

transaction that a report has been made. 31 U.S.C. 5318(g)(2).

The Postal Service is publishing separately a notice of a new system of records, USPS 050.080, Finance Records-Suspicious Transaction Reports, which was made necessary by the reporting requirements of the Bank Secrecy Act. The system of records contains information about certain postal customers who purchase or receive money orders, wire transfers, or stored value cards.

In order to permit compliance with the non-notification requirement of the Bank Secrecy Act, the Postal Service is adopting an exemption from the Privacy Act provisions related to individual access. Under 5 U.S.C. 552a(k)(2), the head of an agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a if the system of records is "investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section."

The Postal Service is hereby giving notice of a proposed rule to exempt the Suspicious Transaction Report system from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). The reasons for exempting the system of records from sections (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f) of the Privacy Act are set forth in the proposed rule.

#### List of Subjects in 39 CFR Part 266

Privacy.

For the reasons set out in the preamble, the Postal Service proposes to amend part 266 of 39 CFR as follows:

#### PART 266—PRIVACY OF INFORMATION

1. The authority citation for part 266 continues to read as follows:

**Authority:** 39 U.S.C. 401; 5 U.S.C. 552a.

2. Section 266.9 is amended by adding paragraph (b)(7) to read as follows:

##### § 266.9 Exemptions.

\* \* \* \* \*

(b) \* \* \*

(7) Finance Records-Suspicious Transaction Reports, USPS 050.080. This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f) to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2) as material compiled for law enforcement purposes. The reasons for exemption follow.

(i) Disclosure to the record subject pursuant to subsections (c)(3) or (d)(1)–

(4) would violate the non-notification provision of the Bank Secrecy Act, 31 U.S.C. 5318(g)(2), under which the Postal Service is prohibited from notifying a transaction participant that a suspicious transaction report has been made. In addition, the access provisions of subsections (c)(3) and (d) would alert individuals that they have been identified as suspects or possible subjects of investigation and thus seriously hinder the law enforcement purposes underlying the suspicious transaction reports.

(ii) This system is in compliance with subsection (e)(1), because maintenance of the records is required by law. Strict application of the relevance and necessity requirements of subsection (e)(1) to suspicious transactions would be impractical, however, because the relevance or necessity of specific information can often be established only after considerable analysis and as an investigation progresses.

(iii) The requirements of subsections (e)(4)(G), (H), and (I) and subsection (f) do not apply because this system is exempt from the individual access and amendment provisions of subsection (d). Nevertheless, the Postal Service has published notice of the record source categories and the notification, access, and contest procedures.

An appropriate revision of 39 CFR 266.9 to reflect the proposed change will be published if the proposal is adopted.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[TX; FRL–6922–4]

#### Approval and Promulgation of Implementation Plans; Texas; Ozone; Beaumont/Port Arthur Ozone Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve the Texas 1-hour ozone attainment demonstration State Implementation Plan (SIP) for the Beaumont/Port Arthur (BPA) moderate ozone nonattainment area. The attainment demonstration SIP is addressed in the State of Texas submittals dated November 12, 1999

and April 25, 2000. The EPA is also proposing to: extend the ozone attainment date for the BPA ozone nonattainment area to November 15, 2007 while retaining the area's current classification as a moderate ozone nonattainment area; approve the State's enforceable commitment to perform a mid-course review and submit a SIP revision to the EPA by May 2004; find that the BPA area meets the Reasonably Available Technology (RACT) requirements for major sources of volatile organic compounds (VOC) emissions; and approve the motor vehicle emissions budgets (MVEB). This proposed rule is based on the requirements of the Federal Clean Air Act (the Act) related to ozone attainment demonstrations.

**DATES:** Written comments must be received on or before January 26, 2001.

**ADDRESSES:** Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action, including the Technical Support Document (TSD) are available for public inspection during normal business hours at the following locations.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

**FOR FURTHER INFORMATION CONTACT:** Steven Pratt, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733. Telephone Number (214) 665–2140, e-Mail Address: [pratt.steven@epa.gov](mailto:pratt.steven@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document "we," "us," and "our" means EPA.

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**I. Background**

*A. Basis for the State's Attainment Demonstration*

What are the Relevant Clean Air Act Requirements?

The Act requires the EPA to establish National Ambient Air Quality Standards (NAAQS) for certain widespread pollutants that cause or contribute to air pollution that is reasonably anticipated to endanger public health or welfare. Clean Air Act sections 108 and 109. In 1979, EPA promulgated the 1-hour ground-level ozone standard of 120 parts per billion (ppb). 44 FR 8202 (February 8, 1979).

Ground-level ozone is not emitted directly by sources. Rather, Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO<sub>x</sub>), emitted by a wide variety of sources, react in the presence of sunlight to form ground-level ozone. NO<sub>x</sub> and VOC are referred to as precursors of ozone.

Ozone formation is accelerated or enhanced under certain meteorological conditions, such as high temperatures and low wind speeds. Higher ozone concentrations occur downwind of areas with relatively high VOC and NO<sub>x</sub> concentrations or in areas subject to relatively high background ozone and ozone precursor concentrations (ozone and ozone precursors entering an area as the result of transport from upwind source areas).

VOC emissions are produced by a wide variety of sources, including stationary and mobile sources. Significant stationary sources of VOC include industrial solvent usage, various coating operations, industrial and utility combustion units, petroleum and oil storage and marketing operations, chemical manufacturing operations, personal solvent usage, etc. Significant mobile sources of VOC include on-road vehicle usage and off-road vehicle and engine usage, such as farm machinery, aircraft, locomotives, and motorized lawn care and garden implements.

NO<sub>x</sub> emissions are produced primarily through combustion processes, including industrial and utility boiler use, process heaters and

furnaces, and on-road and off-road mobile sources.

An area exceeds the 1-hour ozone standard each time an ambient air quality monitor records a 1-hour average ozone concentration above 124 ppb in any given day (only the highest 1-hour ozone concentration at the monitor during any 24 hour day is considered when determining the number of exceedance days at the monitor). An area violates the ozone standard if, over a consecutive 3-year period, more than 3 days of exceedances are expected to occur at any monitor in the area. 40 CFR Part 50, App.H.

The highest of the fourth-highest daily peak ozone concentrations over the 3 year period at any monitoring site in the area is called the ozone design value for the area. The Act, as amended in 1990, required EPA to designate as nonattainment any area that was violating the 1-hour ozone standard, generally based on air quality monitoring data from the 1987 through 1989 period. Clean Air Act section 107(d)(4); 56 FR 56694 (November 6, 1991). The Act further classified these areas, based on the areas' ozone design values, as marginal, moderate, serious, severe, or extreme. Marginal areas were suffering the least significant ozone nonattainment problems, while the areas classified as severe and extreme had the most significant ozone nonattainment problems.

The control requirements and date by which attainment is to be achieved vary with an area's classification. Marginal areas were subject to the fewest mandated control requirements and had the earliest attainment date, November 15, 1993. Severe and extreme areas are subject to more stringent planning requirements but are provided more time to attain the standard. Serious areas were required to attain the 1-hour standard by November 15, 1999, and severe areas are required to attain by November 15, 2005 or November 15, 2007, depending on the areas' ozone design values for 1987 through 1989. The BPA ozone nonattainment area was initially classified as serious (56 FR 56694). Subsequently, EPA determined that the serious classification was made in error. The area was reclassified to moderate and the attainment date for a moderate area is November 15, 1996 (61 FR 14496). The BPA ozone nonattainment area is defined (40 CFR Parts 81.314 and 81.326) to contain Jefferson, Hardin and Orange Counties in Texas.

The specific requirements of the Act for moderate ozone nonattainment areas are found in part D, section 182(b). Section 172 in part D provides the

general requirements for nonattainment plans. Section 172(c)(6) in part D of the Act and section 110 require SIPs to include enforceable emission limitations, and such other control measures, means or techniques as well as schedules and timetables for compliance, as may be necessary to provide for attainment by the applicable attainment date. Section 172(c)(1) requires the SIP to provide for implementation of all reasonably available control measures as expeditiously as practicable and requires the SIP to provide for attainment of the NAAQS. Section 182(b)(1)(A) requires the State to submit for the moderate nonattainment area, a 15% Rate of Progress Plan and also provide for specific annual reductions in emissions of VOC and NO<sub>x</sub> "as necessary to attain" the ozone NAAQS by the applicable attainment date. EPA's "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (57 FR 13498 dated April 16, 1992) provides the interpretive basis for EPA's rulemakings under the nonattainment plan provisions of the Act (General Preamble). In the General Preamble, the EPA provides that this section 182(b)(1)(A) requirement for attainment may be met by the use of EPA-approved modeling techniques. As part of today's proposal, EPA is proposing action on the attainment demonstration SIP revision submitted by the State of Texas for the BPA moderate ozone nonattainment area.

In general, an attainment demonstration SIP includes a modeling analysis showing how an area will achieve the standard by its attainment date and the emission control measures necessary to achieve attainment. The attainment demonstration SIPs must include motor vehicle emissions budgets for transportation conformity purposes. Transportation conformity is a process required by Section 176(c) of the Act for ensuring that the effects of emissions from all on-road sources are consistent with attainment of the standard. Ozone attainment demonstrations must include the estimates of motor vehicle VOC and NO<sub>x</sub> emissions that are consistent with attainment, which then act as a budget or ceiling for the purposes of determining whether transportation plans, programs, and projects conform to the attainment SIP. Refer to Section II.A.5 for more details.

What is the History and Time Frame for the State Attainment Demonstration SIP for BPA and How Is It Related to EPA Transport Policy?

The BPA area is classified as moderate and, therefore, was required to attain the 1-hour ozone standard of 0.12 parts per million by November 15, 1996.

Attainment Demonstration SIPs were originally due November 1994. However, through a series of policy memoranda, the EPA recognized that States had not submitted these attainment demonstrations and were constrained to do so until ozone transport had been further analyzed. One policy memorandum addressing the issue of ozone transport is the Transport Policy issued by the EPA in July 1998. The Transport Policy is particularly relevant to BPA, which is downwind of the Houston/Galveston (HG) area, a severe-17 ozone nonattainment area with an attainment date of November 15, 2007.

On April 16, 1999, EPA proposed in the **Federal Register** to reclassify the BPA area to a serious ozone nonattainment area, and alternatively, proposed to extend the BPA area's attainment date if the State submitted a SIP timely and meeting the criteria of the 1998 Transport Policy (64 **Federal Register** 18864).

The BPA Attainment Demonstration SIP revision was adopted by the State on October 27, 1999 and submitted to the EPA under a cover letter from the Governor dated November 12, 1999. This submittal was termed by the State as "Phase I" of their NO<sub>x</sub> rulemaking activities. The State submitted a revision to their SIP dated April 25, 2000, as "Phase II" NO<sub>x</sub> rules and controls needed for attainment.

In the BPA ozone attainment demonstration SIP reviewed here, the State does rely, in part, on regional and statewide NO<sub>x</sub> emission reductions for Texas, including the upwind HG Area, the eastern half of the State of Texas, and States upwind of Texas (most importantly, Louisiana). In developing the attainment demonstration for BPA, the State makes the case that the 1998 Transport Policy is particularly relevant to BPA, which is downwind of the HG area, and that the BPA area is affected by transport from HG. If we approve of such a determination for BPA, the area would have until no later than November 15, 2007, the attainment date for HG, to attain the 1-hour ozone standard.

What is the Time Frame for Taking Action on the Attainment Demonstration SIP?

The State submitted the attainment demonstration SIP revisions and supporting documentation between November 1999 and April 2000. In today's **Federal Register**, EPA is proposing to approve the attainment demonstration SIP for the BPA area. The anticipated schedule includes a 30-day public comment period. The EPA cannot finalize the proposed action upon the attainment demonstration SIP unless and until we have fully approved all of the control measures relied upon in the State's attainment demonstration SIP for the BPA area and the control measures required by the Act for a moderate area such as the BPA area. The EPA intends to complete final rulemaking on all of those required control measures by early spring 2001. We are acting upon those measures in separate **Federal Register** rulemaking notices. The EPA intends to have the Regional Administrator sign a final rulemaking on the attainment demonstration SIP and the attainment date extension for the BPA Area in late April, 2001. The final rule would be published in the **Federal Register** following Regional Administrator signature. The Texas Natural Resource Conservation Commission (TNRCC) submitted an enforceable commitment in the April 2000 SIP submittal to perform a mid-course review (including evaluation of all modeling, inventory data, and other tools and assumptions used to develop this attainment demonstration). The TNRCC committed that it will submit a mid-course review SIP revision, with recommended mid-course corrective actions, to the EPA by May 1, 2004.

#### *B. Components of a Modeled Attainment Demonstration*

The EPA provides guidance (*Guidance on the Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS*, EPA-454/B-95-007, June 1996) that States may rely on a modeled attainment demonstration supplemented with additional evidence to demonstrate attainment. To have a complete modeling demonstration submission, States should have submitted the required modeling analyses and identified any additional evidence that EPA should consider in evaluating whether the area will attain the standard. Additional components are discussed below.

What EPA Guidelines Apply to the Attainment Demonstration Submittals?

The following documents, among others, contain EPA's guidelines affecting the content and review of ozone attainment demonstration submittals:

1. *Guideline for Regulatory Application of the Urban Airshed Model*, EPA-450/4-91-013, July 1991. Web site: <http://www.epa.gov/ttn/scram/> (file name: "UAMREG").
2. *Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources (Revised)* (1992);
3. *Guidance on Urban Airshed Model (UAM) Reporting Requirements for Attainment Demonstrations*, EPA-454/R-93-056, March 1994. Web site: <http://www.epa.gov/ttn/scram/> (file name: "UAMRPTRQ").
4. *User's Guide to MOBILE5 (Mobile Source Emission Factor Model)*, May 1994;
5. Memorandum, "Ozone Attainment Dates for Areas Affected by Overwhelming Transport," from Mary D. Nichols, Assistant Administrator for Air and Radiation, Environmental Protection Agency, September 1994;
6. Memorandum, "Ozone Attainment Demonstrations," from Mary D. Nichols, Assistant Administrator for Air and Radiation, March 2, 1995. Web site: <http://www.epa.gov/ttn/oarpg/t1pgm.html>.
7. *Guidance on the Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS*, EPA-454/B-95-007, June 1996. Web site: <http://www.epa.gov/ttn/scram/> (file name: "O3TEST").
8. Memorandum, "Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM10 NAAQS," from Richard Wilson, Office of Air and Radiation, December 29, 1997. Web site: <http://www.epa.gov/ttn/oarpg/t1pgm.html>.
9. Memorandum, "Extension of Attainment Dates for Downwind Transport Areas," from Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, July 16, 1998.
10. Memorandum, "Use of Models and Other Analyses in Attainment Demonstrations for the 8-Hour Ozone NAAQS (Draft)", 1998.
11. Memorandum, "Guidance on Motor Vehicle Emissions Budgets in One-Hour Ozone Attainment Demonstrations," from Merrylin Zaw-Mon, Acting Director of the Regional and State Programs Division, November 3, 1999. Web site: [www.epa.gov/oms/transp/conform/nov3guid.pdf](http://www.epa.gov/oms/transp/conform/nov3guid.pdf).
12. Memorandum, "Guidance on the Reasonably Available Control Measures

(RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas," from John S. Seitz, Director of Office of Air Quality Planning and Standards, November 30, 1999.

13. Draft Memorandum, "1-Hour Ozone NAAQS—Mid-Course Review Guidance," from John Seitz, Director, Office of Air Quality Planning and Standards.

What are the Modeling Requirements for the Attainment Demonstration?

For purposes of demonstrating attainment under section 182(b), the General Preamble provides that a State may rely upon EPA's modeling guidance. EPA's modeling guidance provides for the use of photochemical grid modeling and additional information. The photochemical grid model is set up using meteorological conditions conducive to the formation of ozone in the nonattainment area and its modeling domain, as defined below. Emissions for a base year are used to evaluate the model's ability to reproduce actual monitored air quality values. Following validation of the modeling system for a base year, emissions are projected to an attainment year to predict air quality changes in the attainment year due to the emission changes, which include growth up to and controls implemented by the attainment year. A modeling domain is chosen that encompasses the nonattainment area. Attainment is demonstrated when all predicted ozone concentrations inside the modeling domain are at or below the ozone standard or an acceptable upper limit above the standard under certain conditions provided in EPA's 1996 guidance. When the predicted concentrations are above the standard or an upper limit using the 1996 guidance criteria, EPA's 1996 guidance provides for the use of an optional weight-of-evidence determination which incorporates other analyses, such as air quality and emissions trends, to address uncertainty inherent in the application of photochemical grid models. This latter approach may be used under certain circumstances to support a demonstration of attainment.

EPA guidance identifies the features of a modeling analysis that are essential to obtain credible results. First, the State develops and implements a modeling protocol. The modeling protocol describes the methods and procedures to be used in conducting the modeling analyses and provides for policy oversight and technical review by individuals responsible for developing or assessing the attainment

demonstration (State and local agencies, EPA). Second, for purposes of developing the information to put into the model, air pollution days, *i.e.*, days in the past with high ozone concentrations exceeding the standard, are considered by EPA to be representative of the ozone pollution problem for the nonattainment area. Third, identification of the appropriate dimensions of the area to be modeled, *i.e.*, the modeling domain size, is an important criterion. A domain larger than the designated nonattainment area reduces uncertainty in the boundary conditions as does including any large upwind sources just outside the nonattainment area. In general, the domain is considered the local area where control measures are most beneficial to bring the area into attainment. Alternatively, a much larger modeling domain may be established, addressing the impacts of both local and regional emission control measures on a number of ozone nonattainment areas. In both cases, the attainment determination is based on the review of ozone predictions within the local area where control measures are most beneficial to bring the area into attainment (referred to as the local modeling domain). Fourth, determination of the grid resolution is an important criterion. The horizontal and vertical grid resolutions in the model can affect significantly the modeled results of dispersion and transport of emission plumes. Artificially large grid cells (too few vertical layers and horizontal grids) may dilute concentrations and may not properly consider impacts of complex terrain, complex meteorology, and land/water interfaces. Fifth, meteorological and emissions data that describe atmospheric conditions and emissions inputs reflective of the selected high ozone days are generated. Finally, verification that the modeling system is properly simulating the chemistry and atmospheric conditions through diagnostic analyses and model performance tests (generally referred to as model validation) provides confidence in the performance. Once these steps are satisfactorily completed, the model is ready to be used to generate air quality estimates to support an attainment demonstration.

The modeled attainment test compares model predicted 1-hour daily maximum ozone concentrations in all grid cells for the attainment year to the level of the ozone standard. A predicted peak ozone concentration above 124 ppb indicates that the area is expected to exceed the standard in the attainment

year. This type of test is often referred to as an exceedance test. The EPA's June 1996 guidance recommends that States use either of two exceedance tests for the 1-hour ozone standard: A deterministic test or a statistical test.

Under the deterministic test the State compares predicted 1-hour daily maximum ozone concentrations for each modeled day (the initial, "ramp-up" days for each episode are excluded from this determination) to the attainment level of 124 ppb. If none of the predictions exceed 124 ppb, the test is passed.

The statistical test takes into account the fact that the form of the 1-hour ozone standard allows exceedances. If, over a 3 year period, the area has an average of 1 or fewer ozone standard exceedances per year at any monitoring site, the area is not violating the standard. Thus, if the State models a severe day (considering meteorological conditions that are very conducive to high ozone levels and that should lead to fewer than 1 exceedance per year at any location in the nonattainment area and in the modeling domain over a 3 year period), the statistical test provides that a prediction above 124 ppb up to a certain upper limit may be consistent with attainment of the standard. (The form of the 1-hour ozone standard allows for up to three readings above the standard over a three-year period before an area is considered to be in violation.)

The acceptable upper limit above 124 ppb is determined by examining the size of exceedances at monitoring sites which meet or attain the 1-hour standard. For example, a monitoring site for which the 4 highest 1-hour average concentrations over a 3 year period are 136 ppb, 130 ppb, 128 ppb, and 122 ppb is attaining the standard since there are no more than 3 exceedances at any one monitor over a 3-year period. To identify an acceptable upper limit, the statistical likelihood of observing ozone air quality exceedances of the standard of various concentrations is equated to the severity of the modeled day. The upper limit generally represents the maximum ozone concentration level observed at a location on a single day and it would be the only reading above the standard that would be expected to occur no more than an average of once a year over a 3 year period. Therefore, if the maximum ozone concentration predicted by the model is below the acceptable upper limit, in this case 136 ppb, then EPA might conclude that the modeled attainment test is passed. Generally, exceedances well above 124 ppb are very unusual at monitoring sites meeting the standard. Thus, these upper

limits are rarely substantially higher than the attainment level of 124 ppb.

#### What are the Additional Analyses That May Be Considered When the Modeling Fails To Show Attainment?

When the modeling does not conclusively demonstrate attainment, additional analyses may be presented to help determine whether the area will attain the standard. As with other predictive tools, there are inherent uncertainties associated with modeling and its results. For example, there are uncertainties in some of the modeling inputs, such as the meteorological and emissions data bases for individual days and in the methodology used to assess the severity of an exceedance at individual sites. The EPA's 1996 guidance recognizes these limitations and provides a means for considering other evidence to help assess whether attainment of the standard is likely. The process by which this is done is called a weight-of-evidence determination.

Under a weight-of-evidence determination, the State can rely on and EPA will consider factors such as: Model performance and results, episode selection, other modeled attainment tests, *e.g.*, relative reduction factor analysis; other modeled outputs, *e.g.*, changes in the predicted frequency and pervasiveness of exceedances and predicted changes in the design value; actual observed air quality trends; estimated emissions trends; analyses of air quality monitored data; the responsiveness of the model predictions to further controls; and, whether there are additional control measures that are or will be approved into the SIP but were not included in the modeling analysis. This list is not an exhaustive list of factors that may be considered and these factors could vary from case to case. The EPA's 1996 guidance contains no limit on how close a modeled attainment test must be to passing to conclude that other evidence besides an attainment test is a sufficiently compelling case for attainment. However, the further a modeled attainment test is from being passed, the more compelling the weight-of-evidence needs to be.

The EPA's 1996 guidance also recognizes a need to perform a mid-course review as a means for addressing uncertainty in the modeling results. Because of the uncertainty in long term projections, EPA believes a viable attainment demonstration that relies on weight of evidence should contain provisions for periodic review of monitoring, emissions, and modeling data to assess the extent to which

refinements to emission control measures are needed.

#### C. Framework for Proposing Action on the Attainment Demonstration SIP

Besides the Modeled Attainment Demonstration, What Other Issues Must be Addressed in the Attainment Demonstration SIP?

In addition to the modeling analysis and weight-of-evidence determination demonstrating attainment, the EPA has identified the following key elements which must be present in order for EPA to approve the 1-hour attainment demonstration SIP under the criteria of the 1998 Transport Policy.

1. *Clean Air Act measures and other measures relied on in the modeled attainment demonstration State Implementation Plan.* To receive final approval of the BPA attainment demonstration SIP under the 1998 Transport Policy, the State must have adopted the emission control measures required under the Act for the area's classification or must have established negative source declarations for the source categories for which the area has no sources that are subject to the Clean Air Act area's classification requirements for such sources. All required emission controls must be implemented as expeditiously as practicable but no later than prior to the beginning of the ozone season (year round in the BPA area, 40 CFR Part 58—Texas Air Quality Control Region 10) in the area's attainment year to assure attainment of the ozone standard in the attainment year.

The attainment demonstration must incorporate the emission impacts of, and the SIP submittal must address the rule development for, any additional emission control measures needed to achieve attainment. The rules for these emission controls relied upon in the attainment demonstration must also have been adopted by the State and approved by EPA before the EPA can finally approve the attainment demonstration SIP. The emission controls for these sources must be implemented as expeditiously as practicable.

Table 1 presents a summary of the Clean Air Act requirements that need to be met for a moderate ozone nonattainment area for the 1-hour ozone standard. These requirements are specified in sections 182(b) and 182(f) of the Act. Information on additional measures that Texas has adopted and relied on in the attainment demonstration SIP for the BPA area is not shown in this table, but is addressed later in this proposed rule.

TABLE 1.—CAA REQUIREMENTS FOR MODERATE NONATTAINMENT AREAS

- New Source Review (NSR) regulations for VOC and NO<sub>x</sub>, including an offset ratio of 1.15:1 and a major VOC and NO<sub>x</sub> source size cutoff of 100 tons per year (TPY).
- Reasonably Available Control Technology (RACT) for VOC and NO<sub>x</sub>.
- 15 percent Rate-Of-Progress (ROP) plan for VOC through 1996.
- 1990 baseline emissions inventory for VOC and NO<sub>x</sub>.
- Periodic emissions inventory and source emission statement regulations.
- Vehicle inspection and maintenance (I/M) program.<sup>a</sup>

<sup>a</sup>A vehicle I/M program would normally be listed as a requirement for a moderate ozone nonattainment area. However, the Federal I/M Flexibility Amendments of 1995 determined that urbanized areas with populations less than 200,000 for 1990 (such as Beaumont/Port Arthur) are not mandated to participate in the I/M program (60 FR 48033, September 18, 1995).

#### 2. Motor vehicle emissions budgets.

An attainment demonstration SIP must establish the motor vehicle emissions budget that is the maximum level of on-road emissions that can be produced in the attainment year. The attainment demonstration SIP must also demonstrate that this emissions level, when considered with emissions from all other sources, is consistent with attainment. The motor vehicle emissions budgets must meet certain criteria which are listed in the Transportation Conformity Rule (40 CFR Part 93 Subpart A Section 93.118) and all pertinent SIP requirements before the budgets can be approved as part of the attainment demonstration SIP.

#### D. Criteria for Attainment Date Extensions

What is EPA's Policy With Regard to an Ozone Attainment Date Extension?

The EPA's policy regarding an extension of the ozone attainment date for the BPA area is fully addressed in EPA's initial notice of proposed rulemaking dated April 16, 1999 (64 FR 18864). In the April 16, 1999, notice, the EPA proposed to reclassify the BPA area to a serious ozone nonattainment area, but also provided notice of the area's potential eligibility for an attainment date extension based on a July 16, 1998, EPA guidance memorandum. The specifics of the attainment date policy are repeated below for clarity.

On July 16, 1998, a guidance memorandum entitled "Extension of

Attainment Dates for Downwind Transport Areas” was issued by the EPA. That memorandum included EPA’s interpretation of the Act regarding the extension of attainment dates for ozone nonattainment areas that have been classified as moderate or serious for the 1-hour ozone standard and which are downwind of areas that have interfered with their ability to demonstrate attainment of the ozone standard by dates prescribed in the Act. That memorandum stated that the EPA will consider extending the attainment date for an area or a State that:

(1) Has been identified as a downwind area affected by transport from either an upwind area in the same State with a later attainment date or an upwind area in another State that significantly contributes to downwind ozone nonattainment;

(2) Has submitted an approvable attainment demonstration with any necessary, adopted local measures and with an attainment date that shows it will attain the 1-hour standard no later than the date that the reductions are expected from upwind areas under the final NO<sub>x</sub> SIP call (63 FR 57356, October 27, 1998; compliance dates revised by Court order August 30, 2000) and/or the statutory attainment date for upwind nonattainment areas, (*i.e.*, assuming the boundary conditions reflecting those upwind emission reductions);

(3) Has adopted all applicable local measures required under the area’s current classification and any additional measures necessary to demonstrate attainment, assuming the reductions occur as required in the upwind areas;

(4) Has provided that it will implement all adopted measures as expeditiously as practicable, but no later than the date by which the upwind reductions needed for attainment will be achieved.

Once an area receives an extension of its attainment date based on ozone/precursor transport impacts, the area is no longer subject to reclassification to a higher ozone nonattainment classification for failure to attain the ozone standard by the original attainment deadline. If the BPA area is granted an attainment date extension, it would no longer be subject to a reclassification to serious nonattainment for ozone and no longer subject to the additional emission control requirements that would result from the reclassification to serious nonattainment, for failure to attain by the original November 15, 1996, deadline.

Texas has requested an extension of the attainment date for the BPA

nonattainment area in conjunction with the ozone attainment demonstration submittals. The ozone attainment demonstration SIP uses November 15, 2007 as the ozone attainment date. The chosen 2007 attainment date reflects the statutory attainment date for the HG area, as the BPA is downwind of the HG area.

## II. Technical Review of the Submittals

### A. Summary of the State Submittals

#### 1. General Information

*When were the ozone attainment demonstration State Implementation Plan revisions submitted to the Environmental Protection Agency? The TNRCC made two submittals to us, which in whole or in part concern the ozone attainment demonstration, and an extension of the attainment date for the BPA ozone nonattainment area:*

(a) A November 12, 1999, submission from the Governor of Texas, which included the following:

A. Regulations and associated documentation for the control of VOC emissions from batch process operations and industrial wastewater treatment processes, intended to fulfill the remaining VOC RACT requirements of section 182(b)(2) of the Act for the BPA moderate nonattainment area;

B. A regulation and associated documentation for the control of NO<sub>x</sub> emissions from lean burn engines, intended to meet the remaining NO<sub>x</sub> RACT requirements of section 182(b)(2) of the Act for the BPA moderate nonattainment area;

C. A Photochemical Modeling demonstration and its accompanying control strategy to bring the BPA area into attainment of the one-hour ozone standard as expeditiously as practicable, but no later than 2007;

D. A 2007 motor vehicle emissions budget for transportation conformity;

E. Emissions growth estimates and an emissions inventory; and,

F. An enforceable commitment to submit additional rules to us in accordance with its modeled control strategy.

(b) An April 25, 2000, submission from the Governor of Texas, which included the following:

A. NO<sub>x</sub> emissions specifications in the BPA area for electric utility boilers, industrial, commercial or institutional boilers, and certain process heaters, relied upon for attainment in the BPA area;

B. Additional regional rules and orders relied upon for demonstrating attainment in the BPA area;

C. A Revised Photochemical Modeling demonstration and emissions growth estimates; and,

D. An enforceable commitment to perform a mid-course review with submittal to the EPA by May 1, 2004.

For the purposes of this action, we are reviewing only the modeling, weight-of-evidence support, the transport analysis, MVEB, emissions inventory, the approved VOC 1990 baseline emission inventory regarding major VOC sources in the BPA area, and the mid-course enforceable commitment.

*When were the submittals addressed in public hearings, and when were the submittals formally adopted by the States? The TNRCC held a public hearing on the November submittal on August 9, 1999. This submittal was formally adopted by the TNRCC on October 27, 1999. The TNRCC held ten public hearings on the April submittal; a public hearing was held in the BPA area on January 31, 2000. The TNRCC formally adopted the April 25, 2000, submittal on April 19, 2000.*

#### 2. Modeling Procedures and Input Data

*What modeling approach was used in the analyses? The State of Texas conducted the modeling analyses and other analyses, including weight-of-evidence analyses, used to support the attainment demonstration. The modeling approach is documented in both Texas’ November 12, 1999, ozone attainment demonstration (Phase I) and the April 25, 2000, supplemental ozone attainment demonstration (Phase II) submittals.*

The TNRCC used the Comprehensive Air Quality Model with Extensions (CAMx) photochemical grid model (which is based on well-established treatments of advection, diffusion, deposition, and chemistry similar to the UAM photochemical grid model) to conduct the SIP attainment demonstration modeling.

TNRCC used a relatively large modeling domain to capture the influence of inter-urban transport between Lake Charles, Louisiana (LC), the BPA area, and the HG area. The modeling domain covers most counties in central and east Texas, including the ozone nonattainment counties of Harris, Jefferson, Orange, Chambers, Hardin, Liberty, Montgomery, Waller, Brazoria, Galveston, and Fort Bend counties, and parts of three parishes in Louisiana.

*How were high ozone episodes evaluated for modeling selection? In selecting the episodes to be modeled, the State followed the guidance provided by the EPA. The July 1991 ozone modeling guidance, “Guideline for Regulatory Application of the Urban*

Airshed Model”, recommends that episodes for modeling be selected to represent different meteorological regimes observed to correspond with ozone exceeding the standard. The policy represents EPA’s view that both stagnation and transport conditions should be examined, and a minimum of 3 primary episode days should be modeled. Primary episode days are those days for which ozone concentrations exceeding the standard were monitored in the area. For a more complete description of episode selection criteria see the TSD for this document.

*What high ozone periods were modeled?* TNRCC selected two episodes for BPA’s attainment demonstration modeling purposes. They were the August 31-September 2, 1993, and September 6-11, 1993, episodes. Details of the rationale for inclusion of these two episodes can be found in the State’s BPA attainment demonstration SIP submittal and the TSD for this document.

The August 31 to September 2, 1993, episode, in EPA’s view, features representative wind patterns and high monitored ambient ozone concentration levels. This particular meteorological regime is highly correlated with rather severe monitored ozone exceedances. Transport between HG and BPA is indicated during this episode. The highest monitored reading in the BPA area for this period was 139 ppb on September 2, 1993.

The September 6-11, 1993, episode is characterized by having high to moderately high daily monitored peak ozone concentrations over the entire large domain. The highest monitored reading in the BPA area for this period was 141 ppb on September 10, 1993. As noted, the high ozone episodes TNRCC selected and modeled cover more than 3 primary episode days and cover the types of meteorology observed along with high ozone in the BPA area. For a more complete description of episode selection see the TSD for this document.

*What input data systems and analyses were used as part of the combined modeling system?* The following input data systems and analyses were used by the State:

*Emissions:* TNRCC developed two major types of modeling emission inventories, one type representing the actual emissions that occurred during the two chosen specific episode periods, and another type representing the projected emissions expected to occur at the attainment date for the HG area (*i.e.*, 2007). The episode-specific modeling emissions, termed the “base case,” were used to evaluate the model’s reliability

in replicating the ozone exceedances that occurred during the two chosen episodes. The 2007 projected modeling emissions, termed the “future case,” were used to estimate the overall level of reductions in VOC and NO<sub>x</sub> needed to achieve attainment. For a more complete description of how these base case and future case inventories were developed, see the TSD for this document.

*Meteorology:* TNRCC developed the meteorological inputs to CAMx using the System Application International Mesoscale Model (SAIMM), which is a prognostic mesoscale meteorological model with four dimensional data assimilation (4DDA). EPA is proposing to accept TNRCC’s use of SAIMM upon the technical justification that it adequately replicates the land-sea breeze and inter-urban area transport features which appear to be typical of conditions associated with ozone exceedances along the Texas Gulf coast.

*Chemistry:* Atmospheric chemistry within the modeling grid system was simulated using the Carbon Bond-Version IV model developed by the EPA.

*Boundary and Initial Conditions:* EPA’s modeling Guidelines recommend the use of the ROM photochemical model on a regional basis for developing boundary conditions. TNRCC in collaboration with ENVIRON conducted a regional modeling application to determine boundary and initial conditions for the COAST modeling domain. This regional modeling domain covered a rather large area of the southeastern United States, extending from San Angelo, Texas on the west to the Georgia-Alabama border on the east, and from south of Brownsville on the south to the Oklahoma-Kansas border on the north. EPA considers this modeling framework used by TNRCC for the development of boundary and initial conditions to be superior to ROM, since it encompasses many improvements in model formulation over ROM. Using the OTAG model performance criteria as a gauge for the technical acceptability of this Texas regional modeling, EPA proposes to accept the TNRCC/ ENVIRON regional modeling application as producing acceptable results upon which to derive initial and boundary conditions for the two COAST modeling episodes.

*What procedures and sources of projection data were used to project the emissions to future years?* In general the projected 2007 modeling emissions inventory (future case) was derived from the base case modeling emissions inventory (base case) by applying

growth and control factors to the various source categories.

For the growth of stationary point sources, TNRCC used survey data of point source startups and shutdowns that occurred from 1990 to 1996 to account for banking emissions, startups and shutdowns. As recommended, TNRCC used procedures developed by EPA, which take into account the survey data and the required offsets for nonattainment New Source Review purposes, to develop growth rates for the modeling domain.

For the growth of the area and off-road mobile source emissions, TNRCC used a combination of growth factors derived from a model developed specifically for Texas by Regional Economic Modeling Inc. (REMI). The Texas model is an adaptation of the Emissions Growth Analysis System (EGAS), which is the standard EPA method of developing growth factors. The EPA is proposing to find the Texas model acceptable for projecting the growth of the area and off-road mobile source emissions in the BPA area modeling.

TNRCC developed the projected 2007 on-road mobile source emissions using much of the same procedures as used for the base case on-road mobile source emissions, for most of the counties. For these counties, the projections were based upon the results of the Travel Demand Model (TDM)(a Texas Department of Transportation—TxDOT—travel demand model) and additional special survey data (local travel counts, etc.), which provided estimates of the Vehicle Miles Traveled (VMT) mix and hourly VMT fractions. The TDM modeling used a projected 2007 roadway network. The results of this TDM modeling were coupled with the results of MOBILE5a, the EPA-approved mobile sources model. However, some counties in the COAST modeling domain were not covered by the TDM. For this smaller group of counties, TNRCC did not develop the projected 2007 on-road mobile source emissions in the same manner as discussed above. In these cases, TNRCC used regional adjustment factors based upon: (1) the difference between MOBILE5a runs for model years 1993 and 2007 that were calculated above for those counties in the COAST modeling domain that were covered by the TDM, and (2) the difference between 1993 and 2007 VMT for those same TDM covered counties from the Highway Performance Monitoring System (HPMS) estimates provided by TxDOT. The adjustment factors were calculated by averaging county-specific ratios. Then, similar to how MOBILE5a was run for the TDM

covered counties, MOBILE5a was run for the non-TDM covered counties with the same input setup used for the 1993 episodic on-road mobile source emissions, only changing the model year to 2007. EPA is proposing to accept this approach for projecting the future 2007 on-road mobile source emissions in the domain.

TNRCC used the same biogenic emissions developed for the 1993 episodic inventory (*i.e.*, BIOME generated) for the future case. TNRCC assumed biogenic emissions would remain approximately constant between the years 1993 and 2007, and the EPA proposes to accept this assumption.

The above emission projection procedures are acceptable to the EPA.

The emission projection procedures are explained in greater detail in the TSD.

### 3. Modeling Results

*How did the State validate the photochemical modeling results?* The State conducted a number of statistical analyses to compare the modeling system's ozone predictions to observed peak ozone concentrations for the base period. Using the preliminary base period emissions and meteorological inputs, the State derived statistics covering: unpaired peak accuracy; normalized bias; and, gross error of data pairs for each of the modeled high ozone episode days. These results were compared to acceptable accuracy ranges in the EPA guidance. With a few

exceptions, the modeling results for the selected two episodes are in agreement with EPA-specified criteria.

Table 2 presents a summary of the model performance statistics for the BPA ozone nonattainment area. The days August 31, September 6 and 7, in EPA's view as expressed in the guidance, can be excluded for use in the analyses as these were ramp-up days for the modeling (the ramp-up days are expected to exhibit poor model performance and are generally dropped from further consideration). These data were taken from Appendix K of the State's submittal.

TABLE 2.—MODEL OZONE PERFORMANCE STATISTICS BPA NONATTAINMENT AREA

	Aug 31–Sept 2 1993 Episode		September 1993 Episode			
	9/1	9/2	9/8	9/9	9/10	9/11
Measured Peak (ppb) .....	105	139	113	110	141	116
Modeled Base Yr Peak(ppb) .....	96	113	165	139	155	162
Normalized Bias (%) .....	4.1	10.4	27.4	13.3	10.1	11.8
Gross Error (%) .....	14.1	16.9	30.8	16.1	18.2	17.9
Unpaired Peak Accuracy (%) .....	8.7	18.5	24.3	16.1	1.0	24.0

The model performance statistics can be compared to EPA's recommended (July 1991, *Guideline for Regulatory Application of the Urban Airshed Model*) acceptable model performance statistics:

Normalized Bias:  $\pm 5$  to 15 percent  
Gross Error: 30 to 35 percent  
Unpaired Peak Accuracy:  $\pm 15$  to 20 percent.

It can be seen from Table 2 above that the modeling system adequately performs within acceptable performance ranges for the majority of the performance criteria. The model does under predict the peak ozone levels on the days of September 1 and 2, 1993. The model over predicts ozone peaks on the other days, particularly on September 8, 9, and 11, 1993. The model over predicts an ozone peak but it is fairly close to that measured on the September 10, 1993, day. EPA is proposing that the modeling system is performing adequately and in an acceptable manner to support emission control strategy considerations.

The State used the September 6–11 ozone episode for its attainment demonstration. The model performance is in reasonable agreement with EPA performance specifications in the BPA area for three of the four days of this episode, with the exception being September 8, 1993. However, since this date had no monitored exceedances in

the BPA area, it is EPA's proposed technical position that the September 8, 1993, day of the selected episode is not required for attainment demonstration control strategy evaluation for the BPA SIP.

A number of other tests and considerations were also given to the overall model performance evaluation. The performance evaluation considered various items of statistical and graphical information, diagnostic and sensitivity analyses, and graphical performance measures. It is EPA's technical position that these tests and considerations show acceptable performance of the modeling system for the chosen base period, and that September 10, 1993 shows good agreement between modeled and monitored data.

For a more detailed description of the validation of the photochemical modeling results, and the procedures to determine the controlling episode and day, see the TSD for this document.

*How was potential transport from the HG area addressed?* TNRCC demonstrated the impact of ozone and ozone precursor transport from the upwind HG nonattainment area upon the BPA nonattainment area through the August 31 to September 2nd, 1993 episode. TNRCC applied the CAMx model using the same set of air quality and meteorological inputs previously used in the base case simulation, but

with an emissions data set in which anthropogenic (man-made) emissions from the 8-county HG nonattainment area were eliminated. As a result, the modeled base peak ozone is reduced by as much as 10–30 ppb on most modeled days in the BPA area. Jefferson and Hardin counties are influenced more strongly by HG transport than Orange County, which in EPA's opinion, makes sense given their greater proximity to the HG nonattainment area. However, on some days, the modeled peak ozone level is not greatly diminished by the exclusion of the HG contribution. This does not mean, in EPA's opinion, that the BPA area is not affected by transport from the HG area. It is EPA's proposed technical position that for some days, the BPA area is affected by transport from the HG area. On other days, the BPA area is affected by ozone emissions generated within the BPA area itself.

In addition, TNRCC hired Dr. Thomas W. Sager of the University of Texas (UT) to conduct an analysis of back trajectories of air parcels coming into the BPA area and evaluate the effect of HG-only strategies' impact in BPA. He conducted a statistical study that evaluated back trajectories that terminated in BPA. He evaluated back trajectories on both high ozone concentration and low ozone concentration days for the BPA area. Dr. Sager used the HYSPLIT (HYbrid



Single-Particle Lagrangian Integrated Trajectory) model for these studies. The HYSPLIT model is the newest version of a complete system for computing simple air parcel trajectories to complex dispersion and deposition simulations.

Based on the results of the study, Dr. Sager showed that back trajectories from the BPA area that pass near the HG area result in higher average ozone concentration levels in BPA, and that the closer the trajectory came to HG, the higher the ozone concentration levels in BPA. However, he did not show that transport from HG was the sole cause of high ozone concentrations in the BPA area. It is EPA's position that his study

supports the above modeling results, that transport is a reason for higher ozone concentration levels in the BPA area on some days. On other days, the high ozone concentration levels in the BPA area are not due to transport, but due to locally-generated ozone or ozone precursor emissions.

In conclusion, we are proposing that Texas has demonstrated that during some BPA exceedances, ozone levels are affected by emissions from the HG area, and that the HG area emissions affect BPA's ability to meet attainment of the 1-hour ozone standard.

*What were the ozone modeling results for the base period and for the future*

*attainment period?* The ozone modeling system was run to simulate ozone concentrations on selected high ozone days in the 1993 episodes using emissions for those days, and a future year (2007). The resulting BPA area ozone peaks for 1993 and 2007 are given in Table 3. These modeled ozone peaks reflect the 2007 emissions and modeling results for the September 6–11 episode as documented by Texas in its April 25, 2000 submittal (September 6, 7, and 8 omitted as detailed in previous discussions), taking into consideration the emission control strategies discussed later.

TABLE 3.—PEAK OBSERVED AND MODELED OZONE CONCENTRATIONS (PPB) IN THE BPA OZONE NONATTAINMENT AREA

Period	September 9–11			
	Date	9/9	9/10	9/11
1993 Peak Observed .....		110	141	116
1993 Base Modeled .....		139	155	162
2007 Future Base Case Modeled .....		126	142	147
2007 Post-Control Modeled .....		115	132	140

*Do the modeling results demonstrate attainment of the ozone standard?* As noted in Table 3, the 1-hour maximum predicted ozone concentration on the controlling day (September 10—the day during the selected episode with the maximum observed ozone concentration for the BPA area) over the BPA area is 132 ppb.

The modeling by itself does not conclusively demonstrate attainment of the standard, but its results are close enough to attainment to warrant the consideration of weight of evidence arguments that support the demonstration of attainment. The TNRCC conducted several weight of evidence analyses (please see next sections for further details) to add additional evidence that the demonstration shows that BPA will attain the standard by 2007 with the planned emission controls.

*What weight-of-evidence analyses and determinations are used to support the modeled attainment demonstration?* A weight-of-evidence determination includes an assessment of the confidence one has in the modeled results. The more extensive and credible the corroborative information, the greater the influence it has in how to view deviations from the modeled attainment demonstration. As discussed in the June 1996 EPA guidance, *Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS*, the weight-of-evidence given to model results depends on the following

factors: (1) Model performance; (2) confidence in the underlying data bases; (3) length of the projection period; and (4) how close the results come to demonstrating attainment for all receptor sites and times modeled (see Table S.1. of the June 1996 guidance for a complete list of factors affecting weight-of-evidence determinations and acceptance of model results nearly passing the attainment tests).

EPA's draft guidance document entitled "Use of Models and Other Analyses in Attainment Demonstrations for the 8-Hour Ozone NAAQS" (Draft) (1998), addresses additional weight-of-evidence approaches, one of which considers methods relating modeled ozone concentrations to monitored design values for a particular area. TNRCC relied on this concept (called the future design value) as well as the criteria from the 1996 guidance. All predicted future design values for the attainment year, in EPA's view, should be less than 125 ppb to support the attainment demonstration.

Texas relied on the future design value calculations, Design Value trends, modeling metrics evaluating spatial and temporal changes in ozone extent, and results of alternative modeling scenarios including 30% point source NO<sub>x</sub> emissions reductions from grandfathered non-electric generating facilities (EGFs) to develop weight of evidence for the BPA 1-hour ozone attainment demonstration SIP.

The State analyzed, and the EPA considered, the following factors and data in aggregate in assessing whether the State has provided sufficient evidence that corroborates further the attainment demonstration. The following is a summary of the analyses. Reference the BPA SIP and the TSD for this document for details of the analyses. A historical account of exceedance days is provided in the TSD to this proposed rulemaking.

*Future Design Value Calculations:* The TNRCC performed future design value calculations. Since episodes chosen for the BPA attainment demonstration occurred during 1993, TNRCC used monitoring data collected from 1992 to 1994 in the BPA nonattainment area, as discussed in the 1998 EPA draft guidance, using monitoring data from the 3 year time frame around the modeled episodes. They used reading from both Southeast Texas Regional Planning Commission (SETRPC) and TNRCC monitors in the BPA area from that time period.

To calculate the future design values, TNRCC developed a ratio of the predicted future case model results (including the control scenarios) to that of the original base case modeling results, and then multiplied these ratios by the 1992–1994 design value (DV<sub>C</sub>) to obtain a future design value (DV<sub>F</sub>). This technique demonstrates in EPA's opinion, that although the modeled maximum concentration in the BPA area for the 2007 Control Scenario is 132

ppb on September 10th, the calculated future design value is 115.4 ppb, which is less than the 1-hour standard of 125 ppb. This provides in EPA's view, additional support that the BPA area will attain the standard in 2007.

*Design Values Trends:* As a part of weight-of-evidence, TNRCC also analyzed the historic air quality in the BPA ozone nonattainment area for the period of 1975 to 1999. The analyses demonstrate that the area's ozone design value exhibits a general decrease since 1995 (this can be seen on Figure 6.3–2 of the April 25, 2000 BPA SIP submission). This downward trend is almost as great for the period 1991–1999 as for the earlier period. TNRCC believes, and EPA proposes, that this long-term downward trend is likely to continue. In addition, TNRCC expects, and the EPA is proposing, that the air quality will keep improving due to substantial reductions in precursor emissions in both HG and BPA, due to both state and federal emission control requirements. This includes the impacts of the implementation of the NO<sub>x</sub> RACT and beyond-RACT NO<sub>x</sub> rules for the BPA area.

*Spatial and Temporal Modeling Metrics:* Another of the weight-of-evidence analyses that TNRCC included in the BPA SIP attainment demonstration is an analysis of metrics to assess the relative effectiveness of modeled strategies. This is in addition to comparing maximum concentrations between two or more modeled scenarios (i.e., 1993 base case, 2007 future case, etc.) These metrics include changes in the modeled area exceeding the standard and changes in the number of grid cell-hours exceeding the standard. For this analysis, TNRCC made a comparison between the initial September 6–11, 1993, base case and the 2007 future base case (with banked and shutdown emissions added back) and the final chosen rules control scenario. The results of this analysis show that even though the chosen control strategy does not drive each and every grid cell below 125 ppb, it does substantially change area and temporal extent of predicted ozone concentrations greater than 124 ppb. In particular, the changes in temporal/area extent for September 10th show that the number of grid cells greater than 124 ppb drops by 28 percent from the original 1993 base case to the 2007 base case. The 2007 post-control case then drops the values from the 2007 base case by an additional 82 percent. This represents an overall 87 percent improvement in ozone exceedence days for the 2007 post-control case as compared to the 1993 base case. This analysis, in EPA's

technical opinion, indicates the State's NO<sub>x</sub> control strategy demonstrates a dramatic improvement in predicted air quality over the original and future base case scenarios.

*Alternative Modeling Scenarios:* TNRCC also conducted alternative scenarios to include in their weight-of-evidence analyses. In the first scenario, shutdown and banked emissions were taken out of the future base case inventory. The results indicated that the future base case concentration declined from 146 ppb to 142 ppb. This would indicate an improvement in air quality if all banked emissions are not used. In another scenario, in-line with expectations from Senate Bill 766, as enacted in 1997 (which encourages non-EGF sources in attainment areas of Texas to acquire permits for their grandfathered units) TNRCC estimated that SB 766 would result in approximately a 30 percent decrease in emissions of NO<sub>x</sub> from grandfathered non-EGF sources across Texas. TNRCC believes that these reductions will aid BPA in reaching attainment by reducing background concentrations of ozone and its precursors, which will in turn aid in lowering ozone concentrations in the nonattainment area. Details of the above alternative modeling scenarios are provided in the TSD to this document.

In addition to the above scenarios, an EPA proposed rule entitled "Control of Air Pollution from New Motor Vehicles: Proposed Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements", 65 FR 35430 (Friday, June 2, 2000) will reduce NO<sub>x</sub> emissions from heavy-duty diesel engines. This rule, which was not included by the State in the control strategy modeling portion of the SIP, is to be phased in beginning in model year 2007. The rule will reduce NO<sub>x</sub> to 98% of the uncontrolled level for these engines, adding to the weight-of-evidence analyses for attainment.

The EPA is proposing that the State's analyses of air quality and emission trends do provide additional support for the State's attainment demonstration. Progress in air quality improvement through recent periods is demonstrated and future progress in air quality improvement is shown. In addition, these analyses lend support to a regional NO<sub>x</sub> reduction as a reasonable approach to achieving attainment of the ozone standard. EPA is proposing that based on the weight-of-evidence and the modeling, the control strategy should provide for attainment by November 15, 2007. EPA's proposed approval is based on a composite of the information, not on a single element of the "weight-of-evidence."

#### 4. Emission Control Strategies

*What emission control strategies were included in the attainment demonstration?* The BPA Attainment Demonstration SIP relies on a combination of Federal measures, CAA statutory requirements, Regional measures, local controls in the BPA area, and projections of the level of control in the HG area based on enforceable commitments in the November 1999 SIP for the HG area.

Federal Measures: The TNRCC included the following federal measures in their Future Year Base Case.

- (1) On-road mobile sources:
  - Heavy-duty diesel standards.
  - Federal motor vehicle control program.
  - National low emission vehicles standards.
  - Federal low sulfur gasoline.
  - Tier II vehicle emission standards.
- EPA believes that the projected growth rates and emissions reductions from the sources subject to the above federal measures were calculated correctly by the TNRCC.
- (2) Off-road mobile sources:
  - Heavy duty diesel standards.
  - Locomotive standards.
  - Compression ignition standards for vehicles and equipment.
  - Spark ignition standards for vehicles and equipment.
  - Commercial marine vessel standards.
  - Recreational marine standards.

The EPA believes that the State correctly projected the growth rates and emissions reductions from sources subject to these federal measures.

CAA Statutory Requirements: The TNRCC included the following CAA Statutory Requirements in their Future Year Base Case.

- Phase II reformulated gasoline in H-G eight county nonattainment area
- Texas motorists' choice inspection and maintenance (I/M) program in Harris county

The EPA believes that the State correctly projected the growth rates and emissions reductions from sources subject to these CAA Statutory Requirements.

*State/Regional Measures:* The TNRCC included the following State Measures as state-wide or regional controls in their Future Year Base Case.

- Agreed orders with Alcoa, Inc. (formerly Aluminum Company of America) for their Milam facility, and the Eastman Chemical Company, Texas operations, for their facility near Longview, Texas.
- 50% Reductions at EGFs in Central and Eastern Texas.

- Low Reid Vapor Pressure (RVP) Gasoline in Eastern and Central Texas.
- Stage I vapor recovery at gas stations in Eastern and Central Texas.
- Water Heaters Rule in all of the State.

The EPA has already published actions on the above control measures in the **Federal Register**. EPA believes that the TNRCC correctly projected the growth rates for and the emissions reductions from these affected sources.

*Local Measures:* The TNRCC included the following additional State Measures as local (BPA) area controls in their Future Year Post-Control Case.

- Rich-Burn Internal Combustion Engines.
- Lean-Burn Internal Combustion Engines.
- Industrial/Utility Boilers.
- Process Heaters.
- Gas Turbines.
- Electric Utility Boilers (five electric utility power boilers in BPA).

For the above local measures, emission limits were assigned to categories of combustion units of the categories and sizes as listed in Table 4. Table 4, also, shows corresponding reductions in the NO<sub>x</sub> emissions inventory from each control strategy. This strategy applies to major stationary sources of NO<sub>x</sub> in BPA. EPA believes that the State correctly projected the growth rates for and the emissions reductions from these affected sources.

TABLE 4.—MODELED NO<sub>x</sub> REDUCTIONS FROM SELECTED SOURCE CATEGORIES

Category	Maximum design heat input	NO <sub>x</sub> emission limit	Percent change from 2007 future base
Electric utility boilers .....	All units .....	0.10 lb/MM Btu .....	-45
Industrial boilers <sup>a</sup> .....	>= 40 MM Btu/hr .....	0.10 lb/MM Btu .....	-58
Industrial process heaters .....	>= 40 MM Btu/hr .....	0.08 lb/MM Btu .....	-32
Gas turbines .....	> 10 MW .....	42 ppm .....	-27
Rich-burn engines <sup>b</sup> .....	300 hp .....	2 g/hp-hr .....	-82
Lean-burn engines <sup>b</sup> .....	300 hp .....	3 g/hp-hr .....	-73
Overall .....	.....	.....	-44%

<sup>a</sup> This reduction was not applied to boiler industrial furnace (BIF) units out of technical and economic considerations, based on special design and operational requirements for destruction of hazardous air pollutants by BIFs.

<sup>b</sup> The engine percent reductions represent reductions from engines required to reduce emissions, not the entire category.

The adopted NO<sub>x</sub> emission limit of 0.10 lb NO<sub>x</sub>/MMBtu applies to all five electric utility power boilers in BPA and represents approximately a 45% reduction in emissions from this source category. The adopted NO<sub>x</sub> emission limit of 0.10 lb NO<sub>x</sub>/MMBtu for

industrial boilers and 0.08 lb NO<sub>x</sub>/MMBtu for process heaters requires four refineries and 15 chemical plants which are major sources of NO<sub>x</sub> in BPA to reduce their associated NO<sub>x</sub> emissions by approximately 58% and 32%, respectively. Overall, the control case

modeling reflects a point source NO<sub>x</sub> reductions for BPA area sources of roughly 44%.

Table 5 provides the projected NO<sub>x</sub> reductions for the 2007 attainment year afforded by the Federal and State rules.

TABLE 5.—NO<sub>x</sub> REDUCTION ESTIMATES (PHASE I AND PHASE II RULES)

EPA-Issued Rules	2007 projected (tpd)	Reduction (tpd)
FMVCP, Tier I, NLEV, on-road HDD .....	35.61	6.4
Locomotive engines .....	5.24	1.89
Non-road HDD .....	28.42	7.73
Small engines .....	0.49	-0.48
Recreational marine engines .....	0.13	-0.10
EPA—Issued Rules Total .....	68.69	15.44
TNRCC—Issued Rules Total .....	170.51	75.09

The intent of the State's rules is to reduce NO<sub>x</sub> emissions from major stationary sources in the BPA ozone nonattainment area. The adopted rules established an emission limitation for lean burn stationary combustion engines greater than 300 hp. Other adopted rules limit emissions of NO<sub>x</sub> from power plants, industrial boilers, and process heaters. The rules will also lower the applicability threshold for boilers and process heaters to a rated input heat capacity of 40 MMBtu/Hr and above.

Lowering of the trigger limits and restricting emission specifications from combustion sources in the BPA area contributes significantly to ozone attainment. For a detailed analysis, section by section, of the TNRCC's adopted rules, see EPA's **Federal Register** notices with accompanying Technical Support Documents, and the SIP and its appendices.

*Houston Measures:* TNRCC committed to substantial emission reductions in the HG area in their November 1999 SIP submission.

These reductions included expanded I/M program, 90% point source reductions, and fuels measures. TNRCC has proposed these measures for adoption and enforceably committed to submitting the necessary adopted measures by the end of December, 2000.

*Has the State adopted the selected emission control strategies and has the State adopted the emission control regulations needed to implement the emission control strategies?* The State has adopted and submitted the emission control strategies and all associated

emission control regulations required for a moderate ozone nonattainment area and relied upon in the attainment demonstration modeling, but for the HG measures. See the previous Section, including Tables 4 and 5, for a listing of applicable State measures. Many, but not, all of these measures have been approved. EPA is proposing approval of the attainment demonstration SIP contingent upon SIP approval of all CAA required measures for a moderate area and other attainment measures (but for the HG measures) before final action on the BPA attainment demonstration SIP and request for an extension of the attainment date.

5. Motor Vehicle Emissions Budget

*What is a motor vehicle emissions budget (MVEB) and why is it important?* The MVEB is the level of total allowable on-road emissions established by a control strategy implementation plan or maintenance plan. In this case, the MVEB establishes the maximum level of on-road emissions that can be produced in the attainment year of 2007, when considered with emissions from all other sources, that meets the requirements of the SIP to demonstrate attainment. It is important because the MVEB is used to determine the conformity of transportation plans and programs to the SIP, as described by section 176(c)(2)(A) of the Act.

*Did the State Establish Motor Vehicle Emissions Budgets?* Texas has submitted motor vehicle emissions budgets for the 2007 attainment year for the BPA ozone nonattainment area. The emission budgets are shown in Table 6.

TABLE 6.—2007 ATTAINMENT MOTOR VEHICLE EMISSIONS BUDGETS

Pollutant	2007 tons/day
VOC .....	17.22
NO <sub>x</sub> .....	29.94

The EPA is proposing to approve the MVEBs listed in Table 6.

*B. Environmental Protection Agency Review of the Submittals*

1. Adequacy of the State's Demonstrations of Attainment

*Did the State adequately document the techniques and data used to derive the modeling input data and modeling results?* The submittals from the State thoroughly documented the techniques and data used to derive the modeling input data. The submittals adequately summarized the modeling outputs and the conclusions drawn from these model outputs. The submittals

adequately documented the State's weight-of-evidence determinations and the bases for concluding that these determinations support the attainment demonstration.

*Did the modeling procedures and input data used comply with the Environmental Protection Agency guidelines and Clean Air Act requirements?* Yes, the modeling procedures and input data (including evaluation of the emissions inventory input and procedures) meet the requirements of the Act and are consistent with the EPA's July 1991 and June 1996 ozone modeling guidelines.

*Do the weight-of-evidence determinations support the attainment demonstration?* The TNRCC incorporated the following weight-of-evidence elements for the BPA attainment demonstration:

- Design Value trends;
- Modeling metrics evaluating spatial and temporal changes in ozone extent;
- Results of alternative modeling scenarios including 30% point source NO<sub>x</sub> reductions in adjacent, non-SIP call states; and,
- DVf/RRF calculations using modeled concentrations from an array of cells about each monitor.

The above weight-of-evidence, when viewed in aggregate with the modeling, shows attainment of the standard and thus EPA is proposing approval.

2. Adequacy of the Emissions Control Strategies

*Do the emission control strategies meet the requirements of the Clean Air Act?* The selected emission control strategy, based upon modeling and the weight-of-evidence techniques, plus additional information regarding the effect of HG upon BPA, demonstrates attainment of the 1-hour ozone standard in BPA.

*Do emission control shortfalls exist with regard to probable attainment of the ozone standard?* We do not believe there exist any emission control shortfalls with regard to the attainment of the 1-hour ozone standard in BPA by the 2007 attainment year, provided the HG area meets its enforceable commitment to submit all adopted rules needed for attainment by the end of December 2000. On December 6, 2000, the TNRCC adopted a major SIP revision for the HG area. In this revision, the commission adopted all of the measures relied upon in the BPA attainment demonstration. EPA will be evaluating the HG SIP measures after they are received (expected by December 31, 2000).

*Has the State established an acceptable MVEB?* The State has

submitted an MVEB. The MVEB budget submitted by the TNRCC for the BPA nonattainment area has been found to meet the adequacy criteria and upon further review of the SIP for approvability continues to be consistent with attainment; therefore, it is proposed for approval.

*Does the BPA Area Meet the RACT Requirements for Major Source VOC Emissions?*

On March 7, 1995, as part of our action approving VOC requirements, we found that TNRCC had implemented RACT on all major sources in the BPA area except those that were to be covered by post-enactment Control Technique Guidelines (CTG's). 44 FR 12438 (March 7, 1995). Since that time, many expected CTGs were issued as Alternative Control Technique documents (ACT's). Of the expected CTGs and ACT's, BPA has major sources in the following categories: batch processing; reactors and distillation; industrial wastewater; and Volatile Organic Liquid Storage. EPA has approved measures as meeting RACT for the reactors and distillation and the Volatile Organic Liquid Storage categories for the BPA area. 64 FR 3841 (January 26, 1999), and 61 FR 55894 (October 30, 1996), respectively. EPA has published a direct final rulemaking action wherein we find that the State is imposing RACT on the batch processing and industrial wastewater categories in the BPA area (signed November 2, 2000). While CTGs and ACTs were issued for other categories such as wood furniture coating or aerospace coating, there are no major sources in those categories in the BPA area. It is EPA's position that RACT is being implemented on all major VOC sources in BPA. (see item 8 under Section IV Proposed Action).

3. Adequacy of the Request for Extension of the Attainment Date

The policy for the extension of an ozone attainment date is discussed earlier. The State's compliance with these requirements is discussed here.

a. Identification of the area as a downwind area affected by ozone transport.

We have reviewed the CAMx demonstrations, and are proposing to agree with the TNRCC that this episode adequately demonstrates transport of pollutants from the Houston Galveston ozone nonattainment area. We are proposing that this transported pollution affects BPA's ability to attain by the current attainment date. Thus, for BPA to attain, controls both in BPA and HG are necessary. We therefore propose to find that the State's demonstration of

ozone transport meets the criteria in EPA's attainment date extension policy.

b. Submittal of an approvable attainment demonstration.

EPA's review of the attainment demonstration shows that it should be approved. The State has modeled and adopted an acceptable control strategy that demonstrates attainment. We propose to approve the attainment demonstration and agree that it meets the criteria in the July 1998 transport policy and all other EPA guidance, and the regulatory and statutory requirements.

c. Adoption of all applicable local measures required under the area's current ozone classification.

Texas has adopted all VOC and NO<sub>x</sub> related emission control requirements required under the Clean Air Act (CAA) for a moderate ozone nonattainment area. A listing of applicable CAA moderate classification-related VOC and NO<sub>x</sub> related regulations and their effective dates as approved by the EPA as part of the Texas SIP for the BPA area, is provided in the TSD to this rulemaking.

It is EPA's position that the State of Texas has met the 1998 Transport Policy's criteria for adoption and submittal to EPA for approval of all measures required under the Act for an area classified as moderate.

d. Implementation of all adopted measures by the time upwind controls are expected.

All of the NO<sub>x</sub> rules will be implemented as expeditiously as practicable, but no later than 2005, two years before the Houston attainment date of November 15, 2007. We are proposing to find that this transport policy criteria has been met by the State.

The State is proposing a phase-in approach to the NO<sub>x</sub> controls which will provide compliance earlier than the attainment date. The State's compliance schedule is provided in Table 7.

TABLE 7.—TEXAS NO<sub>x</sub> RULES COMPLIANCE SCHEDULE

Source Type	Compliance date
RACT .....	No later than November 15, 1999.
Lean Burn Engines ...	No later than November 15, 2001.
2/3 NO <sub>x</sub> Emissions Reductions.	No later than May 1, 2003.
All NO <sub>x</sub> Reductions ..	No later than May 1, 2005.

We are of the opinion that the above listed compliance dates in Table 7 are as expeditious as practicable compared with the compliance dates of similar

sources in moderate ozone nonattainment areas of the country.

4. Determination of Reasonably Available Control Measures (RACM) Availability.

Section 172(c)(1) of the Act requires SIPs to provide for the implementation of all reasonably available control measures (RACM) as expeditiously as practicable and for attainment of the standard. EPA has previously provided guidance interpreting the RACM requirements of 172(c)(1) in the General Preamble. See 57 FR 13498, 13560. In the General Preamble, EPA indicated its interpretation of section 172(c)(1), under the 1990 Amendments, as imposing a duty on States to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in the particular nonattainment area. EPA also retained its pre-1990 interpretation of the RACM provisions that where measures that might in fact be available for implementation in the nonattainment area could not be implemented on a schedule that would advance the date for attainment in the area, EPA would not consider it reasonable to require implementation of such measures. EPA indicated that a State could reject certain measures as not reasonably available for various reasons related to local conditions. A State could include area-specific reasons for rejecting a measure as RACM such as the rejected measure would not advance the attainment date, or technological and economic feasibility in the area.

The EPA also issued a recent memorandum reaffirming its position on this topic, "Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas." John S. Seitz, Director, Office of Air Quality Planning and Standards, dated November 30, 1999. A copy can be obtained from [www.epa.gov/ttn/oarpg/t1pgm.html](http://www.epa.gov/ttn/oarpg/t1pgm.html). In this memoranda, EPA states that in order to determine whether a state has adopted all RACM necessary for attainment and as expeditiously as practicable, the state will need to provide a justification as to why measures within the arena of potential reasonable measures have not been adopted. The justification would need to support that a measure was not reasonably available for that area and could be based on technological or economic grounds.

EPA has reviewed the SIP submittal for the BPA area and believes that the State did not include sufficient

documentation concerning the rejection of certain available measures as RACM for the specific BPA area. Therefore, EPA has itself reviewed potential available measures, as documented in the RACM available analysis section of the TSD for this proposed rulemaking. Based on this analysis, EPA proposes to conclude that this additional set of evaluated measures are not reasonably available for the specific BPA area, because (a) some would require an intensive and costly effort for numerous small area sources, (b) due to the small percentage of mobile source emissions in the over-all inventory, some are not cost-beneficial, and (c) since the BPA area relies in part on reductions from the upwind HG area which are substantial, and the reductions projected to be achieved by the evaluated additional set of measures are relatively small, they would not produce emission reductions sufficient to advance the attainment date in the BPA area and, therefore, should not be considered RACM.

Although EPA encourages areas to implement available RACM measures as potentially cost-effective methods to achieve emissions reductions in the short term, EPA does not believe that section 172(c)(1) requires implementation of potential RACM measures that either require costly implementation efforts or produce relatively small emissions reductions that will not be sufficient to allow the BPA area to achieve attainment in advance of full implementation of all other required measures.

III. Proposed Action

The EPA believes that the transport demonstration and attainment demonstration SIP developed for the BPA ozone nonattainment area meet the Clean Air Act. The EPA is proposing that the State has adequately followed the EPA's 1998 Transport Guidance for demonstrating transport. In the State's transport demonstration, EPA believes that the analyses conducted by TNRCC indicate there are impacts of ozone and ozone precursor transports from the upwind HG area affecting the BPA area. In addition, EPA is proposing to approve the State's demonstration that BPA will attain the ozone NAAQS. The modeling, the provided weight-of-evidence analyses, and the analysis of transport of ozone and ozone precursor compounds from the HG area, demonstrate that the control strategy chosen by TNRCC will provide for attainment of the ozone standard. For BPA, it is the EPA's technical opinion that the control strategy will provide for

attainment of the ozone NAAQS by November 15, 2007.

The EPA proposes to: approve the attainment demonstration SIP for the BPA ozone nonattainment area; approve the State's request to extend the ozone attainment date for the BPA ozone nonattainment area to November 15, 2007 while retaining the area's current classification as a moderate ozone nonattainment area; approve the on-road motor vehicle emissions budgets; find that the BPA area meets all remaining outstanding VOC RACT requirements for major sources; and approve the State's enforceable commitment to conduct a mid-course review (including evaluation of all modeling, inventory data, and other tools and assumptions used to develop this attainment demonstration) and to submit a mid-course review SIP revision, with recommended mid-course corrective actions, to the EPA by May 1, 2004. If the subsequent analyses conducted by the State as part of the mid-course review indicate additional reductions are needed for BPA to attain the ozone standard, EPA will require the State to implement additional controls as soon as possible until attainment is demonstrated through photochemical grid modeling.

EPA cannot finalize the above proposed actions unless and until the EPA approves all of the following:

1. The NO<sub>x</sub> rules for Electric Generating Facilities in East and Central Texas (30 TAC sections 117.131, 117.133, 117.134, 117.135, 117.138, 117.141, 117.143, 117.145, 117.147, 117.149, 117.512);

2. The State-wide NO<sub>x</sub> rules for Water Heaters, Small Boilers, and Process Heaters (30 TAC sections 117.460, 117.461, 117.463, 117.465, 117.467, 117.469);

3. The revised emission specifications in the BPA area for Electric Utility Boilers, Industrial, Commercial or Institutional Boilers and certain Process Heaters (30 TAC sections 117.104, 117.106, 117.108, 117.116, 117.206 as they relate to the BPA area, and the repeal of sections 117.109 and 117.601 as they relate to the BPA area);

4. The administrative revisions to the existing Texas NO<sub>x</sub> SIP (30 TAC sections 117.101–117.121, 117.201–117.223, 117.510, 117.520, and 117.570);

5. The two Agreed Orders entered into by TNRCC and Alcoa, Inc. and TNRCC and Texas Eastman;

6. Lower RVP Program in East and Central Texas (30 TAC sections 114.1, 114.301, 114.302, and 114.304–114.309);

7. Stage I vapor recovery Program in East and Central Texas (30 TAC sections 115.222–114.229); and,

8. VOC rules as RACT for batch processing (30 TAC sections 115.160–115.169) and wastewater (30 TAC sections 115.140–115.149).

If the EPA cannot fully approve all of the above actions (one through eight), EPA will take final action on the proposed reclassification as described in the April 16, 1999 **Federal Register**. To the extent that comments received on the April 1999 proposed action are applicable to this proposed rulemaking, EPA will respond to those comments in its final rulemaking action.

#### IV. Administrative Requirements

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. This proposed 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 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). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This proposed 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 (64 FR 43255, August 10, 1999), because it 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 proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, 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 (15 U.S.C. 272 note) do not apply. The proposed rule does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

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

Dated: December 18, 2000.

**Gregg A. Cooke,**

*Regional Administrator, Region 6.*

[FR Doc. 00–32848 Filed 12–26–00; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[IL165–1; FRL–6923–3]

### Approval and Promulgation of Implementation Plans; Illinois Trading Program

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

**ACTION:** Proposed rule.