

Reporting and recordkeeping requirements, Volatile Organic Compounds.

Dated: August 12, 2005.

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 LL—Oklahoma**

■ 2. The first table in § 52.1920(e) entitled “EPA approved nonregulatory

provisions and quasi-regulatory measures” is amended under Chapter 4, immediately following the last entry under Chapter 4, to read as follows:

**§ 52.1920 Identification of plan.**

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

**EPA APPROVED OKLAHOMA NONREGULATORY PROVISIONS**

| Name of SIP provision  | Applicable geographic or non-attainment area                            | State submittal date | EPA approval date                                      | Explanation |
|--|---|----------------------|--|-------------|
| * * * * *  | * * * * *   | * * * * *            | * * * * *  | * * * * *   |
| K. Tulsa EAC Area 8-hour ozone standard attainment demonstration, Clean Air Plan, Transportation Emission Reduction Strategies, and Memorandum of Agreement between the ODEQ and INCOG defining duties and responsibilities of each party for implementation of the Tulsa Area Transportation Emission Reduction Strategies. | Tulsa County and portions of Creek, Osage, Rogers and Wagoner Counties. | 12/22/2004           | 8/19/05 [Insert FR page number where document begins]. |             |
| * * * * *  | * * * * *   | * * * * *            | * * * * *  | * * * * *   |

[FR Doc. 05-16488 Filed 8-18-05; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[R06-OAR-2005-TX-0021; FRL-7956-3]

**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: Final rule.

**SUMMARY:** The EPA is approving a revision 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:** This rule is effective on September 19, 2005.

**ADDRESSES:** EPA has established a docket for this action under Regional Materials in EDocket (RME) Docket ID

No. R06-OAR-2005-TX-0021. All documents in the docket are listed in the RME index at <http://docket.epa.gov/rmepub/>, once in the system, select “quick search,” then key in the appropriate RME Docket identification number. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information, the disclosure of which 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 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 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: Texas

Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sandra Rennie, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7367; fax (214) 665-7263; e-mail address [rennie.sandra@epa.gov](mailto:rennie.sandra@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

**Outline**

- What Action Are We Taking?
- What Is the Background for This Action?
- What Do These Rules Require?
- What Are Oxides of Nitrogen?
- What Areas in Texas Will This Action Affect?
- Why Are We Approving This Submittal?
- What Comments Did We Receive?
- Final Rule
- Statutory and Executive Order Reviews

**What Action Are We Taking?**

We are approving this revision to the SIP as meeting the requirements of the economic incentive program guidance. For a more complete description of our review, please see the technical support document for this action and our **Federal Register** notice of proposed approval dated May 12, 2005 (70 FR 25008).

We are approving rules that implement the TERP legislation. On March 9, 2005, the Texas Commission on Environmental Quality submitted to

EPA the Texas Emission Reduction Plan (TERP) at 30 TAC, Chapter 114, Subchapter K, Mobile Source Incentive Programs, as a revision to the SIP. This legislation created an economic incentive program to accelerate the introduction of lower emitting mobile source technologies in nonattainment and near nonattainment areas of Texas. The State adopted these rules on August 22, 2001.

We are also approving revisions to the above mentioned rules which the State adopted on January 28, 2004, and submitted to EPA on March 3, 2004.

#### **What Is the Background for This Action?**

In 2001, the Texas Legislature enacted Senate Bill 5 which established the TERP. The TERP includes a grant program designed to accelerate the early introduction and use of lower emitting diesel technologies in the nonattainment and near nonattainment areas of Texas; a grant program to fund improved energy efficiency in buildings; purchase and lease incentives to encourage the introduction of cleaner light duty vehicles into the Texas fleet; and funding for research and development programs focused on new air pollution reduction technologies. This legislation also establishes a state-wide incentive program for the purchase or lease of new on-road diesel vehicles and light-duty motor vehicles that meet more stringent emission standards than those required by any federal requirements. The incentives eligible for on-road diesel vehicles are for the incremental cost to purchase the cleaner vehicle. The incentive for eligible light duty vehicles are a specified dollar amount. Each of the incentives is structured upon the specific emission standard to which the vehicle is certified.

In 2003, Texas House Bill 1365 amended surcharges and fees which fund TERP, along with the eligibility criteria. The 2003 adoption adds three counties to the list where eligible projects may be funded and will include for the future any other county located within an area of Texas designated as an ozone nonattainment area under the Federal Clean Air Act. The amendment also provides for the new methods for streamlining the grant process for small business. The 2003 legislation expected to provide approximately \$120 million dollars per year for funding those programs through September 2008.

#### **What Do These Rules Require?**

TERP includes a number of voluntary incentive and assistance programs designed to help improve the air quality

in Texas. The programs included in TERP are as follows: the On-Road Diesel Vehicle Purchase or Lease Incentive Program, the Light-Duty Motor Vehicle Purchase or Lease Incentive Program, and the Diesel Emission Reduction Incentive Grant Program for On-Road and Non-Road Vehicles ("Incentive Grant Program"). It is the Incentive Grant Program that is before us as a SIP revision.

The rules approved today specify the individuals and businesses that may apply for grants under TERP and that all applicants are subject to the criteria listed in *Texas Emission Reduction Incentive Grants Program* (RG-388). Eligible projects include multiple variations of leasing or purchasing, retrofitting, repowering, or other NO<sub>x</sub> reducing technologies for on-road and off-road diesel powered engines. The rule requires that any project funded by a grant must operate no less than 75% of the vehicle miles traveled or hours of operations over the following five years in a nonattainment or near nonattainment county.

The plan also requires that a project, excluding infrastructure projects, must meet a minimum cost-effectiveness not to exceed \$13,000 per ton of NO<sub>x</sub> emissions. Except in extreme circumstances, the emissions reductions gained by any project funded through a TERP grant may not be used for credit under any State or Federal emission reduction credit averaging, banking or trading program. The program allows TERP reductions to be credited toward the NO<sub>x</sub> cap and trade program in Houston but only in the unlikely event that the industrial source's compliance cost exceeds \$75,000/ton. In that case, the source would be able to deposit \$75,000/ton into the TERP account where the money would be used to achieve more cost effective mobile source reductions.

#### **What Are Oxides of Nitrogen?**

Nitrogen oxides (NO<sub>x</sub>) belong to the group of criteria air pollutants. NO<sub>x</sub> results from burning fuels, including gasoline and coal. Nitrogen oxides react with volatile organic compounds (VOC's) to form ozone or smog. NO<sub>x</sub> is also a major component of acid rain.

#### **What Areas in Texas Will This Action Affect?**

The approval of TERP will provide potential emission reductions in the following counties: Bastrop, Bexar, Brazoria, Caldwell, Chambers, Collin, Comal, Dallas, Denton, El Paso, Ellis, Fort Bend, Galveston, Gregg, Guadalupe, Harris, Hardin, Harrison, Hayes,

Henderson, Hood, Hunt, Jefferson, Johnson, Kaufman, Liberty, Montgomery, Nueces, Orange, Parker, Rockwall, Rusk, San Patricio, Smith, Tarrant, Travis, Upshur, Victoria, Waller, Williamson, Wilson, and any other county located within an area of Texas designated as nonattainment for ground-level ozone.

#### **Why Are We Approving This Submittal?**

TERP is a measure relied upon in the State Implementation Plans for all of the Early Action Compact areas, as well as the Houston/Galveston Attainment Demonstration, and the Dallas/Fort Worth 5% Increment of Progress Plan. We will be taking action on the amount of emission reductions projected for the TERP program when we take action on these plan revisions. These reductions will assist an area to either attain or maintain the National Ambient Air Quality Standard for ozone.

Diesel engines are targeted due to their relatively high NO<sub>x</sub> emissions and their long operational life which makes the introduction of newer cleaner engines into a fleet a long term process with normal turnover. The TERP will offset the incremental cost of projects that can reduce oxides of nitrogen emissions from heavy duty diesel trucks and construction equipment in nonattainment areas. This is an incentive to owners and operators to upgrade their fleets at an expedited rate. The upgrade of these fleets will reduce the amount of NO<sub>x</sub> emissions to the atmosphere. This approval will add TERP as a new program to the Texas SIP. TERP will not cause an increase in the criteria pollutants or their precursors since old fleets will be replaced with new fleets, thereby reducing emissions. As such, the State's revisions meet and comply with the requirements of section 110(l) of the Clean Air Act. We are approving these revisions to the Texas SIP because they will contribute to the attainment of the ozone standard, and therefore strengthen the SIP.

#### **What Comments Did We Receive?**

We proposed approval of this revision to the Texas SIP on May 12, 2005 (70 FR 25008). We received no comments on this proposed approval.

#### **Final Action**

We are granting final approval of the TERP as a revision to the SIP because it meets the requirements of an economic incentive program.

**Statutory and Executive Order Reviews**

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, "Regulatory Planning and Review." (58 FR 51735, October 4, 1993). This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this 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 approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by State law, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local or tribal governments in the aggregate, or on the private sector, in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments in accordance with section 203 of UMRA.

This 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, "Consultation and Coordination with Indian Tribal Governments" (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, "Federalism" (64 FR 43255, August 10, 1999). This action merely approves a state rule

implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This 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). EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it approves a state program.

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (15 U.S.C. 272 note) requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical. In reviewing a SIP submission, EPA has no authority under the Clean Air Act, in the absence of a prior existing requirement for the State to use VCS, to disapprove a SIP submission for failure to use VCS. Thus it would be inconsistent with applicable law for EPA to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act and further consideration of VCS is not required. Under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*), OMB must approve all "collections of information" by EPA. The PRA defines "collection of information" as a requirement for "answers to \* \* \* identical reporting or recordkeeping requirements imposed on ten or more persons." (44 U.S.C. 3502(3)(A)). This rule does not impose an information collection burden under the provisions of the PRA.

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 rule 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. section 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 October 18, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Carbon Monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 11, 2005.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

■ 40 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 table in § 52.2270(c) entitled "EPA Approved Regulations in the Texas SIP" is amended under Chapter 114, immediately following the entry for Section 114.517, by adding a new centered heading "Subchapter K—Mobile Source Incentive Programs" followed by centered heading "Division 3: Diesel Emission Reduction Incentive Program for On-road and Non-road Vehicles" followed by entries for Sections 114.620, 114.621, 114.622, 114.623, 114.626 and 114.629 to 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>Chapter 114 (Reg 4)—Control of Air Pollution from Motor Vehicles</b>                          |  |                               |   |             |
| *  | *  | *                             | *   | *           |
| <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  | 01/28/04                      | 08/19/05 [Insert FR page number where document begins]. |             |
| Section 114.621  | Applicability  | 01/28/04                      | 08/19/05 [Insert FR page number where document begins]. |             |
| Section 114.622  | Incentive Program Requirements.                        | 01/28/04                      | 08/19/05 [Insert FR page number where document begins]. |             |
| Section 114.623  | Small Business Incentives                              | 01/28/04                      | 08/19/05 [Insert FR page number where document begins]. |             |
| Section 114.626  | Monitoring, Recordkeeping, and Reporting Requirements. | 08/22/01                      | 08/19/05 [Insert FR page number where document begins]. |             |
| Section 114.629  | Affected Counties and Implementation Schedule.         | 01/28/04                      | 08/19/05 [Insert FR page number where document begins]. |             |
| *  | *  | *                             | *   | *           |

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[RME Docket Number R08-OAR-2004-CO-0004; FRL-7954-7]

**Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Greeley Revised Carbon Monoxide Maintenance Plan and Approval of Related Revisions**

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

**ACTION:** Final rule.

**SUMMARY:** On May 17, 2005, EPA published a notice of proposed rulemaking (NPR) to propose approval of Colorado's revised maintenance plan for the Greeley carbon monoxide (CO) maintenance area for the CO National Ambient Air Quality Standard (NAAQS). In that NPR, EPA proposed to approve the revised maintenance plan, the transportation conformity motor vehicle emission budgets for 2005 through 2009, 2010 through 2014, and 2015 and beyond, the revisions to Colorado's Regulation No. 11 "Motor Vehicle Emissions Inspection Program,"

and the revisions to Colorado's Regulation No. 13 "Oxygenated Fuels Program." In this action, EPA is approving the Greeley CO revised maintenance plan, the transportation conformity motor vehicle emission budgets, and the revisions to Regulation No. 11 and Regulation No. 13. This action is being taken under section 110 of the Clean Air Act.

**EFFECTIVE DATE:** September 19, 2005.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. RME R08-OAR-2004-CO-0004. All documents in the docket are listed in the Regional Materials in EDOCKET index at <http://docket.epa.gov/rmepub/index.jsp>. Although listed in the index, some information is not publicly available, *i.e.*, 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 will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in the Regional Materials in EDOCKET or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. EPA requests that if at all possible, you contact the individual

listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Tim Russ, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 999 18th Street, Suite 300, Denver, Colorado 80202-2466, phone (303) 312-6479, and e-mail at: [russ.tim@epa.gov](mailto:russ.tim@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. What Is the Purpose of This Action?
- II. Final Action
- III. Statutory and Executive Order Reviews

**Definitions**

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.
- (iii) The initials *NAAQS* mean National Ambient Air Quality Standard.
- (iv) The initials *SIP* mean or refer to State Implementation Plan.