

action” and therefore is not subject to review by the Office of Management and Budget. For this reason and because this action will not have a significant, adverse effect on the supply, distribution, or use of energy, 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 proposes to approve 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).

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

In reviewing SIP submissions under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note), EPA’s role is to approve state actions, 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 do not apply. 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 40 CFR Part 52

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

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

Dated: May 4, 2005.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

[FR Doc. 05-9481 Filed 5-11-05; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R06-OAR-2005-OK-0002; FRL-7910-8]

#### Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Attainment Demonstration for the Tulsa Early Action Compact Area; Ozone

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve a revision to the Oklahoma State Implementation Plan (SIP) submitted by the Secretary of the Environment on December 22, 2004 for Tulsa. This revision will incorporate a Memorandum of Agreement (MOA) between the Oklahoma Department of Environmental Quality (ODEQ) and the Indian Nation Council of Governments (INCOG) into the Oklahoma SIP and includes a demonstration of attainment for the 8-hour National Ambient Air Quality Standard (NAAQS) for ozone. The MOA outlines pollution control measures for the Tulsa Metropolitan Area Early Action Compact (EAC) area. The EAC is designed to achieve and maintain the 8-hour ozone standard

more expeditiously than the EPA’s 8-hour implementation rulemaking. EPA is proposing approval of the photochemical modeling in support of the attainment demonstration of the 8-hour ozone standard within the Tulsa EAC area and is proposing approval of the associated control measures. We are proposing to approve this revision as a strengthening of the SIP in accordance with the requirements of sections 110 and 116 of the Federal Clean Air Act (the Act), which will result in emission reductions needed to help ensure attainment of the 8-hour NAAQS for ozone.

**DATES:** Comments must be received on or before June 13, 2005.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID No. R06-OAR-2005-OK-0002, by one of the following methods:

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

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

U.S. EPA Region 6 “Contact Us” Web site: <http://epa.gov/region6/r6comment.htm>. Please click on “6PD” (Multimedia) and select “Air” before submitting comments.

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

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

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

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

**Instructions:** Direct your comments to Regional Material in EDocket (RME) ID No. R06-OAR-2005-OK-0002. The EPA’s policy is that all comments

received will be included in the public file without change, change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through Regional Material in EDocket (RME), [regulations.gov](http://regulations.gov), or e-mail if you believe that it is CBI or otherwise protected from disclosure. The EPA RME Web site and the federal [regulations.gov](http://regulations.gov) are "anonymous access" systems, 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 RME or [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public file 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 electronic docket are listed in the Regional Material in EDocket (RME) index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI 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 in RME or in the official file which is available at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 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 cents 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 at the State Air Agency listed below during official business hours by appointment:

Oklahoma Department of Environmental Quality, Air Quality Division, 707 North Robinson, Oklahoma City, OK 73101-1677.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kenneth Boyce, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7259, [boyce.kenneth@epa.gov](mailto:boyce.kenneth@epa.gov) or Carrie Paige, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-6521, [paige.carrie@epa.gov](mailto:paige.carrie@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," and "our" refer to EPA.

#### Outline

- I. What action are we proposing?
- II. What is an EAC?
- III. What is a SIP?
- IV. What is the content of the Tulsa Area EAC attainment demonstration?
- V. Why are we proposing to approve this EAC SIP submittal?
- VI. What measures are included in this EAC SIP submittal?
- VII. What happens if the area does not meet the EAC commitments or milestones?
- VIII. Proposed Action
- IX. Statutory and Executive Order Reviews

#### I. What Action Are We Proposing?

Today we are proposing to approve a revision to the Oklahoma SIP under sections 110 and 116 of the Act. The revision was submitted to EPA by the State of Oklahoma on December 22, 2004. This revision demonstrates attainment of the 8-hour ozone standard within the Tulsa Metropolitan Area (Tulsa Area), which includes Tulsa County and portions of Creek, Osage, Rogers, and Wagoner Counties. The Tulsa Area EAC is a voluntary agreement between the ODEQ, the City of Tulsa, the County of Tulsa, the Metro Tulsa Chamber of Commerce, the INCOG and EPA. The intent of this agreement is to reduce ozone pollution earlier than the Act requires and thereby maintain the 8-hour ozone standard. The Tulsa Area EAC sets forth a schedule to develop technical information about local ozone pollution, and adopt and implement emissions control measures to ensure that this area achieves compliance with the 8-hour ozone standard by December 31, 2007.

Section VI of this rulemaking describes the control measures that will be implemented within the Tulsa Metropolitan Area.

#### II. What Is an EAC?

The Early Action Compact program was developed to allow communities an opportunity to reduce emissions of ground level ozone pollution sooner than the Act requires. The EAC program was designed for areas that approach or monitor exceedances of the 8-hour ozone standard, but are in attainment for the 1-hour ozone standard. The compact is a voluntary agreement between local communities, States and tribal air quality officials, and EPA which allows States and local entities to make decisions that will accelerate meeting the new 8-hour ozone standard using locally tailored pollution controls instead of Federally mandated control measures. Early planning and early implementation of control measures that improve air quality will likely accelerate protection of public health. The EPA believes the EAC program provides an incentive for early planning, early implementation, and early reductions of air emissions in the affected areas, thus leading to an expeditious attainment and maintenance of the 8-hour ozone standard.

Communities with EACs will have plans in place to reduce air pollution at least two years earlier than required by the Act. In December 2002, a number of States submitted compact agreements pledging to reduce emissions earlier than required for compliance with the 8-hour ozone standard. These states and local communities had to meet specific criteria, and agreed to meet certain milestones for development and implementation of the compact. States with communities participating in the EAC program had to submit implementation plans by December 31, 2004 for meeting the 8-hour ozone standard, rather than June 15, 2007, the deadline for all other areas not meeting the 8-hour standard. The EAC program required communities to develop and implement air pollution control strategies, account for emissions growth, and demonstrate their attainment and maintenance of the 8-hour ozone standard. For more information on the EAC program see section V of our December 16, 2003 proposed rule (68 FR 70108), entitled "Deferral of Effective Date of Nonattainment Designations for 8-hour Ozone National Ambient Air Quality Standards for Early Action Compact Areas."

On April 15, 2004, EPA designated all areas for the 8-hour ozone standard. The EPA deferred the effective date of

nonattainment designations for those EAC areas that were violating the 8-hour standard, but continue to meet the compact milestones. We announced the details of this deferral on April 15, 2004 as part of the Clean Air Rules of 2004. See our April 30, 2004 (69 FR 23858), publication entitled "Air Quality Designations and Classifications for the 8-Hour Ozone National Ambient Air Quality Standards; Early Action Compact Areas with Deferred Effective Dates."

### III. What Is a SIP?

The SIP is a set of air pollution regulations, control strategies and technical analyses developed by the state, to ensure that the state meets the NAAQS. These ambient standards are established under section 109 of the Act and they currently address six criteria pollutants: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. The SIP is required by Section 110 of the Act. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

### IV. What Is the Content of the Tulsa Area EAC Attainment Demonstration?

In support of this proposal, the ODEQ conducted an ozone photochemical modeling study developed for the Tulsa Metropolitan area. The modeling study predicts whether or not the EAC area will attain the 8-hour ozone NAAQS in 2007. The attainment demonstration includes analyses which estimate whether selected emissions reductions will result in ambient concentrations that meet the 8-hour ozone standard in the Tulsa EAC area, and an identified set of measures which will result in the required emissions reductions.

The modeled attainment test is passed if all resulting predicted future design values are less than 85 parts per billion (ppb). The design value is the three year average of the annual fourth highest 8-hour ozone readings. The attainment demonstration modeling predicted that the Tulsa area would be in attainment for all but one monitor in Tulsa using Design Values from 1998–2000. It predicted that the Tulsa area would be in attainment for all of the monitors in Tulsa using Design Values for 2000–2002. Therefore, the Tulsa Area considered the following additional elements, termed a Weight of Evidence (WOE) analysis, to show that the area will more likely than not, reach attainment by the end of 2007:

1. A comparison of Design Values (DVs) from 1996 to 2003 using Relative Reduction Factors (RRFs) from the modeling demonstrated that five of the six observed DVs from this period would reach attainment by the end of 2007. Only the DV for the 1998–2000 period predicted an exceedance of the 8-hour ozone standard in 2007 at one monitor (Skiatook monitor). All other years of observed DVs predicted attainment of the 8-hour ozone standard in 2007.

2. A comparison of the average of the three DVs that contain the 1999 period with the modeling RRFs (using DVs for the years 1997–2001), predicted all the Tulsa area monitors will reach attainment including a future design value of 84 ppb in 2007 at the Skiatook monitor. This test is the new proposed attainment test in EPA's Draft Final 8-hr ozone modeling guidance dated February 2005.

3. An examination of trends (changes in ozone and ozone exposure areas) in additional modeled ozone air quality outputs for 1999 and 2007 indicated that sizable reductions in ozone and area of ozone exposure are predicted although these tests fell slightly short of the level of reduction recommended in EPA's guidance.

4. An examination of additional independent modeling that demonstrates attainment in Oklahoma, including Tulsa, was completed by EPA as part of an analysis in support of the Interstate Air Quality Rule (signed March 10, 2005). This independent modeling assumed growth but did not include the control measures which will be implemented within the Tulsa EAC area by December 31, 2005. The EPA modeling predicted a maximum 8-hour ozone DV for Tulsa of 76 ppb for 2010 and 74 ppb for 2015. These values are consistent with the Tulsa EAC area's predicted 8-hour ozone DV of 78 ppb in 2007 using the 2001–2003 observed 8-hour ozone DV.

5. A review of trends in observed 8-hour ozone DVs from monitoring sites in Tulsa revealed a general downward trend in ozone. An evaluation of emission trends of ozone precursors also indicate a general downward trend. By 2007, volatile organic compounds (VOC) emissions are projected to be 14 percent lower than in 1999 and 13 percent lower than in 2002. By 2007, nitrogen oxides (NO<sub>x</sub>) emissions are projected to be 23 percent lower than in 1999 and 10 percent lower than in 2002. It should also be noted that Tulsa is currently in attainment based on the two most recent ozone DVs. These trends and monitoring data combined further support the prediction that ozone levels

will continue to drop in the Tulsa area and thereby Tulsa will still be attaining the 8-hour ozone standard in 2007.

See Appendix B of our technical support document (TSD) for more information regarding this modeling study and Weight of Evidence analyses and EPA's evaluation of these items.

The analysis of elements within the WOE provide strong evidence that the Tulsa Metropolitan Area should continue to attain the 8-hour ozone standard through December 31, 2007 and maintain that standard through 2012. The analysis also follows the discussion on WOE in EPA's draft guidance for modeling, May 1999. Therefore, EPA is proposing to approve the 8-hour ozone attainment demonstration and air quality improvement plan for the Tulsa EAC area.

The strategy that Tulsa has chosen to help achieve emissions reductions is identified as the Tulsa Area Transportation Emission Reduction Strategy and is discussed in section VI of this rulemaking.

### V. Why Are We Proposing To Approve This EAC SIP Submittal?

We are proposing to approve this EAC SIP submittal because implementation of the requirements in the MOA will help ensure the Tulsa area's compliance with the 8-hour ozone standard by December 31, 2007 and maintenance of that standard through 2012. Additionally, our review of modeling and other items provided as Weight of Evidence indicate the area should continue to be in attainment by December 31, 2007. We have reviewed these submittals and determined that they are consistent with the requirements of the Act, EPA's policy, and the EAC protocol. Our TSD contains more detailed information concerning our evaluation and this rulemaking action.

Approving the Tulsa Metropolitan area's clean air plan into the SIP with the measures and controls identified in the MOA provide a strengthening of the SIP for the Tulsa Metropolitan EAC Area. In addition, the Tulsa EAC communities will start to benefit from reductions in air pollution earlier than the statutory deadlines. Finally, it means that EPA has determined that the State and local area have continued to fulfill the milestones and obligations of the EAC Program.

### VI. What Measures Are Included in This EAC SIP Submittal?

The EPA designated the Tulsa EAC area as attainment for the 8-hour ozone standard (63 FR 23858), but the area has

intermittently monitored violations of the federal 8-hour ozone standard. The ODEQ has submitted this revision to the SIP as a preventive and progressive measure to avoid violation of the 8-hour ozone standard within the affected area.

The MOA submitted within this SIP revision sets forth the duties and responsibilities for implementation of the Tulsa Area Transportation Emission Reduction Strategies. The attainment demonstration relied upon Intelligent Transportation System (ITS) and Transportation Congestion Mitigation measures, which comprise the Transportation Emission Reduction Strategies. The specific measures are roadway expansion and improvement projects and intersection improvement projects (signal and other improvements). These control measures are projected to reduce emissions of NO<sub>x</sub> by 2.62 tons per day (tpd) and reduce emissions of VOCs by 0.02 tpd. These Emission Reduction Strategies are described in detail in the TSD and they will be incorporated by reference in the Code of Federal Regulations in the final approval action. Detailed information is necessary for emission reduction measures in the SIP to ensure that they are specific and enforceable as required by the Act and the EAC protocol. The description of these emission reduction measures includes the identification of each project, location, length of each project (if applicable), a brief project description, implementation date and emissions reductions for both VOCs and NO<sub>x</sub>. We are proposing to approve the ITS and Transportation Congestion Mitigation measures. In compliance with the next EAC milestone, these measures will be implemented on or before December 31, 2005.

Per the EAC protocol, the clean air plan must also include a component to address maintenance for growth at least 5 years beyond 2007, ensuring the area will remain in attainment of the 8-hour ozone standard through 2012. The Tulsa EAC area has developed an emissions inventory for the year 2012, as well as a continuing planning process to address this essential part of the plan. The emissions reductions for NO<sub>x</sub> are predicted to be 9% lower in 2012 than in 2007 and the reductions for VOCs are predicted to be 4% lower in 2012 than in 2007. Using air quality models to anticipate the impact of growth, as well as the state-assisted and locally-implemented measures to reduce emissions, the State has projected the area will be in attainment of the 8-hr ozone standard in 2007 and will remain in attainment through 2012. For more information on future growth projections, see the TSD.

To fulfill the planning process, the EAC signatories and implementing agencies will review all EAC activities and report on results in their semi-annual reports, beginning in June 2005. This semi-annual review will track and document, at a minimum, control strategy implementation and results, monitoring data and future plans. After review, if necessary, additional control measures may be considered and adopted through revisions to this SIP.

#### **VII. What Happens if the Area Does Not Meet the EAC Commitments or Milestones?**

On April 15, 2004, EPA designated the Tulsa Metropolitan area as attainment for the 8-hour ozone standard. We believe the local and State signatories of the Tulsa Area EAC will continue to meet their commitments to reduce ozone pollution. The measures outlined in the submittal provide sufficient information to conclude that the Tulsa EAC area will complete each of the EAC milestone requirements, including attainment of the 8-hour ozone standard by 2007. However, one of the principles of the EAC protocol is to provide safeguards to return areas to traditional SIP requirements should an area fail to comply with the terms of the compact. If, as outlined in our guidance and in 40 CFR 81.300, an EAC milestone is missed and the area is still in attainment of the 8-hour ozone standard, we would take action to propose and promulgate a finding of failure to meet the milestone, but the ozone attainment designation and approved SIP elements would remain in effect. If the design value for the EAC area exceeds the 8-hour ozone standard and the area has missed a compact milestone, we would also consider factors in section 107(d)(3)(A) of the Act in deciding whether to redesignate the EAC area to nonattainment for the 8-hour ozone NAAQS.

#### **VIII. Proposed Action**

The EPA is proposing to approve the Tulsa EAC area's attainment demonstration, associated local control measures of ITS and Transportation Congestion Mitigation measures, and the EAC Plan into the Oklahoma SIP as a strengthening of the SIP. The modeling of ozone and ozone precursor emissions from sources in the Tulsa EAC area, in conjunction with the consideration of the WOE, demonstrate that the control strategies will continue to provide for attainment of the 8-hour ozone NAAQS by December 31, 2007.

#### **IX. Statutory and Executive Order Reviews**

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 and because this action will not have a significant, adverse effect on the supply, distribution, or use of energy, 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 proposes to approve 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 (Pub. L. 104-4).

Executive Order 13175 (65 FR 67249, November 9, 2000) requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This proposed rule may have tribal implications. However, it will neither impose substantial direct compliance costs on tribal governments, nor preempt tribal law. This rule incorporates an MOA between the ODEQ and INCOG into the Oklahoma SIP. The MOA was the result of numerous discussions between local communities, the State, and tribal air quality officials which have occurred during the previous three years. EPA consulted with tribal officials early in the process of developing Early Action Compacts which provided for meaningful and timely input on behalf of the tribes into its development. Local communities, the State, and tribal air quality officials voluntarily agreed to implement this rule revision so that the Tulsa EAC area could continue to attain and maintain the 8-hour ozone standard.

This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the

national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve 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 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note), EPA's role is to approve state actions, 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 do not apply. 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, Incorporation by reference, Intergovernmental relations, Nitrogen oxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: May 4, 2005.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

[FR Doc. 05-9483 Filed 5-11-05; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R06-OAR-2005-TX-0021; FRL-7910-9]

#### Approval and Promulgation of Implementation Plans; State of Texas; Control of Air Pollution From Motor Vehicles, Mobile Source Incentive Programs

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve revisions to the Texas State Implementation Plan (SIP) to incorporate the Texas Emission Reduction Plan (TERP) into the Texas SIP. The TERP is utilized in each of the nonattainment areas and near nonattainment areas in the state to achieve reductions in the emissions of oxides of nitrogen from on-road and non-road mobile sources. This action will allow the State to capture credit from those reductions and use them in attainment demonstrations for these areas.

**DATES:** Comments must be received on or before June 13, 2005.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID No. R06-OAR-2005-TX-0021, by one of the following methods:

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

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

- U.S. EPA Region 6 "Contact Us" Web site: <http://epa.gov/region6/r6comment.htm>. Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

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

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

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

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

*Instructions:* Direct your comments to Regional Material in EDocket (RME) ID No. R06-OAR-2005-TX-0021. EPA's policy is that all comments received will be included in the public file without change, and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through Regional Material in EDocket (RME), [regulations.gov](http://regulations.gov), or e-mail if you believe that it is CBI or otherwise protected from disclosure.

The EPA RME website and the federal [regulations.gov](http://regulations.gov) are "anonymous access" systems, 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 RME or [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public file 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 electronic docket are listed in the Regional Material in EDocket (RME) index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI 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 in RME or in the official file which is available at the Air Planning Section (6PD-L),