

Order 12866 or a "significant regulatory action," 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).

*National Technology Transfer Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), 15 U.S.C. 272, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impractical. In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Clean Air Act. Therefore, the requirements of section 12(d) of the NTTAA do not apply.

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 18, 2007.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

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**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 81**

[EPA-R06-OAR-2007-0554; FRL-8512-6]

**Clean Air Act Reclassification of the Houston/Galveston/Brazoria Ozone Nonattainment Area; Texas; Proposed Rule**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to grant a request by the Governor of the State of Texas to voluntarily reclassify the Houston/Galveston/Brazoria (HGB)

ozone nonattainment area from a moderate 8-hour ozone nonattainment area to a severe 8-hour ozone nonattainment area. This request was made in a letter from Governor Rick Perry to the EPA Administrator on June 15, 2007. In addition to the reclassification proposal, EPA is also proposing and taking comment on a range of dates from December 15, 2008 to April 15, 2010 for the State to submit a revised State Implementation Plan (SIP) addressing the severe ozone nonattainment area requirements of the Clean Air Act (CAA).

EPA will accept comments on all aspects of this proposed action. However, as discussed in Section II below, the CAA mandates the Agency to grant a voluntary reclassification when requested by a State.

**DATES:** Written comments must be received on or before January 30, 2008.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2007-0554, by one of the following methods:

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

- *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. Guy Donaldson at [donaldson.guy@epa.gov](mailto:donaldson.guy@epa.gov).

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

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

- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R06-OAR-2007-0554. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you

consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, 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 [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, 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.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253 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.

**FOR FURTHER INFORMATION CONTACT:** Carl Young, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-6645; fax number 214-665-7263; e-mail address [young.carl@epa.gov](mailto:young.carl@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, whenever “we,” “us” or “our” is used, we mean the EPA.

Correspondence discussed in this proposal can be found on the internet in the electronic docket for this action. To access the correspondence, please go to <http://www.regulations.gov> and search for Docket No. EPA-R06-OAR-2007-0554, or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph above.

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**I. Background**

The HGB area consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller counties. Upon the date of enactment of the 1990 CAA Amendments, the HGB area was classified as a severe ozone nonattainment area for the 1-hour ozone National Ambient Air Quality Standard (NAAQS).<sup>1</sup>

On July 18, 1997, EPA, citing continued health concerns with the 1-hour ozone standard, promulgated a new 8-hour ozone NAAQS aimed at better protecting the health of those particularly susceptible to the effects of ozone (62 FR 38856, July 18, 1997). The 8-hour standard is more protective of public health than the older 1-hour standard. On April 30, 2004, we established 8-hour ozone standard designations and classifications for every area in the United States (69 FR 23858). The HGB area was classified as a moderate nonattainment area for the 8-hour ozone standard with an attainment date no later than June 15, 2010. Also on April 30, 2004, we issued a final rule addressing key elements of the program to implement the 8-hour standard (Phase 1 Rule) (69 FR 23951). The classifications and Phase 1 Rule were the subject of litigation, but since mid-2007 it has been clear that the HGB classification under the 8-hour rule will remain in effect.<sup>2</sup>

<sup>1</sup> 56 FR 56694, November 6, 1991 and CAA section 181(a)(1).

<sup>2</sup> *South Coast Air Quality Management District v. EPA*, 472 F.3d 882 (D.C. Cir. 2006).

**II. Reclassification of the HGB Nonattainment Area to Severe Ozone Nonattainment**

On June 15, 2007, EPA received a request from Governor Perry seeking voluntary reclassification of the HGB area. The Governor requested that EPA reclassify the HGB area from a moderate nonattainment area to a severe nonattainment area under the 8-hour ozone standard. A severe classification is two classification categories higher than the current classification of moderate. This request was made because the State does not believe that it can reduce emissions enough to reach attainment by the current June 2010 attainment date.<sup>3</sup> A severe classification means that the HGB area must attain the 8-hour ozone standard as expeditiously as practicable but no later than June 15, 2019.

EPA is reviewing this request as one made pursuant to section 181(b)(3) of the CAA which provides for “voluntary reclassification” and states that “\* \* \* [t]he Administrator shall grant the request of any State to reclassify a nonattainment area in that State \* \* \* to a higher classification” and that “\* \* \* [t]he Administrator shall publish a notice in the **Federal Register** of any such request and of action by the Administrator granting the request.”

EPA intends to take a final action granting the State’s request for a voluntary reclassification. The plain language of section 181(b)(3) mandates that we approve such a request and, as such, gives the Agency no discretion to deny it.

**III. Consequences of Reclassification****A. Effect on Stationary Air Pollution Sources**

Upon reclassification, stationary air pollution sources in the HGB ozone nonattainment area will be subject to severe ozone nonattainment area New Source Review (NSR) and Title V permit requirements. The source applicability thresholds for major sources and major source modification emissions will be 25 tons per year for volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>). For new and modified major stationary sources subject to review under Texas Administrative Code Title 30, Chapter 116, Section 116.150 (30 TAC 116.150) in the EPA approved SIP, VOC and NO<sub>x</sub> emission increases from the proposed construction of the new or modified major stationary sources must be offset by emission reductions by a

<sup>3</sup> Letter from Governor Rick Perry to Mr. Stephen Johnson, Administrator of the EPA, dated June 15, 2007.

minimum offset ratio of 1.30 to 1. (See 30 TAC 116 and 40 CFR 52.2270(c)).

**B. Relief From Attainment Demonstration Deadline of Previous Classification**

EPA believes that when a nonattainment area is reclassified, the CAA attainment demonstration requirements of the new classification supersede those of the previous classification. In other words, once a nonattainment area has been reclassified and as a result has a new statutory attainment deadline, the deadline applicable to the attainment demonstration under the previous classification no longer has any logical, practical or legal significance. Consequently, when HGB is reclassified to severe, any potential for EPA to find the area has failed to submit any required documents pertinent to the attainment demonstration under the previous classification will be moot.

EPA also believes that reclassification would not provide a basis for extending submission deadlines for SIP elements unrelated to the attainment demonstration, that were due for the area’s moderate classification. In June 2007 Texas submitted an 8 hour SIP to EPA that included the requirements of (1) a moderate area reasonable further progress demonstration (40 CFR 51.910) which includes contingency control measures if the area fails to meet reasonable further progress (CAA 172(c)(9)), (2) a reasonably available control technology demonstration (40 CFR 51.912), and (3) a 2002 emissions inventory (40 CFR 51.915). Other moderate area SIP requirements are currently being implemented. These include NSR rules (40 CFR part 165) and a vehicle inspection and maintenance program (40 CFR 51.905(a)(1)(i)).

**C. Required Plan and Submission Date****1. Submission Date for HGB’s 8-Hour Ozone Severe State Implementation Plan**

In a letter dated May 21, 2007, in response to questions from the Texas Commission on Environmental Quality (TCEQ), the EPA’s Acting Assistant Administrator for Air requested that the Chairman of TCEQ provide to EPA a basis for setting a new deadline for submission of the severe area SIP attainment demonstration and other required elements of the new classification, and that based on this recommendation and documentation, along with other relevant information, EPA would establish a SIP submission

date.<sup>4</sup> The Wehrum letter further stated that the submission date should be as soon as practicable but not beyond June 15, 2010. In a July 10, 2007 letter to Texas Governor Rick Perry we also requested that TCEQ provide information to show the amount of time needed for the State to submit its plan as soon as practical and stated that we would work with TCEQ on setting a date for submission of the new SIP obligations and ensuring interim progress in reducing emissions prior to attainment.<sup>5</sup> In a letter dated August 21, 2007, the Executive Director of TCEQ provided a schedule of milestones leading to a SIP adoption date of March 2010. TCEQ stated that the recommended timeline reflects the complex technical work in developing an attainment demonstration; updating emissions inventory data (including reasonable further progress milestones); revising the existing 2005 photochemical modeling; developing a new and more representative 2006 photochemical modeling episode; and developing and adopting effective control strategies. TCEQ also stated that its schedule would allow for a meaningful stakeholder process for developing effective control strategies.<sup>6</sup> If we accept the timing set forth in the Texas letter it suggests to us that April 15, 2010 could be an appropriate date for submission of the revised SIP for the 8-hour ozone standard.

Alternatively, December 15, 2008, (18 months from the request for reclassification), could be considered an appropriate date for submission of the SIP revision to EPA. This date is analogous to the 18 months allowed for SIP submissions pursuant to a SIP call under CAA section 110(k)(5). It is also in keeping with the timeframes set forth in the involuntary reclassifications, which in general have been approximately 12 months from the effective date of a final reclassification.<sup>7</sup> Given these two dates, we are proposing and taking comment on a range of dates from December 15, 2008 to April 15, 2010 for submission of the revised SIP for the 8-hour ozone standard. We request that any comments on the date for submission of the revised SIP be

accompanied by justification for the commenter's position. We will review the comments and make a decision on the appropriate SIP submission date in our final action on the reclassification.

## 2. Severe Area Plan Requirements

A revised SIP for the HGB area must include all the requirements for serious ozone nonattainment area plans such as: (1) Enhanced ambient monitoring (CAA 182(c)(1)), (2) an enhanced vehicle inspection and maintenance program (CAA 182(c)(3)), (3) a clean fuel vehicle program or an approved substitute (CAA 182(c)(4)), and (4) gasoline vapor recovery for motor vehicle refueling emissions (CAA 182(b)(3)).<sup>8</sup> It must also meet the severe area requirements including: (1) an attainment demonstration (40 CFR 51.908), (2) provisions for reasonably available control technology and reasonably available control measures (40 CFR 51.912), (3) reasonable further progress reductions in VOC and NO<sub>x</sub> emissions (40 CFR 51.910), (4) contingency measures to be implemented in the event of failure to meet a milestone or attain the standard (CAA 172(c)(9) and 182(c)(9)), (5) transportation control measures to offset emissions from growth in vehicle miles traveled (CAA 182(d)(1)(A)), (6) reformulated gasoline (CAA 211(k)(10)(D)), (7) NSR permits (40 CFR part 165), and (7) fees on major sources if the area fails to attain the standard (CAA 182(d)(3) and 185). See also the requirements for serious and severe ozone nonattainment areas set forth in CAA sections 182(c), 182(d) and 185. Because the HGB area was classified as severe under the 1-hour ozone standard, many of these requirements are currently being implemented.

The revised SIP for the HGB area must also contain adopted regulations to adopt and implement control measures in regulatory form by specified dates sufficient to make required reasonable further progress in emission reductions and to attain the 8-hour ozone NAAQS as expeditiously as practicable but not later than June 15, 2019. The new attainment demonstration should be based on the best information available.

## IV. Proposed Action

Pursuant to section 181(b)(3) and based on a voluntary request by the state of Texas, we are proposing to grant the request of the Governor of Texas to reclassify the HGB 8-hour ozone

nonattainment area from moderate to severe. We are also proposing to set due dates for the submission of a revised SIP addressing the severe area requirements. We are proposing to set a date within the range from December 15, 2008 to April 15, 2010 for the State to submit a revised SIP addressing the CAA severe ozone nonattainment area requirements.

## 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. EPA has determined that the voluntary reclassification would not result in any of the effects identified in Executive Order 12866 section 3(f). Voluntary reclassifications under 181(b)(3) of the CAA are based solely upon requests by the State and EPA is required under the CAA to grant them. These actions do not, in and of themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classification, reclassification cannot be said to impose a materially adverse impact on State, local or tribal governments or communities. 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).

In addition, I certify 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.). And these actions do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), because EPA is required to grant requests by States for voluntary reclassifications and such reclassifications in and of themselves do not impose any federal intergovernmental mandate. This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

<sup>4</sup> Letter from William Wehrum, EPA Assistant Administrator, to Ms. Kathleen Hartnett White, TCEQ Chairman, dated May 21, 2007.

<sup>5</sup> Letter from Lawrence E. Starfield, Acting EPA Regional Administrator, to Governor Rick Perry, dated July 10, 2007.

<sup>6</sup> Letter from Glenn Shankle, TCEQ Executive Director to Mr. Richard E. Greene, EPA Regional Administrator, dated August 21, 2007.

<sup>7</sup> See the reclassification notices for the Dallas/Fort Worth area (63 FR 8128, February 18, 1998) and the Beaumont/Port Arthur area (69 FR 16483, March 30, 2004).

<sup>8</sup> Under CAA section 202(a)(6) gasoline vapor recovery remains a requirement for serious and above nonattainment areas but is no longer a requirement for moderate nonattainment areas. Please see 59 FR 16262, April 6, 1994.

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 does not alter the relationship or the distribution of power and responsibilities established in the CAA.

This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant. As discussed above, a voluntary reclassification under section 181(b)(3) of the CAA is based solely on the request of a State and EPA is required to grant such a request. In this context, it would thus be inconsistent with applicable law for EPA, when it grants a State's request for a voluntary reclassification to, use voluntary consensus standards. Thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) also do not apply. In addition, 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.).

Lastly, executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. As stated earlier in this Notice EPA intends to take a final action granting the State's request for a voluntary reclassification. The plain language of section 181(b)(3) of CAA mandates that we "shall" approve such a request if it is made in accordance with the requirements of the Act, and, as such, does not provide the Agency with the discretionary authority to address concerns raised outside the Act, including those contained in Executive Order 12898.

#### List of Subjects in 40 CFR Part 81

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: December 18, 2007.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

[FR Doc. E7-25402 Filed 12-28-07; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 4, 8, 13, 17, 32, and 52

[FAR Case 2006-026; Docket 2007-0001; Sequence 13]

RIN 9000-AK87

#### Federal Acquisition Regulation; FAR Case 2006-026, Governmentwide Commercial Purchase Card Restrictions for Treasury Offset Program Debts

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to restrict the use of the Governmentwide commercial purchase card as a method of payment for contractors with debts subject to the Treasury Offset Program.

**DATES:** Interested parties should submit written comments to the FAR Secretariat on or before February 29, 2008 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments identified by FAR case 2006-026 by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>.

• To search for any document, first select under "Step 1," "Documents with an Open Comment Period" and select under "Optional Step 2," "Federal Acquisition Regulation" as the agency of choice. Under "Optional Step 3," select "Proposed Rules". Under "Optional Step 4," from the drop down list, select "Document Title" and type the FAR case number "2006-026". Click the "Submit" button. Please include your name and company name (if any) inside the document. You may also

search for any document by clicking on the "Search for Documents" tab at the top of the screen. Select from the agency field "Federal Acquisition Regulation", and type "2006-026" in the "Document Title" field. Select the "Submit" button.

• Fax: 202-501-4067.

• Mail: General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW, Room 4035, ATTN: Diedra Wingate, Washington, DC 20405.

**Instructions:** Please submit comments only and cite FAR case 2006-026 in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Jackson, Procurement Analyst, at (202) 208-4949 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755. Please cite FAR case 2006-026.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

The Debt Collection Improvement Act of 1996 and other statutes provide the tools for administering a centralized program for the collection of delinquent, non-tax and tax debts. The Financial Management Service (FMS), a bureau of the Department of the Treasury, is charged with implementing the Government's delinquent debt collection program. Since 1996, FMS has collected more than \$24.4 billion in delinquent debt. In fiscal year 2006, collections of delinquent debt remained at a constant \$3.1 billion.

To collect delinquent debts owed to Federal agencies and states, FMS uses the Treasury Offset Program (TOP). Information on TOP is available at <http://fms.treas.gov/debt/index.html>. TOP uses both "offsets" and "continuous levies" to collect delinquent debts.

Offset is a process whereby Federal payments are reduced or "offset" to satisfy a person's overdue Federal debt, child support obligation, or state tax debt. A payee's name and taxpayer identification number are matched against a Treasury/FMS database of delinquent debtors for automatic offset of funds. Offset funds are then used to satisfy payment of the delinquent debt to the extent allowed by law.

Under the continuous levy program, delinquent Federal tax debts are collected by levying non-tax payments until the debt is satisfied, as authorized by the 1997 Taxpayer Relief Act. The