

the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This 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.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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 United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

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 June 13, 2005. 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, Carbon monoxide,

Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 28, 2005.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

■ Part 52 of chapter I, title 40, *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 L—Georgia**

■ 2. Section 52.570(c), is amended by revising entry for: "391-3-20" to read as follows:

**§ 52.570 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA APPROVED GEORGIA REGULATIONS**

State citation	Title/subject	State effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
391-3-20	Enhanced Inspection and Maintenance	12/25/2003	4/12/05 [Insert first page number of publication].	
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

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[FR Doc. 05-7308 Filed 4-11-05; 8:45 am]  
**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[TX-80-1-7353; FRL-7897-7]

**Approval and Promulgation of Implementation Plans; Texas; 15% Rate-of-Progress Plan and Motor Vehicle Emissions Budgets, Dallas/Fort Worth Ozone Nonattainment Area**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision for the State of Texas for the 15% Rate-of-Progress Plan (ROP) and 15% ROP

Motor Vehicle Emissions Budget (MVEB) for the Dallas/Fort Worth (DFW) ozone nonattainment area. This plan shows planned emission reductions required by the Clean Air Act (Act) from 1990 to 1996 to improve air quality in the Dallas/Fort Worth Area. The reductions are from the 1990 base year emissions inventory. The MVEBs are used for determining conformity of transportation projects to the SIP. This action satisfies the Act's requirements for an ozone nonattainment area's 15% Rate-of-Progress Plan and approves the MVEBs under the ROP Plan.

**DATES:** This rule is effective on May 12, 2005.

**ADDRESSES:** Copies of the documents relevant to this action are in the official file which is available at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas

75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 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.

Copies of any State submittals and EPA's technical support document are 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:**

Herbert R. Sherrow, Jr., Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7237; fax number 214-665-7263; e-mail address [sherrow.herb@epa.gov](mailto:sherrow.herb@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

**Outline**

- I. What Action Is EPA Taking?
- II. What Is the Background for This Action?
- III. What Comments Were Received During the Public Comment Period, January 18, 2001, to March 19, 2001?
- IV. Final Action
- V. Statutory and Executive Order Reviews

**1. What Action Is EPA Taking?**

EPA is taking full approval action on the 15% ROP plan for the DFW ozone nonattainment area, submitted by Texas on August 8, 1996, since we have now finalized approval of the State's motor vehicle Inspection/Maintenance (I/M) program for the DFW area. We are also taking final action on the Motor Vehicle Emissions Budget (MVEB) contained in the 15% ROP Plan.

**II. What Is the Background for This Action?**

We proposed full approval of the 15% ROP plan on January 28, 2001. The Plan was submitted on August 8, 1996. The Plan was given conditional, interim approval on November 10, 1998, pending corrections to the DFW I/M program (63 FR 62943). It was given conditional, interim approval because it relied on emissions reductions from the I/M program that received conditional, interim approval.

For further information on the I/M conditional, interim approval, see 62 FR 37138, published on July 11, 1997. We found later that the State met the conditions of the conditional approval. We removed the conditions and granted Texas a final interim approval of the I/M program on April 23, 1999. See, 64 FR 19910.

Texas then submitted significant revisions to the I/M program for the DFW area. The revisions expanded the program from the 2 core nonattainment counties to the 4 counties in the nonattainment area plus 5 additional counties and upgraded the stringency of the program. As a result of these improvements in the I/M program, we took final approval action on the I/M program on November 14, 2001, (66 FR 57261).

We indicated in the proposed full approval of the DFW 15% plan that the plan would not be finalized until final action on the I/M program was complete. Therefore, because we have completed final action on the I/M program, we can now take final action on the 15% ROP Plan and the associated MVEB.

The MVEB in the plan is for Volatile Organic Compounds (VOC). The VOC budget is 165.49 tons per day for 1996. There is no requirement for a Nitrogen Oxides (NO<sub>x</sub>) budget in the 15% plans.

We have received no new information that would change the approvability of the ROP target calculations and none of the credits relied upon for meeting the ROP targets have changed since our proposal date. Therefore, this plan meets the Reasonable Further Progress requirements of the Act (section 182(b)(1)).

Please refer to 66 FR 4764, January 18, 2001, and its technical support document (TSD) for additional details on the 15% Plan, as well as the TSD for the November 1998 proposal action.

**III. What Comments Were Received During the Public Comment Period, January 18, 2001, to March 19, 2001?**

We did not receive any comments on the 15% ROP Plan or the associated MVEB.

**IV. Final Action**

EPA is approving the 15% Rate of Progress plan and the Motor Vehicle Emissions Budgets submitted by Texas on August 8, 1996, for the DFW ozone nonattainment area. The VOC MVEB for the ROP plan is 165.49 tons per day for 1996.

**V. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 approves pre-existing requirements under state law and does not impose

any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves 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 rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This 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.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress

and to the Comptroller General of the United States. 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 United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

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 June 13, 2005. 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, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 1, 2005.

**Richard E. Greene,**  
Regional Administrator, Region 6.

■ 40 CFR part 52 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. In § 52.2270, the table in paragraph (e) entitled "EPA approved nonregulatory provisions and quasi-regulatory measures" is amended by adding one new entry to the end of the table to read as follows:

**§ 52.2270 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

**EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP**

Name of SIP Provision	Applicable geographic or nonattainment area	State approval/submittal date	EPA approval date	Comments
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Approval of the 15% Rate of Progress Plan and the Motor Vehicle Emissions Budget.	Dallas-Fort Worth .....	9/8/1996	4/12/2005 [Insert FR page number where document begins].	

[FR Doc. 05-7305 Filed 4-11-05; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[R06-OAR-2005-TX-0019; FRL-7898-7]

**Approval and Promulgation of Implementation Plans; Texas; Agreed Orders in the Beaumont/Port Arthur Ozone Nonattainment Area**

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is taking direct final action on revisions to the Texas State Implementation Plan (SIP). This rule making covers eight Agreed Orders with six companies in the Beaumont/Port Arthur (B/PA) nonattainment area. We are approving the eight Agreed Orders between the State of Texas and six companies in Southeast Texas as a strengthening of the Texas SIP. These Agreed Orders will contribute to the improvement in air quality in the B/PA nonattainment area and continue to contribute to the maintenance of the ozone standard in the southeastern portion of the State of Texas. The EPA

is approving this SIP revision in accordance with the requirements of the Federal Clean Air Act (the Act), sections 110 and 116.

**DATES:** This rule is effective on June 13, 2005 without further notice, unless EPA receives relevant adverse comment by May 12, 2005. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID No. R06-OAR-2005-TX-0019, by one of the following methods:

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

- *Agency Web site:* <http://docket.epa.gov/rmepub/> Regional Material in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

- U.S. EPA Region 6 "Contact Us" web site: <http://epa.gov/region6/r6coment.htm> Please click on "6PD"

(Multimedia) and select "Air" before submitting comments.

- *E-mail:* Mr Thomas Diggs at [diggs.thomas@epa.gov](mailto:diggs.thomas@epa.gov). Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- *Fax:* Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

- *Mail:* Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- *Hand or Courier Delivery:* Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

Such deliveries are accepted only between the hours of 8 am and 4 pm weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Regional Material in EDocket (RME) ID No. R06-OAR-2005-TX-0019. 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