approve all ''collections of information'' by EPA. The Act defines ''collection of information'' as a requirement for ''answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons.'' (44 U.S.C. 3502(3)(A)). This proposed rule does not impose an information collection burden under the provisions of the PRA.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: September 27, 2005.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

[FR Doc. 05–19996 Filed 10–4–05; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[R06–OAR–2005–TX–0006; FRL–7980–8]**

### Approval and Promulgation of Air Quality Implementation Plans; Texas; Emission Credit Banking and Trading Program

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Texas State Implementation Plan (SIP) concerning the Emission Credit Banking and Trading program. Additionally, EPA is proposing approval of a section of the Texas rules on Control of Air Pollution from Volatile Organic Compounds that cross-references the Emission Credit Banking and Trading program. We are also proposing approval of a subsection of Chapter 116 of the Texas Administrative Code (TAC), Control of Air Pollution by Permits for New Construction or Modification, which provides a definition referred to in the Emission Credit Banking and Trading Program.

**DATES:** Comments must be received on or before November 4, 2005.

**ADDRESSES:** Submit your comments, identified by Regional Materials in EDocket (RME) ID No. R06–OAR–2005–TX–0006, 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/*. 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. David Neleigh at *neleigh.david@epa.gov*. Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- Fax: Mr. David Neleigh, Chief, Air Permitting Section (6PD–R), at fax number 214–665–6762.
- Mail: Mr. David Neleigh, Chief, Air Permitting Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- Hand or Courier Delivery: Mr. David Neleigh, Chief, Air Permitting Section (6PD–R), 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–0006. 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, 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 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 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 the disclosure of which 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 Permitting Section (6PD–R), 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, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Ms. Adina Wiley, Air Permitting Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–2115; fax number 214–665–6762; e-mail address *wiley.adina@epa.gov*.

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

**Outline**