

Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 13, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Volatile organic compounds, Nitrogen oxides, Particulate matter, Incorporation by reference, Intergovernmental relations, Ozone, PM₁₀, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of Arizona was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 23, 1998.

Felicia Marcus,

Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraph (c)(89) and (c)(90) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(89) Plan revisions were submitted on September 12, 1997 by the Governor's designee.

(i) Incorporation by reference

(A) Arizona Cleaner Burning Gasoline Interim rule submitted as a revision to the Maricopa Country Ozone Nonattainment Area Plan, adopted on September 12, 1997.

(90) Plan revisions were submitted on January 21, 1998 by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Cleaner Burning Gasoline Interim rule submitted as a revision to the PM-10 Maricopa County State Implementation Plan, adopted on September 12, 1997.

* * * * *

[FR Doc. 98-3327 Filed 2-9-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX82-1-7336b; FRL-5962-5]

Approval and Promulgation of State Implementation Plan, Texas: 15% Rate-of-Progress Plan, 1990 Emission Inventory, Motor Vehicle Emission Budget, and Contingency Plan for the Beaumont/Port Arthur Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this action, EPA is approving a revision to the Texas State Implementation Plan (SIP) for the Beaumont/Port Arthur ozone nonattainment area for the purpose of satisfying the 15% rate-of-progress requirements of the Clean Air Act (Act) as amended in 1990, which will aid in ensuring the attainment of the National Ambient Air Quality Standard (NAAQS) for ozone. The EPA is also approving the area's associated Motor Vehicle Emission Budget (MVEB).

In addition, EPA is approving revisions to the 1990 base year emissions inventory and the contingency plan for this area.

This action also replaces the proposed limited approval/limited disapproval of the Beaumont/Port Arthur 15% Plan and Contingency Plan published on January 29, 1996. The May 22, 1997 (62 FR 27964), limited approval of the Volatile Organic Compound (VOC) control measures continues in effect.

DATES: This direct final rule document is effective April 13, 1998, unless adverse comments are received by March 12, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD-L), at the EPA Regional Office listed below. Copies of the documents relevant to this

final action are available for public inspection during normal business hours at the following locations.

Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, Multimedia Planning and Permitting Division, 1445 Ross Avenue, suite 700, Dallas, Texas 75202-2733.

Texas Natural Resource Conservation Commission (TNRCC), 12100 Park 35 Circle, Building F, Austin, Texas 78753.

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

FOR FURTHER INFORMATION CONTACT: Mr. Eaton R. Weiler, of the EPA Region 6 Air Planning Section at the above address, telephone (214) 665-7242.

SUPPLEMENTARY INFORMATION:

I. Background

A. Clean Air Act Requirements

Section 182(b)(1) of the Act as amended in 1990 requires all ozone nonattainment areas classified as moderate and above to submit a SIP revision by November 15, 1993, which describes, in part, how these areas will achieve an actual reduction in VOC emissions of at least 15 percent, from a 1990 baseline, during the first six years after enactment of the Act (November 15, 1996). The Act also sets limitations on the creditability of certain types of reductions. Specifically, states cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures (new car emissions standards) promulgated prior to 1990, or for reductions resulting from requirements to lower the Reid Vapor Pressure (RVP) of gasoline promulgated prior to 1990. Furthermore, the Act does not allow credit for corrections to Vehicle Inspection and Maintenance Programs (I/M), or corrections to Reasonably Available Control Technology (RACT) rules as these programs were required prior to 1990. Emissions and emissions reductions shall be calculated on a typical weekday basis for the "peak" 3-month ozone period (generally June through August).

In addition, section 172(c)(9) of the Act requires that contingency measures be included in the plan revision to be implemented if reasonable further progress is not achieved, or if the standard is not attained.

In Texas, the Beaumont/Port Arthur ozone nonattainment area is classified as "moderate" and is subject to the

section 182(b)(1) 15% rate-of-progress requirements. The Beaumont/Port Arthur ozone nonattainment area is comprised of the following counties: Orange, Jefferson, and Hardin. The 15 percent VOC emissions reduction required by November 15, 1996, is defined within this document as "rate-of-progress" (ROP). The SIP revision which delineates the plan for achieving the emissions reductions is defined in this document as the "15% ROP Plan."

B. Previous 15 Percent Rate of Progress SIP revisions

Texas first adopted measures for the 15% ROP Plans and the required contingency measures for the four nonattainment areas of Dallas/Fort Worth, Houston/Galveston, El Paso, and Beaumont/Port Arthur in two phases. Phase I was submitted to EPA on November 13, 1993, and contained measures achieving the bulk of the required reductions in each of the nonattainment areas. Phase II was submitted May 9, 1994. The Phase II submittal was to make up the shortfall in reductions not achieved by the Phase I measures. The combination of the Phase I and Phase II measures was ruled administratively complete by EPA on May 12, 1994.

The EPA analyzed the November 13, 1993, and May 9, 1994, submittals and determined that the measures included in the plan did not achieve the required amount of reductions. Among other reasons, there was a shortfall because the I/M program relied on reductions in the plans which had subsequently been repealed by the State. On January 29, 1996 (61 FR 2751), EPA published a proposed limited approval/limited disapproval of the 15% Plans included in the November 13, 1993, and May 9, 1994, submittal.

The EPA also proposed a limited approval of the measures that were included with the plans because they resulted in a strengthening of the SIP. For a complete discussion of the deficiencies in the State's plans, please see the January 29, 1996, **Federal Register** document.

C. Current 15 Percent SIP Revision

The Governor of Texas submitted revisions to the 15% ROP Plans for Beaumont/Port Arthur, Dallas/Fort Worth, El Paso and Houston/Galveston areas in a letter dated August 9, 1996. The SIP submittal also included revisions to the 1990 Base Year Inventory, El Paso section 818 analysis, the Post 96 ROP Plan for Houston, and the Employee Commute Options. In this **Federal Register**, EPA is taking action on only the Emission Inventory, 15%

ROP Plan, Contingency measures, and MVEB for the Beaumont/Port Arthur area. The EPA is taking no action on the other portions of the August 23, 1996, submittal in this **Federal Register**, nor on any plans for the Dallas/Fort Worth, El Paso and Houston areas. The other portions of the Governor's SIP submittal will be finalized in separate **Federal Register** actions.

II. Analysis of the Submittal

A. General

Texas has made the following changes to address the shortfalls that were identified in the January 29, 1996, limited approval/limited disapproval proposed action. First, Texas made several revisions to its emissions estimates. These revisions were based on more recent information or source surveys. From these studies, Texas concluded that, in some instances, better estimates of emissions were available based on locally derived emission factors rather than defaults based on national data. Second, these same studies resulted, in some instances, in lower projections of emissions in 1996 resulting in less growth to be offset. Finally, by better segregating the emission points that were subject to specific rules, Texas identified additional emission reductions from measures in the original 15% Plan. The EPA believes that the revisions to the Emission Inventory and Growth Projections eliminate the shortfall identified in the January 29, 1996, limited disapproval/limited approval proposed action.

B. Emission Inventory Revisions

The EPA approved the Texas 1990 base year inventory on November 8, 1994 (59 FR 55586). In the August 23, 1996 SIP submittal, Texas included revisions to the approved VOC inventory. The revisions have been made based on more recently available information from source surveys and other methods. Much of the information was developed as part of bottom-up surveys of area source categories performed as part of the 1993 intensive ozone study in the Houston and Beaumont. This study, called the Coastal Oxidant Assessment for Southeast Texas (COAST), included a study of area source emissions. Traditional area source emission inventory techniques use national or state level statistics for the level of activity of a source category. For example, gallons of gasoline sold statewide might be used to determine emissions from gasoline stations. These emissions would be apportioned

geographically using a surrogate such as population. In the bottom-up approach, surveys of actual facilities were used to determine emission levels. In addition to the data collected from bottom-up surveys, other improvements were made to the 1990 inventory. A brief discussion of the changes made to the inventory follows.

1. Other Product Coatings, High Performance Maintenance and Other Special Purpose Coatings

These categories are all surface coating categories that were estimated for the 1990 inventory using per capita emission factors provided by EPA. The per capita factors were developed from national level estimates of usage of a product divided by the 1989 population. The documentation of the coatings and emissions covered by these categories was not initially available. The TNRCC, with EPA approval, removed these categories from the 1993 periodic emissions inventory. After further study, documentation of the specific categories and coatings was identified and the 1990 inventory has been adjusted appropriately. Once the categories had been accurately identified, overlap with the point source inventory could be accounted for and an improved area source estimate was obtained.

2. Marine Vessel Loading Losses

Area source emissions in this category were based on estimates of the total amount of VOCs loaded at Texas ports. Texas determined that individual point sources had under reported emissions from this category. When the revised point source emissions are considered, it was determined that the bulk of the emissions in the Beaumont area were covered in the point source emission inventory. Therefore, the area source estimate could be reduced.

3. Surface Cleaning

A contractor performed a bottom-up survey of this category. This survey was later expanded by TNRCC staff. The results of the survey indicated that the national default estimate of emissions for this category should be revised for the nonattainment areas in Texas.

4. Architectural Coatings

Texas revised emissions estimate by using more recent information from the National Paint and Coatings Association combined with data from surveys on thinner usage.

5. Automobile Refinishing

Texas used more recent information from the National Paint and Coatings

Association and source surveys to revise the emission estimates for this category. In addition, using data from the Department of Commerce on paint shipments, Texas projected a substantial decrease in emissions between 1990 and 1994.

6. Sheet, Strip and Coil

This category was estimated for the 1990 emission factor of 1.5 tons/employee. The number of employees related to this industry was obtained from the County Business Patterns for Standard Industrial Classification (SIC) code 3479. This SIC code includes many businesses not engaged in coil coating operations. A list of companies involved in coil coating operations was obtained from the national coil coaters association. It was determined that all of the companies involved in these operations were outside the nonattainment area or were reporting their emissions in the point source inventory. Therefore, including their emissions in the area source emissions would be double counting. Therefore, the area source emissions were removed from the inventory.

7. Vessels With Outboards

A telephone survey of pleasure craft owners in the Beaumont/Port Arthur

area was conducted. The survey showed that 62 percent of boat usage occurs on weekends rather than on weekdays. Previous emission estimates had allocated pleasure craft emissions equally to each day of the week. It is important to know when emissions occur in developing control strategies. In this case, according to the EPA guidance, emissions are to be reduced from their 1990 summer time weekday levels. Therefore, Texas reduced the expected weekday emissions based on the results of the survey. A similar adjustment had previously been made to the Dallas/Fort Worth and Houston/Galveston inventories.

8. Generators <50 Horsepower

As part of the COAST project, local area-specific construction and recreational area information and more current information about horsepower distributions and equipment/populations were utilized to obtain a more refined estimate of emissions in this category.

9. Residential Lawnmowers

Similar to the survey performed of recreational boat users, a survey of homeowners was performed to determine when they actually cut their lawns. Fifty-nine percent of the

surveyed respondents reported that they cut their lawns on the weekends. Texas reallocated the emissions based on the results of the survey.

10. 1994 Quality Assurance Efforts

During 1994, the TNRCC completed a thorough evaluation of the 1990 point source inventory and discovered that emissions from facilities in several SIC codes were misplaced under the wrong emissions category. This effort resulted in significant changes to some emissions categories. The realignment of emissions did not affect the total emissions.

The realignment of emissions did have the effect of increasing the amount of reductions that were expected for certain control measures and decreasing the amount of emission reductions expected from other control measures.

The EPA is proposing to approve these revisions to the 1990 Base Year VOC inventory for the Beaumont/Port Arthur area. The original biogenic emissions are unchanged. A summary of the Revised 1990 emissions inventory for the Beaumont/Port Arthur area is included in Table 1.

TABLE 1.—1990 BASE YEAR EMISSIONS INVENTORY

| Beaumont / Port Arthur | | | | |
|------------------------|-------|---------|----------|--------|
| Point | Area | On-Road | Non-Road | Total |
| 245.35 | 30.63 | 19.11 | 18.44 | 313.53 |

C. Calculation of the 1996 Target Level of Emissions

Texas subtracted the noncreditable reductions from the FMVCP and RVP program from the 1990 emissions inventory. This subtraction results in the 1990 adjusted inventory. The total required emission reduction required to meet the 15% ROP Plan requirement equals the sum of 15 percent of the adjusted inventory, plus reductions to offset any growth that takes place between 1990 and 1996, plus any reductions that result from corrections to the I/M or VOC RACT rules. Table 2 summarizes the calculations for the Beaumont/Port Arthur area.

TABLE 2: CALCULATION OF REQUIRED REDUCTIONS (TONS/DAY)

| Beaumont / Port Arthur | |
|----------------------------------|--------|
| 1990 Emission Inventory | 323.77 |
| 1990 Adjusted Emission Inventory | 313.53 |

TABLE 2: CALCULATION OF REQUIRED REDUCTIONS (TONS/DAY)—Continued

| Beaumont / Port Arthur | |
|------------------------------------|--------|
| 15% of Adjusted | 47.03 |
| RACT and I/M Correction | 4.28 |
| 1996 Target | 262.22 |
| 1996 Projection ¹ | 320.01 |
| Required Reduction | 57.79 |

¹ 1996 forecasted emissions with growth and pre-1990 controls.

D. Projections of Growth

As can be seen from the calculations in Table 2, an important component of calculating the required emission reductions is to project the amount of growth in emissions that is expected between 1990 and 1996. Since the 1996 emissions are related to the 1990 emissions, the changes in the 1990 emission inventory resulted in changes to the 1996 projections. In addition, as discussed previously, Texas has projected reductions in the emissions

from surface cleaning and auto refinishing emissions from 1990 levels.

E. Deficiencies Identified in the January 29, 1996 Federal Register

In the January 29, 1996 **Federal Register**, EPA identified several areas where it was believed that Texas had projected too much emissions reduction for particular control measures. The EPA has reviewed the August 9, 1996, SIP revision and believes that it addresses the previously identified concerns. A brief discussion of the previously identified concerns follows below.

1. Architectural Coatings

Texas projected emission reductions for this category based on past EPA guidance. The guidance, however, was changed in a memorandum dated March 22, 1995 (Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule). The

August, 1996 SIP revision revises the projected emissions reduction estimate based on the more recent guidance.

Projected emissions reductions from the AIM rule are based on the AIM rule proposed by EPA on June 25, 1995 which expected compliance by April, 1997. Subsequently, EPA was sued over this proposed national rule and has negotiated a compliance date of no earlier than January 1, 1998. The previous guidance allowed States to take emission reduction credit for the AIM rule even though the reductions were not expected to occur until April 1997. The EPA believes that even though the compliance date has been pushed back, the projected emissions reduction from the national AIM rule are creditable in State 15% Plans.

2. Acetone Substitution

Texas had projected emissions reductions for the rules to regulate the cultured (synthetic) marble and fiber reinforced plastic operations. The EPA, however, has added acetone to the list of non-reactive substances. Texas, in the August, 1996 submittal, removed emissions reduction credit for these rules.

3. Vehicle Inspection and Maintenance (I/M)

Under the Federal I/M Flexibility Amendments promulgated September 18, 1995, urbanized areas with a population of less than 200,000 for 1990 are not mandated to participate in the Vehicle I/M program. The State of Texas has elected not to implement a Vehicle I/M program in the Beaumont/Port Arthur nonattainment area.

For a complete discussion of the control measures considered please see the Technical Support Document for this action.

Table 3 summarizes the control measures and their projected emissions reductions used to achieve the 15 percent target.

TABLE 3.—SUMMARY EMISSION REDUCTIONS FOR BEAUMONT/PORT ARTHUR

| | |
|------------------------------------------------------|-------|
| Required reduction (Tons/Day) | 57.79 |
| RACT Catchup | 9.88 |
| TSDF | 0.01 |
| Vehicle Refueling (Stage II) | 1.96 |
| General Vent Gas | 11.75 |
| Benzene NESHAPS | 0.28 |
| FMVCP Tier I | 0.21 |
| Vessel Cleaning | 0.02 |
| Fugitives | 17.46 |
| RE Floating Roof Tank | 25.62 |
| RE Improvements (excluding floating roof tank) | 5.04 |
| Gas Utility Engines | 0.95 |
| Stage I | 1.49 |

TABLE 3.—SUMMARY EMISSION REDUCTIONS FOR BEAUMONT/PORT ARTHUR—Continued

| | |
|------------------------------------|-------|
| Architectural Coatings | 0.45 |
| Consumer/Commercial Products | 0.38 |
| Traffic Markings | 0.05 |
| High Performance Maintenance | 0.05 |
| Other Special Purpose | 0.12 |
| Total Estimated Reductions | 75.71 |

F. Motor Vehicle Emissions Budgets

The Clean Air Act, section 176(c), and the transportation conformity rule require the states to establish MVEBs in any control strategy SIP that is submitted for attainment and maintenance of the NAAQS. The State of Texas has established a MVEB for VOC for the Beaumont/Port Arthur area. The EPA is proposing to approve the following MVEB in Table 4:

TABLE 4.—1996 VOC MOTOR VEHICLE EMISSIONS BUDGET

| Area | VOC (tons/day) |
|----------------------------|----------------|
| Beaumont/Port Arthur | 21.66 |

G. Contingency Measures

Ozone areas classified as moderate or above must include in their submittals, under section 172(c)(9) of the Act, contingency measures to be implemented if Reasonable Further Progress (RFP) is not achieved or if the standard is not attained by the applicable date. The General Preamble to Title I (57 FR 13498) states that the contingency measures should, at a minimum, ensure that an appropriate level of emissions reduction progress continues to be made if attainment or RFP is not achieved and additional planning by the State is needed. Therefore, the EPA interprets the Act to require States with moderate and above ozone nonattainment areas to include sufficient contingency measures in the November 1993 submittal, so that upon implementation of such measures, additional emissions reductions of up to three percent of the adjusted base year inventory (or a lesser percentage that will make up the identified shortfall) would be achieved in the year after the failure has been identified. States must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions such as public hearings or legislative review .

III. Analysis of Specific Contingency Measures

The following is a discussion of each of the contingency measures that have been included in the SIP submittals and an analysis of their acceptableness.

A. Gas Utility Engines

Texas has projected emission reductions that will occur from the small engine rule in the year following the required milestone demonstration or 1997. The EPA believes that these reductions have been quantified appropriately.

B. Tier I

Additional reductions are projected for Tier I. The EPA agrees with these reduction estimates.

C. Excess Reductions

Excess reductions from measures in place are sufficient to ensure that the contingency measure target of three percent is met. These emission reductions are in excess of what is required for the area to achieve by November 15, 1996. If Texas has to rely on these measures for contingency measures or for future plans then the State will have one year to backfill the contingency plan.

TABLE 7.—SUMMARY OF CONTINGENCY MEASURES: BEAUMONT/PORT ARTHUR (TONS/DAY)

| | |
|-------------------------------------|-------|
| Required Contingency | 9.41 |
| Creditable Contingency Reductions: | |
| Gas Utility Engines | 0.08 |
| Tier I | 0.69 |
| Excess from existing measures | 17.92 |
| Total | 18.69 |

IV. Final Action

The EPA has evaluated the Emissions Inventory, 15% Plans and contingency measures submitted as part of the August 9, 1996, SIP revision for Texas. The EPA is approving the revisions to the 1990 base year inventory, the 15% Plan, and Contingency Plan for the Beaumont/Port Arthur Area without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve this action should adverse or critical comments be filed. This action will be effective April 13, 1998, unless by March 12, 1998, adverse comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a

subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 13, 1998.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

V. Administrative Requirements

A. Executive Order (E.O.) 12866

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

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. See 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

The SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. See *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that

may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

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

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 13, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2) of the Act.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and

recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Note: Incorporation by reference of the SIP for the State of Texas was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: January 22, 1998.

Lynda F. Carroll,

Acting Regional Administrator, Region 6.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(107) to read as follows:

§ 52.2270 Identification of Plan.

* * * * *

(c) * * *

(107) A revision to the Texas State Implementation Plan addressing the 15% Rate-of-Progress Plan requirements for the Beaumont/Port Arthur ozone nonattainment area was submitted by a cover letter from Governor George Bush dated August 9, 1996. This revision will aid in ensuring that reasonable further progress is made towards attaining the National Ambient Air Quality Standard (NAAQS) for ozone in the Beaumont/Port Arthur area. This submittal also contained revisions to the 1990 base year emissions inventory, Motor Vehicle Emission Budget, and contingency plan for the Beaumont/Port Arthur area.

(i) Incorporation by reference. Texas Natural Resource Conservation Commission (TNRCC) order adopting amendments to the State Implementation Plan; Docket Number 96-0465-SIP, issued July 31, 1996.

(ii) Additional material.

(A) TNRCC certification letter dated July 24, 1996, and signed by Gloria Vasquez, Chief Clerk, TNRCC.

(B) The SIP narrative plan and tables entitled, "Revisions to the State Implementation Plan for the Control of Ozone Air Pollution," as it applies to the Beaumont/Port Arthur area dated July 24, 1996.

3. Section 52.2309 is amended by adding paragraph (d) to read as follows:

§ 52.2309 Emissions inventories.

* * * * *

(d) The Texas Natural Resource Conservation Commission submitted State Implementation Plan revisions to the 1990 base year emission inventory

for the Beaumont/Port Arthur area with a cover letter from the Governor of Texas dated August 9, 1996.

[FR Doc. 98-3319 Filed 2-9-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[FRL-5958-9]

Technical Amendments to Clean Air Act Promulgation of Extension of Attainment Date for Ozone Nonattainment Area; Ohio; Kentucky; Correction of Effective Date Under Congressional Review Act (CRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; informational notice; correction of effective date under CRA.

SUMMARY: On November 17, 1997, the Environmental Protection Agency published in the **Federal Register** a final rule extending the attainment date for the Cincinnati-Hamilton interstate moderate ozone nonattainment area from November 15, 1996, to November 15, 1997. This extension is based in part on monitored air quality readings for the national ambient air quality standard (NAAQS) for ozone during 1996. EPA also revised the table in the Code of Federal Regulations concerning ozone attainment dates in this area. The final rule established an effective date of December 17, 1997. This document corrects the effective date of the rule to February 10, 1998, to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 and 808.

EFFECTIVE DATE: This rule is effective on February 10, 1998.

FOR FURTHER INFORMATION CONTACT: Annette Hill, EPA Region IV, at (404) 562-8287, or Dan Werbie, EPA Region V, at (312) 353-5791.

SUPPLEMENTARY INFORMATION:

I. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the General Accounting Office (GAO). EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated on November 17, 1997 (62

FR 61241) by operation of law, the rule did not take effect on December 17, 1997, as stated therein. Now that EPA has discovered its error, the rule is being submitted to both Houses of Congress and the GAO. This document amends the effective date of the rule consistent with the provisions of the CRA.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since November 17, 1997, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2). Because the delay in the effective date was caused by EPA's inadvertent failure to submit the rule under the CRA, EPA does not believe that affected entities that acted in good faith relying upon the effected date stated in the November 17, 1997, **Federal Register** should be penalized if they were complying with the rule as promulgated.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is

not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule is effective on February 10, 1998. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date. Pursuant to section 307(b)(1) of the Clean Air Act, challenges to this amendment must be brought within 60 days of publication of the amendment.

Dated: January 30, 1998.

Carol Browner,
Administrator.

[FR Doc. 98-3034 Filed 2-9-98; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[FRL-5961-3]

Technical Amendments To Approval and Promulgation of Implementation of State Air Quality Plans for Designated Facilities and Pollutants, New Mexico; Control of Landfill Gas Emissions From Existing Municipal Solid Waste Landfills; Correction for Same, Louisiana; Correction of Effective Date Under Congressional Review Act (CRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correction of effective date under CRA.

SUMMARY: On October 21, 1997 (62 FR 54589), the Environmental Protection Agency published in the **Federal Register** a direct final rule approving the New Mexico State Plan for controlling landfill gas emissions from existing municipal solid waste landfills. The plan was submitted to fulfill the requirements of the Clean Air Act. The rule established an effective date of December 22, 1997. This document corrects the effective date of the rule to