

**§ 52.2304**

(b) The plan approval is partially based on commitment letters provided by the Executive Director of the Texas Air Control Board, dated September 5, 1989 and April 17, 1992.

(c) The requirements of section 160 through 165 of the Clean Air Act are not met for Federally-designated Indian lands. Therefore, the provisions of § 52.21 (b) through (w) are hereby adopted and made a part of the applicable implementation plan and are applicable to sources located on land under the control of Indian governing bodies.

(d) The requirements of section 160 through 165 of the Clean Air Act are not met for new major sources or major modifications to existing stationary sources for which applicability determinations would be affected by dockside emissions of vessels. Therefore, the provisions of § 52.21 (b) through (w) are hereby adopted and made a part of the applicable implementation plan and are applicable to such sources.

[57 FR 28098, June 24, 1992, as amended at 59 FR 46557, Sept. 9, 1994; 62 FR 44088, Aug. 19, 1997]

**§ 52.2304 Visibility protection.**

(a) The requirements of section 169A of the Clean Air Act are not met, because the plan does not include approvable procedures for protection of visibility in mandatory Class I Federal areas.

(b) Regulation for visibility monitoring. The provisions of § 52.26 are hereby incorporated and made a part of the applicable plan for the State of Texas.

[50 FR 28553, July 12, 1985, as amended at 52 FR 45137, Nov. 24, 1987; 54 FR 7770, Feb. 23, 1989]

**§ 52.2305 [Reserved]**

**§ 52.2306 Particulate Matter (PM<sub>10</sub>) Group II SIP commitments.**

On July 18, 1988, the Governor of Texas submitted a revision to the State Implementation Plan (SIP) that contained commitments for implementing all of the required activities including monitoring, reporting, emission inventory, and other tasks that may be necessary to satisfy the requirements of the PM<sub>10</sub> Group II SIPs.

**40 CFR Ch. I (7-1-00 Edition)**

The Texas Air Control Board adopted these revisions on May 13, 1988. The State of Texas has committed to comply with the PM<sub>10</sub> Group II SIP requirements, as articulated in the FEDERAL REGISTER notice of July 1, 1987 (52 FR 24670), for the defined areas of Dallas, Harris, Lubbock, and Nueces counties as provided in the Texas PM<sub>10</sub> Group II SIPs. In addition to the SIP, a letter from the Governor of Texas, dated July 18, 1988, stated that:

\* \* \* In the July 1, 1987 issue of the FEDERAL REGISTER, the U.S. Environmental Protection Agency announced the requirement that each state submit a committal SIP for PM<sub>10</sub> Group II areas instead of full control strategies. States were also required to submit demonstrations of attainment and maintenance of the PM<sub>10</sub> National Ambient Air Quality Standards. The TACB is committed to carrying out the activities contained in the enclosed proposed SIP to satisfy those requirements \* \* \*.

[54 FR 25586, June 16, 1989]

**§ 52.2307 Small business assistance program.**

The Governor of Texas submitted on November 13, 1992 a plan revision to develop and implement a Small Business Stationary Source Technical and Environmental Compliance Assistance Program to meet the requirements of section 507 of the Clean Air Act by November 15, 1994. The plan commits to provide technical and compliance assistance to small businesses, hire an Ombudsman to serve as an independent advocate for small businesses, and establish a Compliance Advisory Panel to advise the program and report to the EPA on the program's effectiveness.

[59 FR 42765, Aug. 19, 1994]

**§ 52.2308 Area-wide nitrogen oxides (NO<sub>x</sub>) exemptions.**

(a) The Texas Natural Resource Conservation Commission (TNRCC) submitted to the EPA on June 17, 1994, a petition requesting that the Dallas ozone nonattainment area be exempted from the NO<sub>x</sub> control requirements of section 182(f) of the Clean Air Act (CAA) as amended in 1990. The Dallas nonattainment area consists of Dallas, Tarrant, Denton, and Collin counties. The exemption request was based on a photochemical grid modeling which

shows that the Dallas nonattainment area would attain the National Ambient Air Quality Standards (NAAQS) for ozone by the CAA mandated deadline without the implementation of the additional NO<sub>x</sub> controls required under section 182(f). On November 21, 1994, the EPA conditionally approved this exemption request, conditioned upon the EPA approving the modeling portion of the Dallas attainment demonstration SIP.

(b) The TNRCC submitted to the EPA on June 17, 1994, a petition requesting that the El Paso ozone nonattainment area be exempted from the NO<sub>x</sub> control requirements of section 182(f) of the Clean Air Act (CAA) as amended in 1990. The El Paso nonattainment area consists of El Paso county, and shares a common airshed with Juarez, Mexico. The exemption request was based on a photochemical grid modeling which shows that the El Paso nonattainment area would attain the NAAQS for ozone by the CAA mandated deadline without the implementation of the additional NO<sub>x</sub> controls required under section 182(f), but for emissions emanating from Mexico. On November 21, 1994, the EPA conditionally approved this exemption request, conditioned upon the EPA approving the modeling portion of the El Paso attainment demonstration SIP.

(c) The Texas Natural Resource Conservation Commission submitted to the EPA on May 4, 1994, a petition requesting that the Victoria County incomplete data ozone nonattainment area be exempted from the requirement to meet the NO<sub>x</sub> provisions of the Federal transportation conformity rule. The exemption request was based on monitoring data which demonstrated that the National Ambient Air Quality Standard for ozone had been attained in this area for the 35 months prior to the petition, with the understanding that approval of the State's request would be contingent upon the collection of one additional month of data. The required additional month of verified data was submitted later and, together with the data submitted with the State's petition, demonstrated attainment of the NAAQS for 36 consecutive months. The EPA approved this exemption request on March 2, 1995.

(d) The TNRCC submitted to the EPA on August 17, 1994, with supplemental information submitted on August 31, 1994, and September 9, 1994, a petition requesting that the Houston and Beaumont ozone nonattainment areas be temporarily exempted from the NO<sub>x</sub> control requirements of section 182(f) of the CAA. The Houston nonattainment area consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties. The Beaumont nonattainment area consists of Hardin, Jefferson, and Orange counties. The exemption request was based on photochemical grid modeling which shows that reductions in NO<sub>x</sub> would not contribute to attaining the ozone NAAQS. On April 12, 1995, the EPA approved the State's request for a temporary exemption. Approval of the temporary exemption waives the federal requirements for NO<sub>x</sub> Reasonably Available Control Technology (RACT), New Source Review (NSR), conformity, and vehicle inspection and maintenance (I/M) for the period of the temporary exemption. The temporary exemption automatically expires on December 31, 1996, without further notice from the EPA. Based on the rationale provided in the notice of proposed rulemaking on this action, upon the expiration of the temporary exemption, the requirements pertaining to NO<sub>x</sub> RACT, NSR, conformity, and I/M will again become applicable, except that the NO<sub>x</sub> RACT implementation date applicable to the Houston and Beaumont nonattainment areas under section 182(f) shall be as expeditious as practicable but no later than May 31, 1997, unless the State has received a permanent NO<sub>x</sub> exemption from the EPA prior to that time.

(e) The TNRCC submitted to EPA on March 6, 1996, a petition requesting that the Houston/Galveston and Beaumont/Port Arthur ozone nonattainment areas be granted an extension to a previously-granted temporary exemption from the NO<sub>x</sub> control requirements of sections 182(f) and 182(b) of the Clean Air Act. The temporary exemption was granted on April 19, 1995. The current petition is based on the need for more time to complete UAM to confirm the need for, and the extent of, NO<sub>x</sub> controls required. On May 23,

1997, EPA approved the State's request for an extension to the temporary exemption. The temporary extension automatically expires on December 31, 1997, without further notice from EPA. Upon expiration of the extension, the requirements pertaining to NO<sub>x</sub> RACT, NSR, I/M, general and transportation conformity will become applicable, except that the NO<sub>x</sub> RACT compliance date shall be implemented as expeditiously as practicable, but no later than May 31, 1999, unless the State has received a contingent NO<sub>x</sub> exemption from the EPA prior to that time.

(f) The extension of the temporary exemption from NO<sub>x</sub> control requirements of sections 182(f) and 182(b) of the Clean Air Act for the Houston/Galveston and Beaumont/Port Arthur ozone nonattainment areas granted on May 23, 1997, expired December 31, 1997. Upon expiration of the extension, the requirements pertaining to NO<sub>x</sub> RACT, NSR, I/M, general and transportation conformity will become applicable and the State is expected to implement the requirements as expeditiously as possible.

(g) The Texas Natural Resource Conservation Commission submitted a letter to EPA requesting rescission of the previously-granted conditional exemption from the NO<sub>x</sub> control requirements of section 182(f) of the Act for the Dallas/Fort Worth ozone nonattainment area. The letter was sent on November 13, 1998. The conditional exemption was granted on November 21, 1994, conditioned upon EPA approving the modeling portion of the DFW attainment demonstration SIP. The conditional exemption was also approved on a contingent basis. The modeling-based exemption would last only as long as the area's modeling continued to demonstrate attainment without the additional NO<sub>x</sub> reductions required by section 182(f). The State's request is based on new photochemical modeling which shows the need for NO<sub>x</sub> controls to help the area attain the ozone National Ambient Air Quality Standards. Furthermore, EPA would not and could not approve the earlier attainment demonstration SIP modeling upon which the condition was based.

(1) On June 21, 1999, the conditional NO<sub>x</sub> exemption for the DFW area

granted on November 21, 1994 is rescinded. Upon rescission, the Federal requirements pertaining to NO<sub>x</sub> Reasonably Available Control Technology (RACT), New Source Review, vehicle Inspection/Maintenance, general and transportation conformity now apply.

(2) The NO<sub>x</sub> RACT final compliance date must be implemented as expeditiously as practicable, but no later than March 31, 2001.

[59 FR 60714, Nov. 28, 1994, as amended at 60 FR 5867, Jan. 31, 1995; 60 FR 19522, Apr. 19, 1995; 62 FR 28349, May 23, 1997; 63 FR 7072, Feb. 12, 1998; 64 FR 19286, Apr. 20, 1999]

#### § 52.2309 Emissions inventories.

(a) The Governor of the State of Texas submitted the 1990 base year emission inventories for the Houston/Galveston (HGA), Beaumont/Port Arthur (BPA), El Paso (ELP), and Dallas/Fort Worth (DFW) ozone nonattainment areas on November 17, 1992 as a revision to the State Implementation Plan (SIP). The 1990 base year emission inventory requirement of section 182(a)(1) of the Clean Air Act, as amended in 1990, has been satisfied for each of these areas.

(b) The inventories are for the ozone precursors which are volatile organic compounds, nitrogen oxides, and carbon monoxide. The inventories cover point, area, non-road mobile, on-road mobile, and biogenic sources.

(c) The HGA nonattainment area is classified as Severe-17 and includes Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties; the BPA nonattainment area is classified as Serious and includes Hardin, Jefferson, and Orange Counties; the ELP nonattainment area is classified as Serious and includes El Paso County; and the DFW nonattainment area is classified as Moderate and includes Collin, Dallas, Denton, and Tarrant Counties.

(d) The Texas Natural Resource Conservation Commission submitted State Implementation Plan revisions to the 1990 base year emission inventory for the Beaumont/Port Arthur area with a cover letter from the Governor of Texas dated August 9, 1996.

(e) The Texas Natural Resource Conservation Commission submitted a revision to the State Implementation