

**PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. A new temporary § 165.T08–0784 is added to read as follows:

**§ 165.T08–0784 Safety Zone; Natchez Specialties New Year's Eve Firework Display, Lower Mississippi River Mile Marker, (MM) 363.5 to (MM) 364.5, Natchez, MS.**

(a) *Location.* The following area is under a temporary safety zone: waters of the Lower Mississippi River, from MM 363.5 to MM 364.5.

(b) *Effective date and times.* This rule will be effective from 7:30 p.m. to 8:00 p.m. on December 31, 2014.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this area is prohibited unless authorized by the Captain of the Port (COTP) Lower Mississippi River or a designated representative.

(2) Spectator vessels may safely transit outside the safety zone at a minimum safe speed, but may not anchor, block, loiter, or impede participants or official patrol vessels.

(3) Vessels requiring entry into or passage through the safety zone must request permission from the COTP Lower Mississippi River or a designated representative. They may be contacted on VHF–FM channels 16 or by telephone at (901) 521–4822.

(4) All vessels shall comply with the instructions of the COTP Lower Mississippi River and designated personnel. Designated personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(d) *Informational Broadcasts.* The Captain of the Port, Lower Mississippi River or a designated representative will inform the public through broadcast notices to mariners (BNM) of the effective period for the safety zone and of any changes in the effective period, enforcement times, or size of the safety zone.

Dated: October 31, 2014.

**J.D. Burns,**

*Acting, Commander, U.S. Coast Guard,  
Acting Captain of the Port, Lower Mississippi River.*

[FR Doc. 2014–26753 Filed 11–10–14; 8:45 am]

**BILLING CODE 9110–04–P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA–R06–OAR–2012–0099; FRL–9919–02–Region 6]

**Approval and Promulgation of Air Quality Implementation Plans; Texas; Reasonable Further Progress Plan, Enhanced Monitoring, Clean Fuel Fleets and Failure-to-Attain Contingency Measures for the Dallas/Fort Worth 1997 8-Hour Ozone Nonattainment Area; and Transportation Conformity**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving revisions to the Texas State Implementation Plan (SIP) submitted by the Texas Commission on Environmental Quality (TCEQ) on January 17, 2012, which contain a reasonable further progress (RFP) plan and associated contingency measures and motor vehicle emission budgets; a revised 2002 base year emissions inventory for the RFP; enhanced ambient monitoring; and the clean-fuel fleet programs for the Dallas/Fort Worth (DFW) Serious nonattainment area under the 1997 8-hour ozone standard. The EPA is also approving revisions to the DFW Moderate area attainment demonstration SIP submitted by the TCEQ on April 6, 2010, which address the failure-to-attain contingency measures. The EPA is also approving revisions submitted by the TCEQ on July 25, 2007, March 25, 2010 and April 13, 2012, which address the Texas transportation conformity rules and the Texas Diesel Emissions Reduction Incentive Program for On-Road and Non-Road Vehicles. The EPA is approving these SIP revisions in accordance with the requirements of the Clean Air Act (CAA or Act).

**DATES:** This final rule is effective on December 12, 2014.

**ADDRESSES:** The EPA established a docket for this action under Docket ID No. EPA–R06–OAR–2012–0099. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either

electronically through <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. To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carrie Paige, Air Planning Section (6PD–L); telephone (214) 665–6521; email address [paige.carrie@epa.gov](mailto:paige.carrie@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, “we,” “us,” and “our” means the EPA.

**Table of Contents**

- I. Background
- II. Response to Comments
- III. Final Action
- IV. Statutory and Executive Order Reviews

**I. Background**

The background for this final rule is discussed in the May 13, 2014 **Federal Register** (FR) where we proposed to approve revisions to the Texas SIP (79 FR 27257), henceforth referred to as our “Proposal.” We proposed to approve all or parts of six SIP revisions submitted by the TCEQ, which we organized into three categories. First, we proposed to approve revisions to the Texas SIP submitted on January 17, 2012, to meet certain Serious area requirements of section 182(c) of the Act for the DFW nonattainment area under the 1997 ozone standard: The reasonable further progress (RFP) plan; the RFP contingency measure provisions; the revised 2002 base year emission inventory (EI); enhanced ambient monitoring; and the clean-fuel fleet programs (CFFPs). Our proposed approval of the RFP includes the associated motor vehicle emission budgets (MVEBs) for 2011 and 2012—once the EPA approves the submitted MVEBs, they must be used by local, state and Federal agencies in determining whether transportation activities conform to the SIP as required by section 176(c) of the CAA and 40 CFR 93.102. Second, we proposed to approve revisions to the DFW SIP’s failure-to-attain contingency measures plan for the Moderate ozone nonattainment area under the 1997 ozone standard, submitted on April 6, 2010. Third, we proposed to approve into the SIP revisions submitted on July 25, 2007, March 25, 2010, and April 13, 2012, that make the Texas transportation conformity rules consistent with the Federal Surface

Transportation Reauthorization Act<sup>1</sup> and expand the Diesel Emissions Reduction Incentive Program for On-Road and Non-Road Vehicles (DERIP, also often referred to as the Texas Emission Reduction Plan or TERP) to include additional projects.

Our Proposal and the technical support documents (TSDs) that accompanied the proposed rule provide detailed descriptions of the revisions and the rationale for our proposed decisions. Please see the docket for these and other documents regarding our Proposal. The public comment period for our Proposal closed on June 12, 2014.

## II. Response to Comments

We received one comment letter dated June 12, 2014, from the Sierra Club (the Commenter) regarding our Proposal. A summary of the comments and our responses to those comments follow.

### A. The Failure-to-Attain Contingency Measures

The Commenter provided the following statements regarding the failure-to-attain contingency measures:

- The EPA is approving measures that do not “cure the identified failure [to attain]” or do not provide a “backup plan of action,” and the measures had already taken place without air quality benefit, prior to the 2010 attainment finding.

- The EPA has not provided any information or support to show that the state’s projection of reductions resulting from fleet turnover from 2009–2010 are accurate, provide a “continuing surplus” and whether the projections would be accurate on a continuing basis. The fleet turnover measure is not enforceable and therefore is not permissible as a contingency measure.

- Rather than holding Texas accountable for its failure to attain the 1997 ozone standard on multiple deadlines, and thus requiring that stronger contingency measures be put in place, the EPA in this action credits the state for reductions that will take place naturally and requires nothing more.

- The EPA should recommend for Texas’s consideration emissions reductions from large, uncontrolled sources contributing to DFW ozone levels, even where they are not within the nonattainment area. The DFW failure-to-attain contingency measures should include tighter emission limits

on the East Texas coal-fired power plants.

- Including selective catalytic reduction (SCR) on the cement kilns in Midlothian as a failure-to-attain contingency measure would give Texas a greater incentive to ensure that it meets a new attainment deadline than would allowing it to rely on naturally occurring fleet turnover. The EPA should recommend that Texas consider the EPA’s Natural Gas STAR Program and other practices recommended by the EPA as voluntary measures to reduce emissions from oil and natural gas operations and improve efficiency.

*Response:* The Commenter mischaracterizes the action EPA is taking. The SIP already includes failure-to-attain contingency measures: (1) Fleet turnover for 2009 to 2010 and, (2) three other measures that reduce emissions of volatile organic compounds or VOC—Degassing, Dry Cleaning, and Offset Lithographic Printing (OLP) rules. See 74 FR 1903 (January 14, 2009). And, in this action EPA is not approving any new or different measures into the SIP for purposes of the failure-to-attain contingency measure requirement. Rather, our Proposal only addresses the removal of the OLP rule as a failure-to-attain contingency measure.

As of March 1, 2012, the OLP rule is being implemented in the DFW area pursuant to EPA’s issuance of a control technique guideline (CTG)<sup>2</sup> and for that reason it is no longer eligible for use as a failure-to-attain contingency measure. As a result, the State submitted a SIP revision to demonstrate that the remaining failure-to-attain contingency measures would still achieve 3% in emissions reductions without the OLP rule.<sup>3</sup> Fleet turnover for 2009–2010 by itself satisfies the 3% emissions reductions (fleet turnover is estimated at 3.68 percent reduction of the base year emissions, which includes the NO<sub>x</sub> and VOC emissions reductions, as discussed in our TSD–B, beginning on p. 13), so removal of the OLP rule as a failure-to-attain contingency measure does not reduce the remaining emissions reductions to less than the 3%.<sup>4</sup> Our

<sup>2</sup> March 1, 2012 is the implementation date for minor sources. The implementation date for major sources is March 1, 2011. See 79 FR 45105, August 4, 2014.

<sup>3</sup> As described in our Proposal and TSD–B, EPA interprets sections 172 and 182 of the Act to require States with Moderate or above ozone nonattainment areas to include contingency measures to implement additional emission reductions of 3% of the adjusted base year inventory in the year following the year in which the failure has been identified. See 57 FR 13498, 13510, April 16, 1992.

<sup>4</sup> Although EPA has not re-opened the issue of whether this already-approved contingency measure is appropriate, we note that EPA has long

Proposal recognizes that the Moderate area failure-to-attain contingency measures already approved in the SIP meet the Act’s requirement in section 182(c)(9) for failure-to-attain contingency measures. Thus, the elimination of OLP as a contingency measure does not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. See CAA section 110(l).

We evaluated and described the methodologies used to calculate each of the measures used in the failure-to-attain contingency plan at 74 FR 1903. The methodologies were consistent with EPA guidance. The Federal Motor Vehicle Control programs (FMVCP or “fleet turnover”) are federal rules and as such, are enforceable by the EPA, the State and the public (see 74 FR 1903).

We disagree that we have not held the State accountable for its failure to attain the 1997 ozone standard in the DFW area. Consistent with our duties under the CAA, on December 20, 2010, we reclassified the DFW area from Moderate to Serious after it failed to meet the June 15, 2010 attainment date for the Moderate area (75 FR 79302). In that reclassification rulemaking, the State was required to submit SIP revisions addressing requirements for the Serious area no later than one year after the effective date of the rulemaking and the TCEQ submitted such revisions within the time allowed. As a matter of law, the EPA is required to approve a SIP revision if it meets the Act’s requirements, regardless of the State’s choices. It is not EPA’s role to rule out the State’s choice of components of its SIP submittal, including the contingency measures, so long as the

interpreted the contingency measures provision to allow states to rely on measures already in place and implemented so long as those reductions are beyond those relied on for purposes of the attainment or RFP planning SIP. This interpretation has been upheld. See *LEAN v. EPA*, 382 F.3d 575 (5th Cir. 2004). In addition, section 172(c)(9) of the CAA states that contingency measures are to be “specific measures to be undertaken if the area fails to make reasonable further progress, or to attain . . . by the attainment date. . . . Such measures shall be included in the plan revision as contingency measures to take effect in any such case without further action by the State or the Administrator.” The April 16, 1992 General Preamble provided the following guidance: “States must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions such as public hearings or legislative review. In general, EPA will expect all actions needed to affect full implementation of the measures to occur within 60 days after EPA notifies the State of its failure.” (57 FR 13512). This could include Federal measures and local measures already scheduled for implementation. See 70 FR 71612, 71651 (November 29, 2005).

<sup>1</sup> The Federal Surface Transportation Reauthorization Act is commonly known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA-LU).

plan is adequate to meet the requirements of the Act. See *Train v. NRDC*, 421 U.S. 60 (1975) and *Union Electric v. EPA*, 427 U.S. 246 (1976).

We appreciate the Commenter's suggestions regarding emissions reductions for large, stationary sources and voluntary measures for oil and gas operations. Regarding sources outside of the nonattainment area, EPA policy does not allow emissions reductions from outside of the nonattainment area to be included in attainment or RFP plans. On December 22, 2010, the EPA proposed to set aside its earlier interpretation of the RFP provisions at 74 FR 40074 (August 11, 2009) and no longer permit states to rely on credit for emission reductions from outside the ozone nonattainment area to meet the area's RFP obligations (75 FR 80420). In light of the reasoning used in *Natural Resources Defense Council (NRDC) v. EPA*, 571 F.3d (D.C. Cir. 2009), NRDC's petition for reconsideration of the rule at 74 FR 40074, and the language of the CAA, there is no legal basis for states to credit emissions reductions from sources outside the nonattainment area for satisfying RFP requirements.<sup>5</sup> On June 6, 2013, the EPA proposed that for the 2008 ozone NAAQS states may not take credit for VOC or NO<sub>x</sub> reductions occurring outside the nonattainment area for purposes of meeting the 15 percent and 3 percent RFP requirements of sections 172(c)(2), 182(b)(1) and (c)(2)(B). See 78 FR 34178, 34191. Finally, as previously noted, the State has discretion under the Act to determine the components of its SIP submittal.

#### B. The Serious Area Reasonable Further Progress Plan

*Comment:* The Commenter states that the TCEQ's January 17, 2012 submittal does not explicitly outline a reasonable further progress plan or contingency measures specifically associated with missing a reasonable further progress milestone, and that EPA instead considers the total reductions Texas claims are available for contingency measures as above and beyond the reductions the state claimed were needed for attainment.

*Response:* EPA disagrees with this comment. The submittal<sup>6</sup> by the State and the EPA's technical analysis addressed both RFP and the contingency measures that would be

implemented if an RFP milestone is not met.

Consistent with section 182(c)(2)(B) of the Act and the Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2 (“the Phase 2 Rule”) at 70 FR 71612, 71650 (November 29, 2005), for each area classified as Serious or higher, the State's RFP plan must demonstrate a 3-percent annual emission reduction averaged over every 3-year period after the initial 6-year period. For the DFW area, the first 3-year period runs from January 1, 2009 to December 31, 2011. The final increment of progress must be achieved no later than the attainment date of the attainment year, which is June 15, 2012.<sup>7</sup> As described in our Proposal and TSD–A, the State's RFP submittal accounts for emissions reductions that average three percent per year, from 2009 through 2011 and for 2012.<sup>8</sup> Tables 8 and 9 in our TSD–A list the measures that provide emissions reductions during years 2009 through 2011 and for 2012. These include federal measures and State controls that reduce emissions of nitrogen oxides (NO<sub>x</sub>) on electric generating units (EGUs) and certain area source engines.<sup>9</sup> As shown in the TSD–A and in Tables 4 and 5 of our Proposal, the RFP plan shows a net decrease in emissions for the period 2009–2011 and for 2012 that meets the RFP requirement of the Act.

In addition, the State's RFP submittal must include contingency measures that would provide reductions of at least three percent of baseline emissions in 2013. Three percent of the base year NO<sub>x</sub> emissions (630.46 tpd) is 18.91 tpd and three percent of the base year VOC emissions (481.97 tpd) is 14.46 tpd. The State's contingency measures are listed in Table 10 of our TSD–A; these include State and federal measures that will achieve reductions during 2013 of 41.60 tpd in NO<sub>x</sub> emissions and 15.62 tpd in VOC emissions. Because the State and federal measures achieve at least as much in emissions reductions as the three percent target values, the State's

<sup>7</sup> The attainment year is the year immediately preceding the attainment date (40 CFR 51.900(g)). The attainment date for the DFW Serious area is June 15, 2013 (75 FR 79302), thus the DFW area's attainment year is 2012. The target level of emissions must be met by the attainment date of the attainment year. Section 182(c)(2)(B) of the Act requires that RFP be continued out to the attainment date. See 70 FR 71612 and 40 CFR 51.910.

<sup>8</sup> The 2011 and 2012 targets are termed “milestone” years.

<sup>9</sup> These are examples; for a complete list, see Tables 8 and 9 in our TSD–A and Appendix 1 in the State's submittal.

contingency measures meet the RFP requirement of the Act.

*Comment:* The Commenter states that we failed to provide any verification or support for Texas' projections of emissions reductions and failed to include a real world check as to whether promised reductions have occurred.

*Response:* The Commenter's second point—that EPA has not performed a “real-world” check to ensure that promised reductions have occurred—is not relevant for this action. This action is simply evaluating the SIP to ensure that it provides for sufficient measures to meet the reasonable further progress goals. Additionally, the commenter did not present evidence to support the idea that the reductions have not occurred and EPA has no reason to believe they have not. EPA is not reviewing Texas' implementation of the SIP for purposes of whether the area attained the standard by the attainment date as part of this action. As to the first point—whether EPA has verified Texas' projection of the emission reductions—we disagree. Consistent with section 182(c)(2)(B), the plan needs to demonstrate emissions reductions from the baseline emissions equal to the following amount averaged over each consecutive 3-year period beginning 6 years after [the effective date of designations], until the attainment date: (i) At least 3 percent of baseline emissions each year; or (ii) an amount less than 3 percent of such baseline emissions each year, if the State makes certain additional demonstrations.<sup>10</sup> In addition, section 182(c)(9) of the Act requires contingency measures equal to 3% of the baseline to be implemented if RFP is not met. Our TSD–A and Proposal describe how the State's submittal meets these requirements. Texas projected emissions reductions from mobile source controls, including, but not limited to: Fleet turnover; inspection and maintenance; reformulated gasoline; Texas low-emission diesel fuel; and Tier 2 and 3 non-road diesel engines. The projected reductions were calculated using mobile source emissions estimation models. The EPA Motor Vehicle Emissions Simulator (MOVES) model was used to estimate from on-road mobile source controls. A Texas-specific version of the EPA NON-ROAD model was used to estimate emissions from non-road mobile source controls.<sup>11</sup> The area

<sup>10</sup> See section 182(b)(2)(B)(ii) of the Act for further explanation.

<sup>11</sup> We note that new and existing federal mobile source regulations addressing emissions from automobiles, non-road equipment and engines, locomotives and marine engines will continue to provide additional emissions reductions as the

<sup>5</sup> See 75 FR 80240 for more detail.

<sup>6</sup> The submittal (and accompanying appendices) is available in the docket for this rulemaking, on the TCEQ Web site ([http://www.tceq.texas.gov/airquality/sip/dfw\\_revisions.html](http://www.tceq.texas.gov/airquality/sip/dfw_revisions.html)) and at [http://www.tceq.texas.gov/assets/public/implementation/air/sip/dfw/rfp\\_2011/2010023\\_ado.pdf](http://www.tceq.texas.gov/assets/public/implementation/air/sip/dfw/rfp_2011/2010023_ado.pdf).

source<sup>12</sup> emissions were estimated using the 2008 National Emissions Inventory data, back-calculated to 2002 (for the base year EI) and projected to future dates, using the EPA's Economic Growth Analysis System growth factors. This provided the most recent, complete set of emissions data available at the time the TCEQ developed this RFP plan. Point sources (for example, cement and power plants) are individually inventoried and required to submit emissions data to TCEQ annually. The data are reviewed by the TCEQ for quality assurance purposes and stored in the State of Texas Air Reporting System. We reviewed the State's methods for developing the projections of emissions and found them to be adequate.

### III. Final Action

The EPA is approving revisions to the Texas SIP submitted by the TCEQ on January 17, 2012, which contain a RFP plan and associated contingency measures and MVEBs; a revised 2002 base year EI for the RFP plan; enhanced ambient monitoring; and the CFFPs for the DFW Serious nonattainment area under the 1997 8-hour ozone NAAQS. We are also approving revisions to the DFW Moderate area attainment demonstration SIP submitted by the TCEQ on April 6, 2010, which address the failure-to-attain contingency measures. We are also approving revisions submitted by the TCEQ on July 25, 2007, March 25, 2010, and April 13, 2012, which address the Texas transportation conformity rules and the Texas Diesel Emissions Reduction Incentive Program for On-Road and Non-Road Vehicles. These revisions are consistent with the CAA, federal transportation rules and EPA Guidance that addresses economic incentive programs and transportation conformity.

We are also making a ministerial correction to the second table in 40 CFR 52.2270(e) to reflect accurately the date of EPA's approval of the Transportation Control Measures SIP on December 5, 2002 (67 FR 72382).

current fleets are replaced with newer vehicles, equipment and engines that are certified to more stringent emissions standards or engines are re-built to comply with any applicable requirements (78 FR 34178, 34181, June 6, 2013).

<sup>12</sup> Area sources are also termed *nonpoint* sources and collectively represent individual sources that have not been inventoried as specific point or mobile sources. These include small scale industrial, commercial and residential sources that generate emissions, such as gas stations, bakeries, and solvent use (e.g., dry cleaners, automobile paint shops, print shops and house paints).

### IV. Statutory and Executive Order Reviews

Under the CAA, 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 CAA. 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 CAA; 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 12, 2015. 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 29, 2014.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

#### Subpart SS—Texas

- 2. In § 52.2270:
  - a. The table in paragraph (c) is amended by revising the entries for Section 114.260, Section 114.620, and Section 114.622.
  - b. The second table in paragraph (e) is amended by revising the entry for

“Transportation Control Measures SIP Revision” and adding three new entries at the end of the table. The revisions and additions read as follows: **§ 52.2270 Identification of plan.**  
 \* \* \* \* \*  
 (c) \* \* \*

EPA-APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
* * *				
<b>Subchapter G—Transportation Planning</b>				
Section 114.260	Transportation Conformity	6/27/2007	11/12/2014 [Insert <b>Federal Register</b> citation].	
* * *				
<b>Subchapter K—Mobile Source Incentive Programs</b>				
<b>Division 3: Diesel Emission Reduction Incentive Program for On-road and Non-road Vehicles</b>				
Section 114.620	Definitions	2/24/2010	11/12/2014 [Insert <b>Federal Register</b> citation].	
* * *				
Section 114.622	Incentive Program Requirements.	3/28/2012	11/12/2014 [Insert <b>Federal Register</b> citation].	
* * *				

\* \* \* \* \* (e) \* \* \*

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

Name of SIP provision	Applicable geographic or non-attainment area	State submittal/ effective date	EPA approval date	Comments
Transportation Control Measures SIP Revision.	All Nonattainment and Maintenance Areas.	5/9/2000	12/5/2002, 67 FR 72382	Chapter 1. Introduction, Chapter 2. General, and Chapter 3. Criteria and Procedures.
Failure-to-Attain Contingency Measures Plan.	Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall and Tarrant Counties, TX.	3/10/2010	11/12/2014 [Insert <b>Federal Register</b> citation].	
Reasonable Further Progress Plan (RFP), RFP Contingency Measures, RFP Motor Vehicle Emission Budgets for 2011 and 2012, and Revised 2002 Base Year Emissions Inventory.	Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall and Tarrant Counties, TX.	12/7/2011	11/12/2014 [Insert <b>Federal Register</b> citation].	
Enhanced Ambient Monitoring and the Clean-fuel Fleet Programs.	Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall and Tarrant Counties, TX.	12/7/2011	11/12/2014 [Insert <b>Federal Register</b> citation].	

[FR Doc. 2014-26625 Filed 11-10-14; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 63****[EPA-R06-OAR-2012-0765; FRL-9918-61-Region 6]****National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Arkansas****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule; delegation of authority.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving, through a “direct final” procedure, the straight delegation of authority and approval of the mechanism used for the implementation and enforcement of certain unchanged Federal section 112 rules to the Arkansas Department of Environmental Quality (ADEQ), pursuant to section 112(l) of the Clean Air Act (Act or CAA). A more detailed description of the procedures used to implement the delegation is set forth in a memorandum of agreement (MOA) between ADEQ and EPA, dated September 17, 2014, a copy of which may be found in the docket for this rulemaking, as discussed below. The delegation only encompasses sources subject to one or more Federal section 112 standards (Part 63 standards specifically) which are also subject to the requirements of the Title V operating permits program. The delegation of authority under this action does not include authorities contained in CAA section 112(r).

**DATES:** The rule is effective on January 12, 2015 without further notice, unless EPA receives relevant adverse comment by December 12, 2014. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R06-OAR-2012-0765, by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
- Email: Mr. Rick Barrett at [barrett.richard@epa.gov](mailto:barrett.richard@epa.gov). Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- Mail or delivery: Mr. Rick Barrett, Air Permits Section (6PD-R), Environmental Protection Agency, 1445

Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

**Instructions:** Direct your comments to Docket No. EPA-R06-OAR-2012-0765. 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 through <http://www.regulations.gov> or email, if you believe that it is CBI or otherwise protected from disclosure. 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 email comment directly to EPA without going through <http://www.regulations.gov>, your email 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 along with any disk or CD-ROM submitted. 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 and any form of encryption and be free of any defects or viruses. For additional information about EPA’s public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665-7253.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Barrett (6PD-R), Air Permits Section, telephone (214) 665-7227; email: [barrett.richard@epa.gov](mailto:barrett.richard@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document “we,” “our,” and “us” refers to EPA.

**Table of Contents**

- I. Why are we delegating this program to ADEQ?
- II. What is the history of this request for delegation?
- III. How will ADEQ implement this delegation?
- IV. What requirements did ADEQ meet to receive today’s approval?
- V. How did ADEQ meet the approval criteria?
- VI. How are sources subject to the listed standards going to be handled since ADEQ did not accept delegation of these standards?
- VII. What is being delegated?
- VIII. What is not being delegated?
- IX. How will applicability determinations under section 112 be made?
- X. What information must ADEQ provide to EPA?
- XI. Should sources submit notices to EPA or ADEQ?
- XII. How will unchanged authorities be delegated to ADEQ in the future?
- XIII. What is today’s final action?
- XIV. Administrative Requirements

**I. Why are we delegating this program to ADEQ?**

Section 112(l) of the CAA enables a State to develop and submit to EPA for approval a program for partial or complete delegation of EPA’s authorities for the implementation and enforcement of the requirements found in section 112 of the Act pertaining to the regulation of hazardous air pollutants (Federal section 112 rules). After notice and opportunity for public comment, the State program may be approved if EPA determines that: (1) the authorities contained in the program are adequate to assure compliance by all sources within the State with each applicable requirement, regulation, or requirement established by EPA under CAA section 112; (2) the State has adequate authority and resources to implement the program; (3) the schedule for implementing the program and assuring compliance by affected sources is sufficiently expeditious; and (4) the program is otherwise in compliance with guidance issued by EPA under CAA section 112(l)(2) and is likely to satisfy the objectives of the CAA. Once approved, the air toxics program may be implemented and enforced by the delegated State or local agency, as well as EPA. Implementation by local agencies is dependent upon appropriate sub-delegation.

**II. What is the history of this request for delegation?**

In a **Federal Register** notice dated September 8, 1995, EPA Region 6