

Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded under the Instruction that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

#### List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 117.317(l) to read as follows:

#### § 117.317 Okeechobee Waterway.

\* \* \* \* \*

(l) *Wilson Pigott Bridge, Olga, Florida.*  
(1) The draw of the Wilson Pigott Bridge in Olga will open a single-leaf on signal with a double-leaf available with a three-hour notice to the bridge tender. In addition, the bridge will be closed to navigation for an eight-hour period; the exact times and date of the bridge closure will be published in the Local

Notice to Mariners and Broadcast Notice to Mariners.

(2) *Effective Dates.* This paragraph (l) is effective from 6 a.m. on October 7, 2008, through 6 p.m. on February 28, 2009.

Dated: September 4, 2008.

**R.S. Branham,**

*Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.*

[FR Doc. E8–23602 Filed 10–6–08; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R06–OAR–2007–0525; FRL–8726–2]

#### Approval and Promulgation of Air Quality Implementation Plans; Texas; Reasonable Further Progress Plan, Motor Vehicle Emissions Budgets, and Revised 2002 Base Year Emissions Inventory; Dallas/Fort Worth 1997 8-Hour Ozone Nonattainment Area

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the Texas State Implementation Plan (SIP) to meet the Reasonable Further Progress (RFP) requirements of the Clean Air Act (CAA) for the Dallas/Fort Worth (DFW) moderate 1997 8-hour ozone nonattainment area. EPA is also approving the RFP motor vehicle emissions budgets (MVEBs) and a revised 2002 Base Year Emissions Inventory associated with the revision. EPA is approving the SIP revision because it satisfies the RFP, RFP transportation conformity and Emissions Inventory requirements for 1997 8-hour ozone nonattainment areas classified as moderate and demonstrates further progress in reducing ozone precursors. EPA is approving the revision pursuant to section 110 and part D of the CAA and EPA's regulations.

**DATES:** This direct final rule will be effective December 8, 2008 without further notice unless EPA receives relevant adverse comments by November 6, 2008. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2007–0525, by one of the following methods:

• *Federal e-Rulemaking Portal:* <http://www.regulations.gov>.

• Follow the online 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). Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

• *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), at fax number 214–665–7242.

• *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, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket No. EPA–R06–OAR–2007–0525. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <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 <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 <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 <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 <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.

The State submittal is also available for public inspection during official business hours, by appointment, at the Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Emad Shahin, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone 214-665-6717; fax number 214-665-7263; e-mail address [shahin.emad@epa.gov](mailto:shahin.emad@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

**Outline**

- I. What Action Is EPA Taking?
- II. What Is a SIP?
- III. What Is the Background for This Action?
- IV. What Is EPA’s Evaluation of the Revision?
- V. Statutory and Executive Order Reviews

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

We are approving a revision to the Texas SIP, submitted to meet the Emissions Inventory and RFP requirements of the CAA for the DFW moderate 1997 8-hour ozone

nonattainment area. The revision was adopted by the State of Texas on May 23, 2007 and submitted to EPA on May 30, 2007. We are approving the revised 2002 Base Year Emissions Inventory, the 15% RFP plan, and the RFP 2008 MVEBs. The RFP plan demonstrates that emissions will be reduced 15 percent for the period of 2002 through 2008. The Volatile Organic Compounds (VOC) MVEB is 119.81 tpd, and the Oxides of Nitrogen (NO<sub>x</sub>) emissions budget is 249.33 tpd. We are approving the SIP revision because it satisfies the Emissions Inventory, RFP, and RFP transportation conformity requirements for 1997 8-hour ozone nonattainment areas classified as moderate, and demonstrates further progress in reducing ozone precursors. We are approving the revision pursuant to section 110 and part D of the CAA and EPA’s regulations.

EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no relevant adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on December 8, 2008 without further notice unless we receive relevant adverse comment by November 6, 2008. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

**II. What Is a SIP?**

Section 110 of the CAA requires states to develop air pollution regulations and control strategies to ensure that air quality meets the national ambient air quality standards (NAAQS) established by EPA. NAAQS are established under section 109 of the CAA and currently address six criteria pollutants: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

A SIP is a set of air pollution regulations, control strategies, other

means or techniques, and technical analyses developed by the state, to ensure that the state meets the NAAQS. It is required by section 110 and other provisions of the CAA. A SIP protects air quality primarily by addressing air pollution at its point of origin. A SIP can be extensive, containing state regulations or other enforceable documents, and supporting information such as emissions inventories, monitoring networks, and modeling demonstrations. Each state must submit regulations and control strategies to EPA for approval and incorporation into the federally-enforceable SIP.

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

Inhaling even low levels of ozone, a key component of urban smog, can trigger a variety of health problems including chest pains, coughing, nausea, throat irritation, and congestion. It can also worsen bronchitis and asthma, and reduce lung capacity. Volatile organic compounds (VOC) and oxides of nitrogen (NO<sub>x</sub>) are known as “ozone precursors”, as VOCs react with NO<sub>x</sub>, oxygen, and sunlight to form ozone. The CAA requires that areas not meeting the NAAQs for ozone demonstrate RFP in reducing emissions of ozone precursors.

EPA promulgated, on July 18, 1997, a revised 8-hour ozone standard of 0.08 parts per million (ppm), which is more protective than the previous 1-hour ozone standard (62 FR (38855)).<sup>1</sup> On April 30, 2004, EPA published designations and classifications for the revised 1997 8-hour ozone standard (69 FR 23858); Ellis, Johnson, Kaufman, Parker, and Rockwall Counties (the five new counties) were added to the DFW ozone nonattainment area; and the area was classified as a moderate nonattainment area. The DFW 1997 8-hour ozone nonattainment area therefore consists of nine counties. Collin, Dallas, Denton, and Tarrant counties (the four core counties) were initially classified as a moderate nonattainment area under the 1-hour ozone standard with an attainment date no later than November 15, 1996 (November 6, 1991, 56 FR 56694). The area did not attain the 1-hour standard by that outside 1996 deadline, and was reclassified as a serious 1-hour ozone nonattainment area with an attainment date no later than November 15, 1999 (February 18, 1998, 63 FR 8128).

On November 29, 2005 (70 FR 71612), as revised on June 8, 2007 (72 FR

<sup>1</sup> EPA issued a revised 8-hour ozone standard on March 27, 2008 (73 FR 16436). The designation and implementation process for that standard is just starting and does not affect EPA’s action here.

31727), EPA published the Phase 2 final rule for implementation of the 8-hour standard that addressed, among other things, the RFP control and planning obligations as they apply to areas designated nonattainment for the 1997 8-hour ozone NAAQS. In the Phase 1 Rule, RFP was defined in section 51.900(p) as meaning for the purposes of the 1997 8-hour NAAQS, the progress reductions required under section 172(c)(2) and section 182(b)(1) and (c)(2)(B) and (c)(2)(C) of the CAA. In section 51.900(q), rate of progress (ROP) was defined as meaning for purposes of the 1-hour NAAQS, the progress reductions required under section 172(c)(2) and section 182(b)(1) and (c)(2)(B) and (c)(2)(C) of the CAA (see 69 FR 23997).

On December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit vacated EPA's Phase 1 Rule in *South Coast Air Quality Management Dist. v. EPA*, 472 F.3d 882 (D.C. Cir. 2006). On June 8, 2007, in response to several petitions for rehearing, the court modified the scope of vacatur of the Phase 1 Rule. See 489 F.3d 1245 (D.C. Cir. 2007), cert. denied, 128 S.Ct. 1065 (2008). The court vacated those portions of the Phase 1 Rule that provide for regulation of the 1997 8-hour ozone NAAQS in some nonattainment areas under Subpart 1 in lieu of Subpart 2 and that allowed areas to revise their SIPs to no longer require certain programs as they applied for purposes of the 1-hour NAAQS; new source review, section 185 penalties, and contingency plans for failure to meet RFP and attainment milestones. The decision does not affect the requirements for areas classified under subpart 2, such as the DFW area, to submit a reasonable further progress plan for the 1997 8-hour ozone NAAQS. Litigation on the Phase 2 Rule is pending before the D.C. Circuit Court of Appeals.

Section 182 of the CAA and EPA's 1997 8-hour ozone regulations<sup>2</sup> require a state, for each 1997 8-hour ozone nonattainment area that is classified as moderate, to submit an emissions inventory and a RFP plan to show how the state will reduce emissions of VOCs and NO<sub>x</sub>. The DFW moderate 1997 8-hour ozone nonattainment area has a maximum attainment date of June 15, 2010, that is beyond five years after

designation. In addition, the four core counties in the DFW moderate area have an approved 15% VOC Rate of Progress plan under the 1-hour ozone standard (May 22, 1997, 62 FR 27964).

For a moderate area with an attainment date of more than five years after designation, the RFP plan must obtain a 15% reduction in ozone precursor emissions for the first six years after the baseline year (2002 through 2008). If such a moderate area also contains a portion of the area with an approved 15% VOC Rate of Progress plan under the 1-hour ozone standard, states are allowed to treat the area as two parts, each with a separate RFP target. (Rate of Progress refers to reasonable further progress for the 1-hour ozone standard.) For the part with an approved 15% VOC Rate of Progress plan under the 1-hour ozone standard, states can use reductions from VOC, NO<sub>x</sub>, or a combination of the two and the RFP plan must demonstrate RFP for a total of 15% emission reductions for the first six years due to the moderate classification. See 40 CFR 51.910(a)(1)(ii)(A), which refers to section 51.910(b)(2). For the part without an approved 1-hour ozone 15% VOC Rate of Progress plan, states must obtain VOC reductions totaling 15% for the first six years. These VOC reductions can be obtained from the part of the area with an approved 1-hour VOC Rate of Progress plan. However, VOC reductions from the four core counties relied upon in the five new counties' RFP plan (1) must be after the baseline year and meet the other criteria for credibility under section 182(b)(1) of the Act, (2) not have been relied upon in the four core counties' RFP plan, and (3) cover the six-year period. For more information please see our Technical Support Document (TSD).

Pursuant to CAA section 172(c)(9), RFP plans must include contingency measures that will take effect without further action by the State or EPA, which includes additional controls that would be implemented if the area fails to reach the reasonable further progress milestones. While the Act does not specify the type of measures or quantity of emissions reductions required, EPA provided guidance interpreting the Act that implementation of these contingency measures would provide additional emissions reductions of up to 3% of the adjusted base year inventory (or a lesser percentage that will make up

the identified shortfall) in the year following the RFP milestone year. For more information on contingency measures please see the April 16, 1992 General Preamble (57 FR 13498, 13510) and the November 29, 2005 Phase 2 8-hour ozone standard implementation rule (70 FR 71612, 71650). RFP plans must also include a MVEB, which is the allowable on-road mobile emissions an area can produce and continue to demonstrate RFP.

#### IV. What Is EPA's Evaluation of the Revision?

EPA has reviewed the revision for consistency with the requirements of EPA regulations. A summary of EPA's analysis is provided below. For a full discussion of our evaluation, please see our TSD.

##### A. Texas Has an Approvable Base Year Emissions Inventory

CAA sections 172(c)(3) and 182(a)(1) require an inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. EPA strongly recommended using 2002 as the base year emissions inventory. Texas has developed a 2002 Base Year Inventory for the DFW nonattainment area. The 2002 Base Year Inventory includes all point, area, non-road mobile, and on-road mobile source emissions in all of the nine counties. On May 13, 2005 Texas submitted the 2002 base year inventory to EPA as part of a SIP revision for the DFW 8-hour ozone nonattainment area. EPA reviewed the 2002 base year inventory and determined that it was developed in accordance with EPA guidelines. A **Federal Register** Notice approving the 2002 base year inventory was published on August 15, 2008 (73 FR 47835).

However, since that revision was submitted to EPA, more accurate data became available and improved calculation methods have been developed. Because of these changes, the RFP SIP revision updates emissions data for the base year 2002. EPA has determined that the inventory was developed in accordance with EPA guidance on emission inventory preparation, and that the revised 2002 Base Year Emissions Inventory is approvable. Table 1 lists the Emissions Inventory for the DFW area. For more detail on how emissions inventories were estimated, see the Technical Support Document.

<sup>2</sup>Reasonable further progress regulations are at 40 CFR 51.910, and emissions inventory regulations are at 40 CFR 51.915.

TABLE 1—DFW 2002 RFP BASE YEAR EMISSIONS INVENTORY

Source type	VOC			NO <sub>x</sub>		
	4 Core counties	5 New counties	9 County total	4 Core counties	5 New counties	9 County total
<b>Base Year Emissions Inventory (Tons/Day)</b>						
Point .....	18.73	7.69	26.42	34.55	44.70	79.25
Area .....	205.07	32.34	237.41	34.96	2.08	37.04
On-road Mobile .....	143.28	18.32	161.60	296.01	60.22	356.23
Non-road Mobile .....	108.63	10.97	119.60	117.22	17.45	134.67
<b>Total .....</b>	<b>475.71</b>	<b>69.32</b>	<b>545.03</b>	<b>482.74</b>	<b>124.45</b>	<b>607.19</b>

*B. Adjusted Base Year Inventory and 2008 RFP Target Levels*

The 2002 base year emissions inventory referenced above is also known as the “base year inventory,” and is the starting point for calculating RFP. Next, section 182(b)(2)(C) explains that the baseline from which emission reductions are calculated should be determined as outlined pursuant to CAA section 182(b)(1)(B). Section 182(b)(1)(B) and 40 CFR 51.910 require that the base year inventory must be adjusted to exclude certain emissions specified in CAA section 182(b)(1)(D). This requires that the baseline exclude emission reductions due to Federal Motor Vehicle Control Programs (FMVCP) promulgated by the Administrator by January 1, 1990, and emission reductions due to the regulation of Reid Vapor Pressure promulgated by the Administrator prior to the enactment of the Clean Air Act Amendments of 1990. These measures are not creditable.

The result (after the adjustment) is the “adjusted base year inventory.” The required RFP 15% reduction is calculated by multiplying the adjusted base year inventory by 0.15. This figure is subtracted from the adjusted base year inventory, resulting in the target level of emissions for the milestone year (2008). Tables 2 and 3 feature summaries of the adjusted base year inventories (row c), required 15% reductions (row d), and 2008 target level of emissions (row e), as described above.

Texas has based the 15% plan on NO<sub>x</sub> reductions for the four core counties, and VOC reductions for the five new counties, which do not have an approved 15% 1-hour ozone Rate of Progress Plan. To meet the RFP requirement, Texas’ plan must provide at least 68.43 tons per day (tpd) reductions in NO<sub>x</sub> emissions in the four core counties, and 10.11 tpd reductions in VOC for the five new counties. The VOC reductions may come from anywhere within the 8-hour

nonattainment area (40 CFR 51.910(a)(1)(iii)(B)(1)).

TABLE 2—CALCULATION OF DFW REQUIRED NO<sub>x</sub> TARGET LEVEL OF EMISSIONS FOR THE FOUR CORE COUNTIES WITH AN APPROVED VOC 15% 1-HOUR OZONE RATE OF PROGRESS PLAN

Description	NO <sub>x</sub> 4 core counties (tons/day)
a. 2002 Base Year Inventory ...	482.74
b. Excluded Emission Reductions .....	26.52
c. Adjusted Base Year Inventory (a–b) .....	456.22
d. 15% Reductions (c × 0.15) ..	68.43
e. 2008 Target (c–d) .....	387.79

TABLE 3—CALCULATION OF DFW VOC TARGET LEVELS OF EMISSIONS IN TONS PER DAY FOR PORTION WITHOUT AN APPROVED VOC RATE OF PROGRESS PLAN

Description	VOC (5 new counties)
a. 2002 Emission Inventory .....	69.32
b. Non-creditable Reductions, 2002–2008 .....	1.93
c. 2002 Adjusted to 2008 (a–b) ..	67.39
d. 15% Reductions (c × 0.15) ..	10.11
e. 2008 Target (c–d) .....	57.28

*C. The 2008 Projected Emissions Inventories and How the Total Required 15% Reductions Are Achieved in the Four Core Counties and the Five New Counties*

Next, section 182(b)(1)(A) requires that States need to provide sufficient control measures in their RFP plans to offset any emissions growth. To do this the State must estimate the amount of growth that will occur between 2002 and the end of 2008. The State uses population and economic forecasts to estimate how emissions will change in the future. Generally, the State followed

our standard guidelines in estimating the growth in emissions. EPA’s MOBILE 6.2.03 was used to develop the 2008 on-road inventory. For more detail on how emissions growth was estimated, see the TSD. Texas terms the projections of growth as the RFP 2008 Uncontrolled Inventories.

Texas then estimates the projected emission reductions from the control measures in place between 2002 and the end of 2008 and applies these to the RFP 2008 Uncontrolled Inventories; the results are the RFP 2008 Controlled Inventories. The total amount of VOC and NO<sub>x</sub> emissions in the RFP 2008 Controlled Inventories must be equal to or less than the 2008 target inventories (listed at row e in Tables 2 and 3, above). The RFP plan relies on a number of state and federal control measures intended to reduce NO<sub>x</sub> and VOC emissions. The control measures address emissions from point, area, mobile non-road, and mobile on-road sources.

The majority of point source reductions are from the addition of NO<sub>x</sub> controls at electric generating units in the four core counties and VOC controls on surface coating sources in the five new counties. Area source VOC reductions for the five new counties include (1) surface coating controls for automobile refinishing, factory finished wood, wood furniture, metal cans, metal coils, and machinery and equipment, (2) the State’s Stage I program, and (3) the State’s portable fuel container rule. The four core counties did not rely upon any area source NO<sub>x</sub> reductions.

The mobile non-road emission reductions for the four core counties were a result of implementing federal measures, including the Tier I and II Locomotive NO<sub>x</sub> standards, the heavy-duty non-road engines standards, the Tier 1, 2, and 3 non-road diesel engines standards, the small non-road SI engines Phase II standards, and the large non-road SI and recreational marine standards. The five counties relied upon the following federal measures for the

mobile non-road emission reductions: the new non-road SI engines standards, the heavy-duty non-road engines standards, the Tier 1, 2, and 3 non-road diesel engines standards, the small non-road SI engines Phase II standards, the large non-road SI and recreational marine standards, and non-road RFG. For all of the counties, emissions from locomotives, aircraft and support equipment, and commercial marine vessels were calculated outside of the NONROAD 5 model using EPA approved methodologies. EPA finds that the State's projected emissions and emission reductions for these three non-road mobile sources are acceptable.

Reductions in mobile on-road emissions for the four core counties resulted from fleet turnover due to Tier 1 and Tier 2 of the FMVCP, the Federal RFG, the Federal NLEV, the 2007 Heavy Duty Diesel FMVCP, and the State's I/M Program. The mobile on-road emission reductions for the five counties were from fleet turnover due to Tier 1 and Tier 2 of the FMVCP, surplus VOC emission reductions in the four core counties from the Tier 1 FMVCP, the Federal NLEV, the 2007 Heavy Duty Diesel FMVCP, and the State's I/M program. Each of the State measures relied upon in this plan have been

approved in separate actions. See the TSD for more details.

As a result, for NO<sub>x</sub> the target level of emissions is 387.79 tpd, and the 2008 projected inventory after RFP reductions are applied is 374.09 tpd. For VOC, the target level of emissions is 57.28 tpd, and the 2008 projected inventory after RFP reductions are applied is 54.72 tpd. As illustrated in Table 4, for both pollutants the 2008 projection inventory is less than the target level of emissions. Therefore, the control measures included in the 2008 projection inventory are adequate to meet the 15% RFP requirement.

TABLE 4—SUMMARY OF RFP DEMONSTRATION FOR DFW

Inventory	NO <sub>x</sub> (tons/day) 4 core counties	VOC (tons/day) 5 new counties
2008 Target .....	387.79	57.28
2008 Uncontrolled Emissions .....	651.85	90.02
2008 RFP Emission Reductions .....	277.76	*35.30
2008 Projected Emissions after RFP Reductions .....	374.09	54.72
RFP Met? .....	Yes	Yes

\*VOC reductions from the Federal Motor Vehicle Control Program in the 4 core counties were used to help meet the RFP emission reduction target for the 5 new counties.

*D. The Reasonable Further Progress Plan Includes Acceptable RFP Contingency Measures*

The 1997 8-hour ozone RFP plan for a moderate nonattainment area must include contingency measures, which are additional controls to be implemented if the area fails to make reasonable further progress. Contingency measures are intended to achieve reductions over and beyond those relied on in the RFP demonstration and could include federal and state measures already

scheduled for implementation. The CAA does not preclude a state from implementing such measures before they are triggered. EPA interprets the CAA to require sufficient contingency measures in the RFP submittal, so that upon implementation of such measures, additional emission reductions of up to 3% of the adjusted base year inventory (or a lesser percentage that will make up the identified shortfall) would be achieved between the milestone year of 2008 and the next calendar year, i.e., 2009.

Texas used federal and state measures currently being implemented to meet the contingency measure requirement for the DFW RFP SIP. These measures, which are the same measures used for RFP, provide reductions that are in excess of those needed for RFP. As shown in Table 5, in both the four core counties and the five new counties, the excess reductions are greater than 3% of the adjusted base year inventories. Therefore these reductions are sufficient as contingency measures.

TABLE 5—RFP CONTINGENCY MEASURE DEMONSTRATION FOR DFW RFP SIP

Description	NO <sub>x</sub> 4 core counties (tons/day)	VOC 5 new counties (tons/day)
a. Adjusted Base Year Inventory (from Tables 2 and 3) .....	456.22	67.39
b. 3% Needed for Contingency (a × 0.03) .....	13.69	2.02
c. Excess Reductions Used for Contingency .....	13.70	2.56
d. Contingency Met? .....	Yes	Yes

*E. The RFP Milestone 2008 Motor Vehicle Emissions Budget (MVEB) Are Approvable*

The 1997 8-hour ozone RFP plan must include MVEBs for transportation conformity purposes. Texas submitted its RFP MVEBs for VOCs and NO<sub>x</sub>. Conformity to a SIP means that transportation activities will not produce new air quality violations,

worsen existing violations, delay reaching reasonable further progress milestones, or delay timely attainment of the NAAQS. A MVEB is the maximum amount of emissions allowed in the SIP for on-road motor vehicles. The MVEB is the mechanism to determine if the future transportation plans conform to the SIP. The MVEB establishes an emissions ceiling for the

regional transportation network. The DFW RFP SIP contains VOC and NO<sub>x</sub> MVEBs for the RFP milestone year 2008. The emissions budget for VOC is 119.81 tpd, and the NO<sub>x</sub> emissions budget is 249.33 tpd. On-road emissions must be shown in future transportation plans to be less than the MVEB for 2008 and subsequent years. The VOC and NO<sub>x</sub> RFP emissions budgets are acceptable

because when added to the other components of the 2008 emissions inventory (including non-road, stationary source, and area source emissions) the total level of emissions is below the 2008 RFP emissions target level. We found the RFP MVEBs (also termed transportation conformity budgets) adequate and on June 28, 2007, the availability of these budgets was posted on our website for the purpose of soliciting public comments. The comment period closed on July 30, 2007, and we received no comments. On March 21, 2008, we published the Notice of Adequacy Determination for these RFP MVEBs (73 FR 15152). Once determined adequate, these RFP budgets must be used in future DFW transportation conformity determinations. The adequacy determination represents a preliminary finding by EPA of the acceptability of the MVEB. Today we are finding the MVEBs are fully consistent with RFP, and the RFP plan is fully approvable, as it sets the allowable on-road mobile emissions the DFW area can produce and continue to demonstrate RFP.

#### V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 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 action 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. 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 December 8, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Incorporation by reference, Intergovernmental Relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: September 26, 2008.

**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. The second table in § 52.2270 (e), the table entitled "EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP" is amended by adding two new entries to the end of the table for "Reasonable Further Progress Plan", for the Dallas/Fort Worth, TX area. The addition reads 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 non-attainment area	State approval/submittal date	EPA approval date	Comments
* Approval of the 1997 8-hour Ozone 15% Reasonable Further Progress Plan, and 2008 RFP Motor Vehicle Emission Budgets.	* Dallas/Fort Worth, TX .....	* 05/23/07	* 10/07/08 [Insert FR page number where document begins].	* 
Revised 2002 Base Year Emissions Inventory ....	Dallas/Fort Worth, TX .....	05/23/07	10/07/08 [Insert FR page number where document begins].	

[FR Doc. E8-23673 Filed 10-6-08; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 59**

[EPA-HQ-OAR-2008-0411; FRL-8725-9]

RIN 2060-AP01

**Consumer and Commercial Products, Group IV: Control Techniques Guidelines in Lieu of Regulations for Miscellaneous Metal Products Coatings, Plastic Parts Coatings, Auto and Light-Duty Truck Assembly Coatings, Fiberglass Boat Manufacturing Materials, and Miscellaneous Industrial Adhesives****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule; Notice of final determination and availability of final control techniques guidelines.

**SUMMARY:** Pursuant to Section 183(e)(3)(C) of the Clean Air Act, EPA has determined that control techniques guidelines will be substantially as effective as national regulations in reducing emissions of volatile organic compounds in ozone national ambient air quality standard nonattainment areas from the following five Group IV product categories: miscellaneous metal products coatings, plastic parts coatings, auto and light-duty truck assembly coatings, fiberglass boat manufacturing materials, and miscellaneous industrial adhesives. Based on this determination, EPA is issuing control techniques guidelines in lieu of national regulations for these product categories. These control techniques guidelines will provide guidance to the States concerning EPA's recommendations for reasonably available control technology-level controls for these product categories. EPA further takes final action to list the five Group IV consumer and commercial product categories

addressed in this notice pursuant to CAA Section 183(e).

**DATES:** This final action is effective on October 7, 2008.

**ADDRESSES:** EPA has established the following dockets for these actions: Consumer and Commercial Products, Group IV—Determination to Issue Control Techniques Guidelines in Lieu of Regulations, Docket No. EPA-HQ-OAR-2008-0411; Consumer and Commercial Products—Miscellaneous Metal and Plastic Parts Coatings, Docket No. EPA-HQ-OAR-2008-0412; Consumer and Commercial Products—Auto and Light-Duty Truck Assembly Coatings, Docket No. EPA-HQ-OAR-2008-0413; Consumer and Commercial Products—Fiberglass Boat Manufacturing Materials, Docket No. EPA-HQ-OAR-2008-0415; and Consumer and Commercial Products—Miscellaneous Industrial Adhesives, Docket No. EPA-HQ-OAR-2008-0460. 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., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and is publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** For information concerning the Clean Air Act (CAA) Section 183(e) consumer and commercial products program, contact

Mr. Bruce Moore, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Natural Resources and Commerce Group (E143-03), Research Triangle Park, North Carolina 27711, *telephone number:* (919) 541-5460, *fax number:* (919) 541-3470, *e-mail address:* [moore.bruce@epa.gov](mailto:moore.bruce@epa.gov). For further information on technical issues concerning the determination and control techniques guidelines (CTG) documents for miscellaneous metal and plastic parts coatings, or for fiberglass boat manufacturing materials, contact: Ms. Kaye Whitfield, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Natural Resources and Commerce Group (E143-03), Research Triangle Park, North Carolina 27711, *telephone number:* (919) 541-2509, *fax number:* (919) 541-3470, *e-mail address:* [whitfield.kaye@epa.gov](mailto:whitfield.kaye@epa.gov). For further information on technical issues concerning the determination and CTG for auto and light-duty truck assembly coatings or the revision of the Automobile Topcoat Protocol, contact: Mr. Dave Salman, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Coatings and Chemicals Group (E143-01), Research Triangle Park, North Carolina 27711, *telephone number:* (919) 541-0859, *fax number:* (919) 541-3470, *e-mail address:* [salman.dave@epa.gov](mailto:salman.dave@epa.gov). For further information on technical issues concerning the determination and CTG for miscellaneous industrial adhesives, contact: Ms. Martha Smith, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Natural Resources and Commerce Group (E143-03), Research Triangle Park, North Carolina 27711, *telephone number:* (919) 541-2421, *fax number:* (919) 541-3470, *e-mail address:* [smith.martha@epa.gov](mailto:smith.martha@epa.gov).

**SUPPLEMENTARY INFORMATION:**