Hydrocarbons, Nitrogen dioxide, Nitrogen oxides, Nonattainment, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: July 3, 2001.

Jerry Clifford,

Acting Regional Administrator, Region 6.

[FR Doc. 01–17469 Filed 7–11–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–126–4–7475; FRL–7011–5]

Approval and Promulgation of Air Quality State Implementation Plans (SIP); Texas: Low Emission Diesel Fuel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to fully approve a State Implementation Plan (SIP) revision for the State of Texas establishing a Low Emission Diesel (LED) fuel for the eastern half of the State. A portion of this revision was recently proposed by the State. EPA's proposal to approve is taken under section 110 of the Clean Air Act (the Act). This approval is also being proposed under the ''parallel processing'' provision of 40 CFR part 51. If there are significant changes between the version of the LED rule which is being ''parallel processed'' and the version of the LED rule which Texas finally adopts, the EPA will propose a new rulemaking. If there are no significant changes to the ''parallel-processed'' version, the EPA will proceed with final rulemaking on the version finally adopted by Texas and submitted to the EPA. Beginning April 1, 2005, aromatic hydrocarbon content, cetane number and sulfur content will be regulated for diesel fuel sold in 110 counties in eastern Texas for use in both motor vehicles and nonroad engines. We propose that the Texas LED fuel program requirements are necessary to achieve the National Ambient Air Quality Standard (NAAQS) for ozone in the Houston-Galveston (HGA) ozone nonattainment area, and are therefore exempt from preemption under Section 211(c)(4)(C) of the Clean Air Act (the Act).

DATES: Comments should be received on or before August 13, 2001.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78711–3087. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Sandra Rennie, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7214.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refers to EPA.

The Governor of Texas submitted an attainment demonstration SIP for the HGA 8-county nonattainment area on December 20, 2000. The SIP contained measures for reducing Nitrogen Oxides (NO_X), the pollutant identified as controlling the formation of ozone in this area. The LED fuel program was submitted as part of the attainment demonstration. This LED rule was codified in Chapter 114 of the Texas Administrative Code (TAC)(sections 114.6, 114.312–114.317 and 114.319, December 6, 2000).

Numerous changes to State air pollution control laws occurred during Texas' 77th legislative session. One of these changes relates to the LED program. House Bill 2912 limits the State's authority to regulate fuel content. Unless the Governor vetoes the Bill by June 17, 2001, it will become law. The Bill bans the establishment of fuel control measures more stringent than EPA's between September 1, 2000 and January 1, 2004. The Bill specifically authorizes the LED program, but mandates that implementation be delayed until February 1, 2005. Finally, this Bill allows refiners flexibility in complying with the LED requirements. In anticipation of this legislation, the Texas Natural Resource Conservation Commission (TNRCC) proposed amendments to the LED rule on May 10, 2001.

In a letter to EPA dated June 15, 2001, the Governor requested ''parallel processing'' of the LED regulations with the proposed amendments, which reduce the covered area, change the implementation date, and add a new section providing for an alternative means of compliance. See 30 TAC 114.314, 114.318, 114.319 (May 10, 2001). In today's action, we are proposing approval of the LED regulations with the proposed amendments as they apply to the HGA, Beaumont-Port Arthur, and Dallas Fort Worth nonattainment area counties as well as 95 attainment counties in east Texas.

What Does the State's LED Regulation Include?

The State's LED SIP submittal for the HGA non-attainment area requires that diesel fuel produced for delivery and ultimate sale within the affected counties have a maximum sulfur content of 500 ppm, have no more than 10% aromatic hydrocarbons by volume, and have a cetane number of 48 or greater. Alternative diesel fuel formulations that achieve equivalent emission reductions may also be used.

The regulations apply to diesel fuel sold in the HGA nonattainment counties of Harris, Galveston, Brazoria, Fort Bend, Montgomery, Liberty, Chambers, and Waller; Beaumont-Port Arthur nonattainment counties of Jefferson, Orange and Hardin; and Dallas-Fort Worth nonattainment counties of Dallas, Tarrant, Collin, and Denton; as well as 95 attainment counties in East Texas including Anderson, Angelina, Aransas, Atascosa, Austin, Bastrop, Bee, Bell, Bexar, Bosque, Bowie, Brazos, Burleson, Caldwell, Calhoun, Camp, Cass, Cherokee, Colorado, Comal, Cooke, Coryell, De Witt, Delta, Ellis, Falls, Fannin, Fayette, Franklin, Freestone, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Harrison, Hays, Henderson, Hill, Hood, Hopkins, Houston, Hunt, Jackson, Jasper, Johnson, Karnes, Kaufman, Lamar, Lavaca, Lee, Leon, Limestone, Live Oak, Madison, Marion, Matagorda, McLennan, Milam, Morris, Nacogdoches, Navarro, Newton, Nueces, Panola, Parker, Polk, Rains, Red River, Refugio, Robertson, Rockwall, Rusk, Sabine, San Jacinto, San Patricio, San Augustine, Shelby, Smith, Somervell, Titus, Travis, Trinity, Tyler, Upshur, Van Zandt, Victoria, Walker, Washington, Wharton, Williamson, Wilson, Wise, and Wood Counties in the attainment area.

The State regulations require compliance with the cetane, aromatic hydrocarbon, and 500 ppm sulfur components by April 1, 2005. Starting June 1, 2006, the sulfur level shall be reduced to 15 ppm.

What Are the Requirements of the Clean Air Act?

Section 211(c)(4)(A) of the Act generally prohibits the State from prescribing or attempting to enforce controls respecting motor vehicle fuel characteristics or components that EPA has controlled under section 211(c)(1), unless the State control is identical to the Federal control. Under section 211(c)(4)(C), EPA may approve a non-identical state fuel control as a SIP provision, if the state demonstrates that the measure is necessary to achieve the NAAQS. We may approve a state fuel requirement as necessary if no other measures would bring about timely attainment, or if other measures exist and are technically possible to implement but are unreasonable or impracticable.

In this rulemaking, EPA does not need to determine whether the State requirements for LED fuel used in motor vehicles are preempted under section 211(c)(4)(A) before acting to approve the SIP submittal because EPA is finding the fuel requirements necessary under section 211(c)(4)(C) to achieve the ozone standard in the HGA nonattainment area.

What Did the State Submit?

The State submitted the LED rules as part of the HGA attainment demonstration SIP by letter from the Governor dated December 20, 2000. The SIP submittal contains 30 TAC Chapter 114 rules as adopted on December 6, 2000, a request for a waiver from Federal preemption pursuant to section 211(c)(4)(C) of the Act, and Texas laws providing the authority for the State to adopt and implement revisions to the SIP. The State also submitted a request to ''parallel process'' revisions to the LED rules in a letter from the Governor dated June 15, 2001. These revisions were proposed by the State on May 10, 2001.

Texas previously submitted a waiver request and EPA proposed approval of LED rules for nine counties in the DFW Consolidated Metropolitan Statistical area (66 FR 20415, April 23, 2001). For the HGA nonattainment area, Texas submitted data and analyses to support a finding under section 211(c)(4)(C) that the LED fuel requirement for the affected counties is necessary for the HGA nonattainment area to achieve the ozone NAAQS. The State has (1) identified the quantity of reductions of NO_X needed to achieve attainment of the ozone NAAQS; (2) identified all other control measures and the quantity of reductions each would achieve; (3) identified those control alternatives that were deemed unreasonable or impracticable; and (4) shown that even with the implementation of all reasonable and practicable control measures, the State would need additional emissions reductions for the nonattainment area to meet the ozone NAAQS on a timely basis, and that the LED fuel requirement would supply some of such additional reductions.

Texas submitted its demonstration of necessity for the LED fuel requirement in the State's attainment demonstration for the HGA nonattainment area. The State's submission used photochemical modeling to estimate the quantity of NO_X emission reductions necessary to achieve the ozone NAAQS by 2007. Based on this analysis, Texas estimates that NO_X reductions of 977.07 tons per day (tpd) are necessary to achieve the ozone NAAQS by 2007. Without the LED requirements for the affected counties in the HGA, BPA, and DFW nonattainment areas and the named attainment counties (the ''covered area''), implementation of the reasonable and practicable non-fuel control measures would reduce NO_X emissions by only 918.53 tpd.

What are the Benefits From the LED Fuel Program?

The primary benefit of LED fuel in the HGA attainment demonstration is reduction of NO_X emissions. Without the proposed fuel controls, the area subject to the proposed fuel control would receive diesel fuel for nonroad use that is subject to no federal emissions-related standards or diesel fuel for on-highway use that meets the less stringent, current Federal standards.

Texas is controlling three components of diesel fuel for on-highway vehicles: aromatic hydrocarbons, cetane number and sulfur. The State's sulfur standard, however, is the same as the current Federal requirement for diesel fuel used in motor vehicles. Texas estimated that the 10% cap on aromatic hydrocarbons reduces NO_X from diesel combustion. The cetane number is an indication of ignition properties of the fuel. A fuel with better ignition properties will ignite at a lower heat of compression, thereby reducing the amount of NO_X produced during combustion.

For nonroad engines, Texas' sulfur content standards will provide additional emissions reductions. There is no direct NO_X benefit from controlling sulfur in fuel. However, the State is including the sulfur requirement for nonroad engines because lower sulfur levels prevent fouling of after-treatment NO_X emission control devices that may be installed on nonroad diesel equipment. The State does not need a waiver of preemption for fuel components of nonroad diesel fuel because section 211(c)(4)(A) applies only to State controls respecting motor vehicle (i.e., on-highway) fuel characteristics or components. In addition, there are no Federal requirements promulgated under section 211(c)(1) for characteristics or components of nonroad diesel fuel.

EPA recently reviewed and analyzed all available data on the emission reduction effects of low emission diesel fuels. The final outcome of this evaluation may or may not suggest a need to reconsider the emission reduction estimates used by the State for its LED rule. If the final results of EPA's evaluation indicate that Texas has incorrectly estimated the emission reductions attributable to the LED rule, then EPA will work with the State to adjust the emissions benefit as necessary.

What Other Measures Did Texas Consider Before Selecting LED?

The State evaluated a broad range of potential control measures and estimated the quantity of reductions that could be achieved through implementation of these measures. Over two hundred potential control strategies were initially considered by the State and HGA regional stakeholders as part of the planning process. This list is included in Appendix L of the HGA Attainment SIP (December 2000). The measures that were selected for the attainment demonstration are in Table 1.

TABLE 1.—STATE AND LOCAL CONTROL MEASURES [1] IN THE HGA ATTAINMENT DEMONSTRATION

Measure	NO_X reductions in tpd
Major Point Source NO_X reductions (overall NO_X reductions of 89% from 1997 baseline) in 8 counties	595
Vehicle Inspection and Maintenance (ASM, OBD, and remote sensing) in 8 counties	36.2
Heavy-duty diesel operating restrictions [2] (also called the ''Construction shift'') in 5 urbanized counties	6.7

TABLE 1.—STATE AND LOCAL CONTROL MEASURES [1] IN THE HGA ATTAINMENT DEMONSTRATION—Continued

Measure	NO_X reductions in tpd
Clean Diesel Fuel (subject of this action) in 110 counties on-highway + nonroad	6.67
Small, Spark-Ignition Engine Operating Restrictions in 5 urbanized counties	4.6
Voluntary Mobile Emission Reduction in 8 counties	23
Accelerated Purchase of Tier 2/Tier 3 Diesel Equipment (See footnote 2) in 8 counties	12.20
Speed Limit Reduction in 8 counties	12.33
Airport Ground Support Equipment Electrification in 8 counties	5.09
California Spark-Ignition Engines statewide	2.80
Internal Combustion Engine—Oil category (stationary diesel engines in 8 counties)	1.0
Vehicle Idling Restrictions in 8 counties	0.48
Gas-fired water heaters, small boilers, and process heaters statewide	0.5
Transportation Control Measures in 8 counties	1.06

[1] The attainment demonstration includes additional NO_X reductions from Federal measures.

[2] The 77th Texas Legislature passed a law requiring the TNRCC to submit, by October 1, 2001, a revision to the SIP that deletes the requirements of the ''construction shift'' and the early purchase of Tier 2 and Tier 3 equipment. The commission must include with the revision a report on the effectiveness of the Texas emissions reduction plan in delivering emissions reductions to the degree sufficient to replace the requirements of the construction shift and the early purchase of Tier 2 and Tier 3 equipment. For the purposes of this approval, we still include these measures in our analysis because we have not received this SIP revision. Even if these measures were implemented, there would still be a NO_X shortfall.

The State adopted some controls for implementation within only a portion of the nonattainment area. Heavy-duty diesel operating restrictions and Small, Spark-Ignition Engine Operating Restrictions are applicable to the five (5) urbanized counties of the nonattainment area. All 8 counties were not included because the State decided that it was impracticable to implement these rules beyond the five (5) urbanized counties of the HGA nonattainment area. Recent State legislation, if signed, would require the State to submit a SIP revision removing the Construction Shift rule and Accelerated Tier 2/Tier 3 Purchase from State regulations. (See footnote 2)

Expanding LED and several other measures beyond the HGA nonattainment area can be justified, but other controls beyond the 8 county nonattainment area were considered unreasonable or impracticable by the State, and we concur.

Major Point Source NO_X reductions: Major point source NO_X reductions are mandated only for the 8 county area because NO_X controls for those sources in the attainment areas are mandated by other rules. These rules are NO_X reductions of 30% for grandfathered sources, 50% reductions for grandfathered Electric Generating Facilities, and 30% reductions for Cement Kilns. Therefore the extreme cost of adding additional controls does not justify the relatively small benefit that would result.

Vehicle Inspection and Maintenance: This measure is not reasonable or practicable to implement in rural attainment counties of East Texas because changes in state law would be required, and the time required to seek such changes and implement them make the success of such a measure unpredictable. The State has no legislative authority to mandate this program. The Legislature provides the authority for counties to voluntarily opt in to I/M. In addition, the cost for small business, which would conduct the testing, is prohibitive based on the number of tests that would be conducted in rural areas in comparison to an urban area.

Voluntary Mobile Emission Reductions: This EPA policy provides States flexibility in designing SIPs to meet the NAAQS. The policy contemplates that up to 3% of the total needed emission reductions that can be included in this category. Reasonable and practicable VMEP programs totaling 3% have already been set up within nonattainment counties. A further expansion of this program would be inconsistent with this policy.

Speed Limit Reduction: The reduced speed limit measure is based on vehicle emission information from EPA's MOBILE5 model. There is not a significant amount of vehicle miles traveled and ample fleet size in the attainment counties to justify expanding this measure beyond the 8-county area.

Airport Ground Support Equipment Electrification: It is not necessary (or reasonable) to impose airport GSE electrification in the attainment counties because there are no major airports in those counties.

Internal Combustion Engine—Oil category (stationary diesel engines): The restrictions are designed to reduce unnecessary NO_X emissions in the nonattainment area. It is neither reasonable nor practicable to implement this type of restriction in rural, low density counties of the attainment area.

Vehicle Idling Restrictions: The restrictions are designed to reduce unnecessary vehicle exhaust in congested, nonattainment areas. It is neither reasonable nor practicable to implement this type of restriction in rural, low density counties of the attainment area.

Transportation Control Measures: A TCM is a project that attempts to reduce vehicle use, change traffic flow, or reduce congestion conditions. Due to the semi-rural nature of the attainment counties, reducing vehicle use is not a viable option in this lower population density area. Generally traffic flow is satisfactory and congestion is not an issue. Therefore, implementing TCMs is not reasonable or practicable in the attainment counties.

What Measures Were Considered But Not Selected?

Measures that were quantified but not selected for the SIP are listed in Tables 2 and 3. They fall into two categories: (1) direct NO_X reductions, and (2) VOC reductions that can be substituted for NO_X as achieving equivalent ozone reductions. VOC reduction substitutes for NO_X that produced less than one ton of equivalent NO_X reductions of ozone were rejected. (See the TSD for a more detailed discussion of these measures.) In each case the tons per day available for control were below the 1 ton per day NO_X equivalent reduction of ozone and were therefore rejected as unreasonable or impracticable due to the high cost of implementing VOC controls as NO_X controls.

TABLE 2.—VOC MEASURES QUANTIFIED BUT NOT SELECTED FOR THE SIP

Measure	TPD of VOC available for control
Area/Nonroad Sources (consumer & commercial products; architectural coatings; vehicle refueling; graphic arts; oil and gas; vehicle refinishing)	<2
Chemical manufacturing	<6
Petroleum refining	<5
VOC Storage	1.1

In conducting the point source analysis on reasonably available NO_X control measures, the State discovered one category of sources that may warrant additional controls to meet the RACM threshold. This is the Internal Combustion Engine—Oil category (stationary diesel engines). This category is estimated to produce reductions of about 1 tpd of NO_X. On May 10, 2001, the State proposed controls on this category of sources. This measure has been submitted along with a request for ''parallel processing'' and is the subject of a separate rulemaking. Even assuming the reductions from implementation of this measure, the LED program is still necessary for the attainment of the NAAQS.

Of the NO_X control measures initially considered, there were relatively few that were rejected as unreasonable or impracticable due to either economic or technological infeasibility. In addition there was another small cluster of measures about which there was insufficient information to make a determination. Table 3 lists the other rejected measures.

TABLE 3.—NO_X MEASURES DEEMED UNREASONABLE OR IMPRACTICABLE

Measure	TPD of NO_X available for control
Gas tax increase (gear to Consumer Price Index).	Unknown.
Emission-based registration fees.	Unknown.
Drive-through restrictions	Unknown.
Drive restrictions (time of day or alternate days restriction).	Unknown.
Drive restrictions (by geographic area).	Unknown.
Shuttle for hire (clean-fueled)	Unknown.
Restrictions on the use of agricultural equipment by day/week/season.	Unknown.

TABLE 3.—NO_X MEASURES DEEMED UNREASONABLE OR IMPRACTICABLE—Continued

Measure	TPD of NO_X available for control
Other measures (insufficient information).	Unknown.

Of the control measures identified above, for purposes of section 211(c)(4)(C), all measures in Tables 2 and 3 are considered unreasonable or impracticable for the HGA nonattainment area to implement at this time in comparison to the State's LED requirement. (See the TSD for a more detailed discussion.)

Based on the discussion above, we propose to find that reasonable or practicable non-fuel measures which would bring the HGA nonattainment area into attainment in a timely manner do not exist.

How Does Requiring LED Fuel in the Covered Area Benefit the HGA Nonattainment Area?

Requiring LED fuel in the covered area will reduce emissions of NO_X in the HGA nonattainment area by ensuring that the fuel used by intrastate fleets and long-haul truckers that transit the area but purchase fuel in Texas outside the nonattainment area but within the covered area meets the required fuel characteristics for lowering NO_X.

Requiring LED in the covered area which surrounds the HGA nonattainment area will reduce emissions of NO_X in those areas, which, in turn, benefits the HGA nonattainment area by reducing the transport of ozone and NO_X from the surrounding covered area to the nonattainment area.

The LED Fuel Program Will Reduce the Possible Transport of Ozone From the Surrounding Covered Areas to the Nonattainment Area

Transport into the HGA nonattainment area is not considered a major contributor of ozone, but with the State implementing every ozone reduction measure in the HGA nonattainment area that has ever been implemented elsewhere in the nation, the State is counting on every possible benefit. The Coastal Oxidant Assessment for Southeast Texas (COAST) Study documented the on-shore/off-shore phenomenon called flow reversal. This coastal phenomenon has its influence inland at least 50 km, and perhaps as far as 400 km, easily reaching into the attainment areas surrounding the HGA area.

In the COAST Study, researchers collected aerometric (meteorological and air quality) data to improve understanding of the causes of high ozone in Southeast Texas. This data was then used in conjunction with photochemical modeling to determine control strategy effectiveness including the sensitivity of ozone concentrations in the nonattainment areas to emission reductions in the attainment region. This sensitivity modeling indicated there was an influence of emission reductions in the attainment areas on the nonattainment areas.

The LED Fuel Program Will Reduce the Transport of NO_X From the Surrounding Covered Areas to the Nonattainment Area

EPA policy recognizes that ozone precursors emitted in attainment areas that surround nonattainment areas may be transported into those nonattainment areas and contribute to ozone problems therein. With the December 29, 1997, Guidance for Implementing 1-Hour Ozone and Pre-Existing PM10 NAAQS, EPA recognized that both VOCs and NO_X outside the nonattainment areas at 100 km and 200 km respectively could influence the nonattainment area. We allowed taking credit from sources within these areas of influence in the 9 percent Rate of Progress Plans. The fact that NO_X influence has been shown to be meaningful within 200 km of a nonattainment area supports Texas' justification for controlling the components of diesel fuel in many of the attainment areas surrounding the HGA nonattainment area. We believe it is appropriate to conclude that NO_X emission reductions within this area will benefit the nonattainment area.

Is the LED Fuel Program Necessary To Achieve the NAAQS?

Without the LED program, implementation of all reasonable and practicable non-fuel control measures would reduce NO_X emissions by only 918.53 tpd. An additional 52 tpd of NO_X emissions reductions is necessary for the HGA nonattainment area to achieve timely attainment of the ozone NAAQS. The LED fuel program will supply additional reductions needed for the HGA area to demonstrate attainment. Therefore, we propose to find the LED fuel requirements for the HGA, BPA, and DFW nonattainment counties and 95 attainment counties in East Texas necessary to achieve timely attainment of the ozone NAAQS in the HGA nonattainment area. This satisfies the

requirement of necessity in section 211(c)(4)(C).

Does the State Submittal Meet the SIP Approval Requirements Under Section 110?

The LED fuel control program meets the requirements outlined in section 110. Texas submitted the fuel portion of the HGA attainment SIP under a Governor's letter December 20, 2000. In a letter dated June 15, 2001, the Governor requested ''parallel processing'' of proposed revisions to the LED rules which were proposed for public comment on May 10, 2001. The submittals contain the appropriate hearing actions, a preamble, and the LED fuel rules.

How Will the Program Be Enforced?

The TNRCC will implement the LED fuel rule. Anyone, including producers and importers, who sells, offers for sale, supplies, or offers for supply to affected counties the LED fuel are subject to provisions of this rule. Registration, recordkeeping, reporting, and certification requirements are included. This rule will be enforced in the same way as other regulations implemented by the State. State law allows collection of administrative penalties up to $10,000 per day and civil penalties up to $25,000 per day for violations of air quality regulations. See Vernon's Texas Statutes & Codes, Annotated (VTCA) Water Code, sections 7.002, and 7.051. The State may also seek injunctive relief under section 7.032 of the Water Code.

Why Are We ''Parallel Processing'' and How Does It Work?

Because of the urgency associated with the October 15, 2001, approval deadline imposed by a consent decree order affecting, among others, the Houston Attainment SIP (*Natural Resources Defense Council* v. *Browner*, Civ No. 99–2976, November 30, 1999), Texas requested that EPA proceed with an expedited decision process for this revision to the SIP. Therefore, approval of this revision is being proposed under a procedure called ''parallel processing'', whereby EPA proposes rulemaking action concurrently with the State's procedures for approving a SIP submittal and amending its regulations (40 CFR part 51, appendix V, 2.3). If the State's proposed revision is substantially changed in areas other than those identified in this document, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made, EPA will publish a final rulemaking on the revisions after responding to any submitted comments. Final rulemaking action by EPA will occur only after the SIP revision has been fully adopted by Texas and submitted formally to EPA for incorporation into the SIP. In addition, any action by the State resulting in undue delay in the adoption of the rules may result in a re-proposal, altering the approvability of the SIP.

What Is Proposed?

We are proposing to approve rules establishing a LED fuel requirement for all diesel fuel sold in the HGA, DFW, and BPA nonattainment counties plus 95 attainment counties of East Texas beginning in 2005. We are also proposing to find, under section 211(c)(4)(C), that the State has demonstrated the fuel measure is necessary for attainment of the NAAQS and that no other measures exist which would bring about timely attainment, or if such measures exist, they are not reasonable or practicable.

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

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This proposed rule will 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), because it 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 proposed rule also is not subject to Executive Order 13045 (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. The proposed rule does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings.'' 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, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and

recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: July 2, 2001.

Jerry Clifford,

Acting Regional Administrator, Region 6.

[FR Doc. 01–17471 Filed 7–11–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–7010–2]

RIN A2060–AJ51

Standards of Performance for Large Municipal Waste Combustors for Which Construction Is Commenced After September 20, 1994 or for Which Modification or Reconstruction Is Commenced After June 19, 1996 and Emissions Guidelines and Compliance Times for Large Municipal Waste Combustors That are Constructed On or Before September 20, 1994

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendment.

SUMMARY: We are proposing to amend the standards of performance for large municipal waste combustors (MWC) by expanding the definition of mass burn rotary waterwall municipal waste combustors to include mass burn tumbling-tile grate waterwall municipal waste combustors. This change ensures that the same emission limit is established for both types of MWC designs since they exhibit similar combustion characteristics. Since the emissions guidelines for large municipal waste combustors reference the definitions included in the standards of performance, this amendment to the standards has the effect of amending both the standards and the guidelines.

In the Rules and Regulations section of this **Federal Register**, we are making this amendment in a direct final rule, without prior proposal, because we view this revision as noncontroversial, and we anticipate no significant adverse comments. We have explained our reasons for this amendment in the preamble to the direct final rule.

If we receive no significant adverse comments, we will take no further action on this proposed rule. If an adverse comment applies to an amendment, paragraph, or section of the rule, and that provision may be addressed separately from the remainder of the rule, we will withdraw only those provisions on which we received adverse comments. We will publish a timely withdrawal in the **Federal Register** indicating which provisions will become effective and which provisions are being withdrawn.

DATES: *Comments.* Submit comments on or before August 13, 2001.

Public Hearing. If anyone contacts us requesting to speak at a public hearing by August 1, 2001, we will hold a public hearing on August 13, 2001. Persons interested in attending the hearing should call Mrs. Kelly Hayes at (919) 541–5578 to verify that a hearing will be held.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–90–45, Subcategory IX–D, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–90–45, Subcategory IX–D, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The EPA requests that a separate copy of each public comment be sent to the contact person listed below.

Public Hearing. If a public hearing is held, it will be held at 10:00 a.m. in our Office of Administration Auditorium, Research Triangle Park, North Carolina, or at an alternate site nearby.

Docket. Docket No. A–90–45 contains supporting information used in developing the standards and guidelines. The docket is located at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Porter, Combustion Group, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5251; facsimile number (919) 541–5450; electronic mail address porter.fred@epa.gov.

SUPPLEMENTARY INFORMATION:

Comments. Comments and data may be submitted by electronic mail (e-mail) to: a-and-r-docket@epa.gov. Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect®'' version 5.1, 6.1 or Corel 8 file format. All comments and data submitted in electronic form must note the docket number A–90–45. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit propriety information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such propriety information directly to the following address, and not to the public docket, to ensure that propriety information is not inadvertently placed in the docket: Attention: Mr. Roberto Morales, U.S. EPA, OAQPS Document Control Officer, 411 W. Chapel Hill Street, Room 740, Durham NC 27701. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, the information may be made available to the public without further notice to the commenter.

Docket. The docket is an organized and complete file of information compiled by EPA in development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the docket contains the record in the case of judicial review. The docket number for this rulemaking is A–90–45, which contains supporting information used in developing the standards and guidelines. An index for each docket, as well as individual items contained within the dockets, may be obtained by calling (202) 260–7548 or (202) 260–7549. A reasonable fee may be charged for copying docket materials. Docket indexes are also available by facsimile, as described on the Office of Air and Radiation, Docket and Information Center Website at *http://www.epa.gov/airprogm/oar/docket/faxlist.html.*

World Wide Web. In addition to being available in the docket, an electronic copy of today's action will be posted on the Technology Transfer Network's (TTN) policy and guidance information page *http://www/epa/gov/ttn/caaa.* The TTN provides information and technology exchange in various areas of