imposed by a Federal District Court of competent jurisdiction.

(5) Where a person has been removed to the United States for a detention hearing or other judicial proceeding and a Federal Magistrate Judge orders the person's release and permits the person to return to the overseas location, the Department of Defense (including the Military Department originally sponsoring the person to be employed or to accompany the Armed Forces outside the United States) shall not be responsible for the expenses associated with the return of the person to the overseas location, or the person's subsequent return travel to the United States for further court proceedings that may be required.

Appendix A to Part 153—Guidelines

(a) Civilians employed by the Armed Forces outside the United States who commit felony offenses while outside the U.S. are subject to U.S. criminal jurisdiction under the Act, and shall be held accountable for their actions, as appropriate.

(b) Civilians accompanying the Armed Forces outside the United States who commit felony offenses while outside the U.S. are subject to U.S. criminal jurisdiction under the Act, and shall be held accountable for their actions, as appropriate.

(c) Former members of the Armed Forces who commit felony offenses while serving as a member of the Armed Forces outside the U.S., but who ceased to be subject to UCMJ court-martial jurisdiction without having been tried by court-martial for such offenses, are subject to U.S. criminal jurisdiction under the Act and shall be held accountable for their actions, as appropriate.

(d) The procedures of this part and DoD actions to implement the Act shall comply with applicable Status of Forces Agreements, and other international agreements affecting relationships and activities between the respective host nation countries and the U.S. Armed Forces. These procedures may be employed outside the United States only if the foreign country concerned has been briefed or is otherwise aware of the Act and has not interposed an objection to the application of these procedures. Such awareness may come in various forms, including but not limited to Status of Forces Agreements containing relevant language, Diplomatic Notes or other acknowledgements of briefings, or case-by-case arrangements, agreements, or understandings with appropriate host nation officials.

(e) Consistent with the long-standing policy of maximizing U.S. jurisdiction over its citizens, the Act and this part provide a mechanism for furthering this objective by closing a jurisdictional gap in U.S. law and thereby permitting the criminal prosecution of covered persons for offenses committed outside the United States. In so doing, the Act and this part provide, in appropriate cases, an alternative to a host nation's exercise of its criminal jurisdiction should the conduct that violates U.S. law also violate the law of the host nation, as well as a means of prosecuting covered persons for crimes committed in areas in which there is no effective host nation criminal justice system.

(f) In addition to the limitations imposed upon prosecutions by section 3261(b) of the Act, the Act and these procedures should be reserved generally for serious misconduct for which administrative or disciplinary remedies are determined to be inadequate or inappropriate. Because of the practical constraints and limitations on the resources available to bring these cases to successful prosecution in the United States, initiation of action under this part would not generally be warranted unless serious misconduct were involved.

(g) The procedures set out in the Act and this part do not apply to cases in which the return of fugitive offenders is sought through extradition and similar proceedings, nor are extradition procedures applicable to cases under the Act.

Appendix B to Part 153—Acknowledgment of Limited Legal Representation (Sample)

1. I, _____, have been named as a suspect or defendant in a matter to which I have been advised is subject to the jurisdiction of the Military Extraterritorial Jurisdiction Act of 2000 (section 3261, *et seq.,* of title 18, United States Code.); hereinafter referred to as ''the Act''). I have also been informed that certain initial proceedings under 18 U.S.C. 3265 may be required under this Act, for which I am entitled to be represented by legal counsel.

2. I acknowledge and understand that the appointment of military counsel for the limited purpose of legal representation in proceedings conducted pursuant to the Act is dependent upon my being unable to retain civilian defense counsel representation for such proceedings, due to my indigent status, and that qualified military defense counsel has been made available.

3. Pursuant to the Act, _____, a Federal Magistrate Judge, has issued the attached Order and has directed that that military counsel be made available:

____ For the limited purpose of representing me at an initial proceeding to be conducted outside the United States pursuant to 18 U.S.C. 3265,

____ For the limited purpose of representing me in an initial detention hearing to be conducted outside the United States pursuant to 18 U.S.C. 3265(b),

4. _____, military counsel, has been made available in accordance with Department of Defense Instruction 5525.bb, and as directed by the attached Order of a Federal Magistrate Judge.

5. I (do) (do not) wish to be represented by _____, military counsel ____ (initials).

6. I understand that the legal representation of _____, military counsel, is limited to:

a. Representation at the initial proceedings conducted outside the United States pursuant to 18 U.S.C. 3265.

____ (Initials)

b. The initial detention hearing to be conducted outside the United States pursuant to the Military Extraterritorial Jurisdiction Act of 2000 (18 U.S.C. 3261, *et seq.*).

____ (Initials)

c. Other proceedings (Specify):

_____. ____ (Initials)

_____

Signature of Person To Be Represented By Military Counsel

_____

Signature of Witness*

Attachment:

Federal Magistrate Judge Order

(***Note:** The witness must be a person other than the defense counsel to be made available for this limited legal representation.)

Dated: February 15, 2006.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD

[FR Doc. 06–1605 Filed 2–21–06; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2005–CO–0004; FRL–8029–7]

Approval and Disapproval and Promulgation of Air Quality Implementation Plans; Colorado; Affirmative Defense Provisions for Startup and Shutdown; Common Provisions Regulation and Regulation No. 1

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is partially approving and partially disapproving a State Implementation Plan (SIP) revision submitted by the State of Colorado. The revision establishes affirmative defense provisions for source owners and operators for excess emissions during periods of startup and shutdown. The affirmative defense provisions are contained in the State of Colorado's Common Provisions regulation. The intended effect of this action is to approve those portions of the rule that are approvable and to disapprove those portions of the rule that are inconsistent with the Clean Air Act. This action is being taken under section 110 of the Clean Air Act. In addition, EPA is announcing that it no longer considers the State of Colorado's May 27, 1998 submittal of revisions to Regulation No. 1 to be an active SIP submittal. Those revisions, which we proposed to disapprove on September 2, 1999 and October 7, 1999, would have provided

exemptions from existing limitations on opacity and sulfur dioxide (SO_2) emissions for coal-fired electric utility boilers during periods of startup, shutdown, and upset. Since our proposed disapproval, the State of Colorado has removed or replaced the provisions in Regulation No. 1 that we proposed to disapprove, and has instead pursued adoption of the affirmative defense provisions in the State of Colorado's Common Provisions regulation that we are approving today.

DATES: This final rule is effective March 24, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2005–CO–0004. 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 (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 through *http://www.regulations.gov* 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: Laurie Ostrand, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 200, Denver, Colorado 80202–2466, (303) 312–6437, *ostrand.laurie@epa.gov*.

SUPPLEMENTARY INFORMATION:

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Definitions

For the purpose of this document, we are giving meaning to certain words 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 *SIP* mean or refer to State Implementation Plan.

(iv) The words *State* or *Colorado* mean the State of Colorado, unless the context indicates otherwise.

I. Background of State Submittal

On July 31, 2002, the State of Colorado submitted a SIP revision that added affirmative defense provisions for excess emissions during startup and shutdown. These affirmative defense provisions are contained in the Common Provisions Regulation at section II.J and were adopted by the Colorado Air Quality Control Commission (AQCC) on August 16, 2001.

On December 7, 2005 (70 FR 72741), we proposed to approve sections II.J.1 through II.J.4 of the Common Provisions regulation and proposed to disapprove section II.J.5 of the Common Provisions regulation. No comments were received on the December 7, 2005 proposal. See the December 7, 2005 notice of proposed rulemaking for additional information.

On December 7, 2005 (70 FR 72741) we also announced that we no longer consider Colorado's May 27, 1998 submittal of revisions to Regulation No. 1 to be an active submittal, and that we do not intend to finalize our proposed disapprovals. The May 1998 Regulation No. 1 submittal would have provided exemptions from the existing limitations on opacity and sulfur dioxide (SO_2) emissions for coal-fired electric utility boilers during periods of startup, shutdown, and upset. We proposed to disapprove the May 1998 Regulation No. 1 submittal on September 2, 1999 (64 FR 48127) and October 7, 1999 (64 FR 54601).

II. EPA Analysis of State Submittal

EPA's interpretations of the Act regarding excess emissions during malfunctions, startup and shutdown are contained in, among other documents, a September 20, 1999 memorandum titled ''State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown,'' from Steven A. Herman, Assistant Administrator for Enforcement and Compliance Assurance, and Robert Perciasepe, Assistant Administrator for Air and Radiation.[1] That memorandum indicates that because excess emissions might aggravate air quality so as to prevent attainment and maintenance of the national ambient air quality standards (NAAQS) or jeopardize the prevention of significant deterioration (PSD) increments, all periods of excess emissions are considered violations of the applicable emission limitation. However, the memorandum recognizes that in certain circumstances states and EPA have enforcement discretion to refrain from taking enforcement action for excess emissions. In addition, the memorandum also indicates that states can include in their SIPs provisions that would, in the context of an enforcement action for excess emissions, excuse a source from penalties (but not injunctive relief) if the source can demonstrate that it meets certain objective criteria (an ''affirmative defense'').[2] Finally, the memorandum indicates that EPA does not intend to approve SIP revisions that would recognize a state director's decision to bar EPA's or citizens' ability to enforce applicable requirements.

We have evaluated Colorado's affirmative defense provisions for startup and shutdown and find that, except for one paragraph, they are consistent with our interpretations under the Act regarding the types of affirmative defense provisions we can approve in SIPs. The Affirmative Defense provisions in the Common Provisions Regulation, sections II.J.1 through II.J.4 are consistent with the provisions for startup and shutdown we suggested in our September 20, 1999 memorandum. Thus, these provisions will provide sources with appropriate incentives to comply with their emissions limitations and help ensure protection of the NAAQS and increments and compliance with other Act requirements.

However, we cannot approve the provisions in section II.J.5 of the Common Provisions regulation. Section II.J.5 reads as follows:

II.J.5. Affirmative Defense Determination: In making any determination whether a source established an affirmative defense, the Division shall consider the information within the notification required in paragraph 2 of this section and any other information the division deems necessary, which may

[1] Earlier expressions of EPA's interpretations regarding excess emissions during malfunctions, startup, and shutdown are contained in two memoranda, one dated September 28, 1982, the other February 15, 1983, both titled ''Policy on Excess Emissions During Startup, Shutdown, Maintenance, and Malfunctions'' and signed by Kathleen M. Bennett. However, the September 1999 memorandum directly addresses the creation of affirmative defenses in SIPs and, therefore, is most relevant to this action.

[2] EPA's September 20, 1999 memorandum indicates that the term *affirmative defense* means, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding. See footnote 4 of the attachment to the memorandum.

include, but is not limited to, physical inspection of the facility and review of documentation pertaining to the maintenance and operation of process and air pollution control equipment.

Under this language, the Division could make a determination outside the context of an enforcement action, or at any time during an enforcement action, that a source has established the affirmative defense. If we were to approve section II.J.5, a court might conclude that we had ceded the authority to the Division to make this determination, not just for the State, but on behalf of EPA and citizens as well. Consequently, a court might also view the Division's determination that a source had established the affirmative defense as barring an EPA or citizen action for penalties.

As we stated in the September 1999 memoranda, we do not intend to approve SIP language that would allow a state's decision to constrain our or citizens' enforcement discretion. To do so would be inconsistent with the regulatory scheme established in Title I of the Act, which allows independent EPA and citizen enforcement of violations, regardless of a state's decisions regarding those violations and any potential defenses.[3]

Section 110(l) of the Clean Air Act states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act. The Colorado SIP revision that is the subject of this document does not interfere with the maintenance of the NAAQS or any other applicable requirement of the Act. The July 31, 2002 submittal merely adopts affirmative defense provisions for source owners and operators for excess emissions during periods of startup and shutdown. These provisions provide, that in the context of an enforcement action for excess emissions, a source can be excused from penalties (but not injunctive relief) if the source can demonstrate that it meets certain objective criteria. Therefore, section 110(l) requirements are satisfied.

[3] Section II.J.5 may be confusing the concept of affirmative defense with the concept of enforcement discretion. By definition, an affirmative defense is a defense that may be raised in the context of an enforcement proceeding before an independent trier of fact. Before pursuing an enforcement action, the state might evaluate the likelihood that an owner/operator could prove the elements of the affirmative defense, but this would go to the state's exercise of enforcement discretion. While the state might decide not to pursue an enforcement action based on such an evaluation, if EPA or citizens were to pursue enforcement action, an independent trier of fact might reach a conclusion different from the state's, *i.e.*, that the owner/operator had not proved the elements of the affirmative defense.

III. Final Action

We are approving sections II.J.1 through II.J.4 of the Common Provisions Regulation submitted on July 31, 2002 for the reasons expressed above. We are disapproving section II.J.5 of the Common Provisions Regulation submitted on July 31, 2002 because this section is inconsistent with the Clean Air Act.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., OMB must approve all ''collections of information'' by EPA. The Act 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). Because this final rule does not impose an information collection burden, the Paperwork Reduction Act does not apply.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals and disapprovals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve or disapprove requirements that the State is already imposing. Therefore, because the Federal SIP approval/disapproval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this final action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action partially approves and partially disapproves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Executive Order 13132, *Federalism* (64 FR 43255, August 10, 1999), revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal

government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely partially approves and partially disapproves state rules implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (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 final rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, 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. This action does not involve or impose any requirements that affect Indian tribes. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Protection of Children From Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 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.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. section 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). This rule will be effective March 24, 2006.

K. Petitions for Judicial Review

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 April 24, 2006. 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) of the Clean Air Act.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 30, 2006.

Robert E. Roberts,

Regional Administrator, Region 8.

■ 40 CFR part 52 is amended to read 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 G—Colorado

■ 2. Section 52.320 is amended by adding paragraph (c)(109) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(109) A revision to the State Implementation Plan was submitted by the State of Colorado on July 31, 2002. The submittal revises the Common Provisions regulation by adding affirmative defense provisions for source owners and operators for excess emissions during periods of startup and shutdown.

(i) Incorporation by reference.

(A) Common Provisions Regulation, 5 CCR 1001–2, sections II.J.1 through II.J.4, adopted August 16, 2001, effective September 30, 2001.

■ 3. Section 52.329 is amended by adding paragraph (c) to read as follows:

§ 52.329 Rules and regulations.

* * * * *

(c) A revision to the State Implementation Plan was submitted by the State of Colorado on July 31, 2002. The submittal revises the Common Provisions regulation by adding

affirmative defense provisions for source owners and operators for excess emissions during periods of startup and shutdown. The affirmative defense provisions are contained in section II.J. As indicated in 40 CFR 52.320(c)(109), EPA approved the affirmative defense provisions contained in sections II.J.1 through II.J.4 of the Common Provisions regulation, adopted August 16, 2001 and effective September 30, 2001. Section II.J.5 of the Common Provisions regulation, adopted August 16, 2001 and effective September 30, 2001, is disapproved.

[FR Doc. 06–1567 Filed 2–21–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2005–TX–0003; FRL–8034–7]

Approval and Promulgation of State Implementation Plans; Texas; Revision to the Rate of Progress Plan for the Beaumont/Port Arthur Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to the Texas State Implementation Plan (SIP) Post-1996 Rate of Progress (ROP) Plan, the 1990 Base Year Inventory, and the Motor Vehicle Emissions Budgets (MVEB) established by the ROP Plan, for the Beaumont/Port Arthur (BPA) ozone nonattainment area submitted November 16, 2004. The intended effect of this action is to approve revisions submitted by the State of Texas to satisfy the reasonable further progress requirements for 1-hour ozone nonattainment areas classified as serious and demonstrate further progress in reducing ozone precursors. We are approving these revisions in accordance with the requirements of the Federal Clean Air Act (CAA).

DATES: This rule is effective on April 24, 2006 without further notice, unless EPA receives relevant adverse comment by March 24, 2006. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2005–TX–0003, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- EPA Region 6 ''Contact Us'' Web site: *http://epa.gov/region6/r6coment.htm.* Please click on ''6PD'' (Multimedia) and select ''Air'' before submitting comments.
- E-mail: Mr. Thomas Diggs at *diggs.thomas@epa.gov.* Please also send a copy by e-mail to 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 Docket ID No. EPA–R06–OAR–2005–TX–0003. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov index.* Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30am and 4:30pm weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection 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: Carl Young, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone 214–665–6645, *young.carl@epa.gov.*

SUPPLEMENTARY INFORMATION:

What Action Are We Taking?

We are approving revisions to the BPA area post-1996 ROP Plan for the 1997–1999, 2000–2002 and 2003–2005 time periods submitted in a letter dated November 16, 2004. The post-1996 ROP plan is designed to achieve an additional 9 percent reduction in emissions between 1996 and 1999, a further 9 percent reduction between 1999 and 2002, and another 9 percent reduction between 2002 and 2005. We are also approving revisions to the 1990 base year inventory and the ROP Plan's associated Motor Vehicle Emissions Budgets (MVEB) for 1999, 2002, and 2005.