ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–105–1–7404; FRL–6935–3]

Approval and Promulgation of Air Quality State Implementation Plans; Texas; Approval of Clean Fuel Fleet Substitution Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final rulemaking action to approve the State of Texas' Clean Fuel Fleet (CFF) substitute plan, incorporating it into the State Implementation Plan (SIP) under the Federal Clean Air Act (CAA). The State's CFF Substitute Plan is addressed in the SIP revision submitted on August 27 1998, and supplemented with additional technical information in a letter to the EPA dated November 17, 2000, by the State of Texas for the purpose of establishing a substitute CFF program.

DATES: This direct final rule takes effect on April 9, 2001 without further notice, unless EPA receives adverse or critical comments by March 9, 2001. If EPA does receive adverse comments, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

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.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' means EPA. This section is organized as follows:

1. What action Is the EPA Taking Today?
2. What is the background?
3. What did the State submit?
4. How is Texas meeting the Clean Fuel Fleets Requirements?
5. Why is EPA approving the Texas Clean Fuel Fleets Substitute Plan SIP revision?
6. How Does Clean Fuel Fleets Affect Air Quality in Texas?
7. What is the Process for EPA's Approval of this SIP Revision?

1. What Action Is the EPA Taking Today?

The EPA is approving Texas' CFF Substitute Plan submitted on August 27 1998, as supplemented with additional technical information in a letter to the EPA dated November 17, 2000, into the Texas SIP as meeting the requirements of Section 182(c)(4) of the CAA. A detailed rationale for this direct final approval is set forth in the accompanying Technical Support Document (TSD) available from the U.S. EPA Region 6 office.

2. What Is the Background?

On November 15, 1990, Congress enacted amendments to the 1997 Clean Air Act; Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. The Federal Clean Fuel Fleet (CFF) program is contained under part C, entitled, ''Clean Fuel Vehicles,'' of Title II of the Clean Air Act, as amended November 15, 1990. Part C was added to the CAA to establish two programs: a clean-fuel vehicle pilot program in the State of California (the California Pilot Test Program) and the Federal CFF program in certain ozone and carbon monoxide (CO) nonattainment areas. Section 182(c)(4) of the CAA, 42 U.S.C. 7511a, allows States to opt-out of the Federal CFF program by submitting, for EPA approval, a SIP revision consisting of a substitute program resulting in as much or greater long term emissions reductions in ozone producing and toxic air emissions as the Federal CFF program. The EPA may approve such a revision ''only if it consists exclusively of provisions other than those required under this Chapter for the area.''

The State of Texas chose to opt-out of the Federal CFF program in a committal SIP revision submitted to EPA on November 15, 1992. In July 1994, Texas submitted the State's opt-out program in a SIP revision to EPA and adopted rules to implement the Texas CFF program. The Texas Clean Fuel Fleet SIP was revised based upon State legislation changes and resubmitted to EPA on August 6, 1996. On June 20, 1997, the supporting legislation for the August 6, 1996, submittal was modified and, as a result, the legislative authority in the submittal was no longer in effect. On October 17, 1997, we proposed disapproval of the Texas Clean Fuel Fleet SIP due to changes in the State law that altered the current SIP submittal, and because the State had not made a convincing and compelling equivalency determination with the Federal CFF program.

3. What Did the State Submit?

The State submitted a further SIP revision to Chapter 114 and the State's plan for implementing a substitute program to opt out of the Federal CFF program on August 27, 1998. The revision was adopted after reasonable public notice and public hearing as required by sections 110(a)(2) and 110(l) of the CAA and 40 CFR 51.102(f). In the August 27, 1998, submittal, Texas also withdrew the August 6, 1996, CFF SIP revision. On October 1, 1998, we determined the SIP revision met completeness criteria. The State supplemented the SIP with additional technical information in a letter to the EPA dated November 17, 2000. This additional technical information clarified how the State would make up the shortfall for nitrogen oxide (NO_X) and volatile organic compound (VOC) emissions between the State's present (August 27, 1998) CFF program and the Federal CFF program.

A more detailed discussion of the Texas Clean Fleet program elements and control strategy can be found in the TSD.

4. How Is Texas Meeting the Clean Fuel Fleets Requirements?

Texas has decided to opt out of the Federal CFF program. Texas' CFF substitute plan relies on a State fleet program—the Texas Clean Fleet (TCF) program—supplemented with additional VOC and NO_X emission controls.

The TCF program is a clean fleet program that will be implemented in all serious, severe and extreme nonattainment areas in Texas. It is similar to the Federal CFF program, but with a number of significant differences that, but for the supplemental controls, result in an emissions reduction shortfall as compared to the Federal CFF program. Key differences include later dates for scheduled low emission vehicles (LEV) purchases, number and type of vehicles allowed in a clean fleet, exclusions from fleet requirements, and the emissions credit program. Modeling of the Federal CFF program and the TCF program was performed using a spreadsheet model developed by the TNRCC's Mobile Source Section. The

EPA has reviewed and is accepting the model (refer to the TSD for model details). The spreadsheet model estimates the number of low emission vehicles and conventional vehicles in each program and extrapolates the amount of emission reductions generated by each program through the number of LEV's purchased. The estimated shortfalls for the TCF program for the 1998–2007 ten-year period for ozone-producing chemicals are 947.9 total tons (0.38 tons per day (tpd)) for VOC and 848.2 total tons (0.34 tpd) for NO_X.

Additional emission controls are used to make up this shortfall between the TCF and the Federal CFF programs. These controls, which are beyond those required by the CAA, are discussed in the following paragraphs.

The State identified additional VOC emission reductions from VOC controls on fugitive emissions and VOC transfer operations totaling 493.9; 19; and 22.4 tpd for Houston-Galveston (HG), El Paso, and Dallas-Fort Worth (DFW) non-attainment areas, respectively. For the ten year 1998–2007 period this amounts to 123,475; 5,600; and 4,750 total tons for the HG, El Paso, and DFW areas, respectively. These emission reductions are achieved through the State requirements codified in 30 TAC Sections 115.352–115.359, regarding Fugitive Emission Control in Petroleum Refining, Natural Gas/Gasoline Processing, and Petrochemical Processes in Ozone Nonattainment Areas, and the State requirements codified in 30 TAC Section 115.211(a)(1), regarding Volatile Organic Compound Transfer Operations at Gasoline Terminals. 62 FR 27964 (May 22, 1997). These reductions more than offset the shortfalls for VOCs.

The State also identified excess NO_X emission reductions resulting from State mandated reduction requirements placed on electric generating facilities (EGFs) by the 76th Texas Legislature in Senate Bill 7 for the HG and DFW areas. 65 FR 64914 (October 31, 2000). These reductions, combined with other State mandated reductions as detailed in the DFW, Beaumont/Port Arthur (BPA), and HG areas SIPs, all in excess of those required by the CAA, provide for a 184 tpd reduction in the HG area, and a 129 tpd reduction in the DFW area. As El Paso has a NO_X waiver in place, the combined VOC and NO_X shortfall can be made up with VOC offsets alone.

The emission reductions for Texas' implementation of a substitute plan greatly exceed the reductions that would have been achieved with the Federal CFF program. Therefore, the State's substitute plan will meet the Federal CFF requirement for VOC and NO_X emissions reductions. Details on the calculations for the TCF emission reductions, shortfalls and control measures used to make up the shortfalls, can be found in the TSD for this rulemaking.

5. Why Is EPA Approving the Texas Clean Fuel Fleets Substitute Plan SIP Revision?

EPA is approving Texas' Clean Fuel Fleets Substitute Plan SIP revision because the State has successfully demonstrated that it will achieve long term reductions in emissions of ozone producing and toxic air pollutants equivalent to those that would have been achieved by the Federal CFF program. We agree with the State's emission reduction calculations and the modeling it used. Further information on Texas' Clean Fuel Fleets Substitute Plan SIP revision and EPA's evaluation of the SIP revision can be found in the TSD for this rulemaking Copies of this document are available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

6. How Does Clean Fuel Fleets Affect Air Quality in Texas?

EPA's approval of Texas' CFF Substitute Plan will have a positive benefit on air quality in Texas. The Texas CFF substitute plan achieves equivalent or better long term reductions in emissions of ozone producing and toxic air pollutants than the Federal CFF program in the DFW, El Paso, and HG ozone nonattainment areas.

7. What Is the Process for EPA's Approval of This SIP Revision?

EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is also publishing a separate document that will serve as the proposal to approve this SIP revision should we receive relevant adverse. This action will be effective April 9, 2001 without further notice unless we receive relevant adverse comments by March 9, 2001.

If EPA does receive adverse comments, we will withdraw the direct final rule and publish a document stating that the rule will not take effect. We will then respond to all public comments received in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. If you are interested in commenting on this action, you should do so at this time. If no such comments are received, you should know that this rule will be effective on April 9, 2001 and no further action will be taken on the proposed rule.

Nothing in this action should be construed as permitting or establishing a precedent for any future request for revision to any State Implementation Plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

Dated: January 4, 2001.

Gregg A. Cooke,

Regional Administrator, Region 6.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

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

Subpart SS—Texas

2. In § 52.2270 the table in paragraph (c) is amended by revising all of Chapter 114 (Reg 4)—Control of Air Pollution From Motor Vehicles, to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
*	*	*	*	*
Chapter 114 (Reg 4)—Control of Air Pollution from Motor Vehicles				
Subchapter A—Definitions				
Section 114.1	Definitions	07/29/1998	[*2/7/01 and Federal Register cite*].	
Section 114.3	Low Emission Vehicle Fleet Definitions.	07/29/1998	[*2/7/01 and Federal Register cite*].	
Subchapter E—Low Emission Vehicle Fleet Requirements				
Section 114.150	Requirements for Mass Transit Authorities.	07/29/1998	[*2/7/01 and Federal Register cite*].	
Section 114.151	Requirements for Local Governments and Private Federal entities.	07/29/1998	[*2/7/01 and Federal Register cite*].	
Section 114.153	Exceptions	07/29/1998	[*2/7/01 and Federal Register cite*].	
Section 114.154	Exceptions for Certain Mass Transit Authorities.	07/29/1998	[*2/7/01 and Federal Register cite*].	
Section 114.155	Reporting	07/29/1998	[*2/7/01 and Federal Register cite*].	
Section 114.156	Recordkeeping	07/29/1998	[*2/7/01 and Federal Register cite*].	
Section 114.157	Low Emission Vehicle Fleet Program Compliance Credits.	07/29/1998	[*2/7/01 and Federal Register cite*].	
Subchapter F—Vehicle Retirement and Mobile Emission Reduction Credits				
Division 1: Mobile Emission Reduction Credits				
Section 114.201	Mobile Emission Reduction Credit Program.	07/29/1998	[*2/7/01 and Federal Register cite*].	
Section 114.202	Texas Mobile Emission Reduction Credit Fund.	07/29/1998	[*2/7/01 and Federal Register cite*].	

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
Subchapter G—Transportation Planning				
Section 114.260	Transportation Conformity	12/10/98	7/8/99, 64 FR 36794	1. No action is taken on the portions of 30 TAC 114.260 that contain 40 CFR 93.102(c), 93.104(d), 93.109(c)–(f), 93.118(e), 93.120(a)(2), 93.121(a)(1), and 93.124(b). 2. TNRCC order (Docket No. 98–0418 RUL) November 23, 1998.

[FR Doc. 01–1824 Filed 2–6–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[IL198–1a; FRL–6935–4]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The USEPA is approving a negative declaration submitted by the State of Illinois which indicates there is no need for regulations covering the industrial cleaning solvents category in the Chicago ozone nonattainment area. The Chicago ozone nonattainment area includes Cook County, DuPage County, Aux Sable and Goose Lake Townships in Grundy County, Kane County, Oswego Township in Kendall County, Lake County, McHenry County and Will County. The State's negative declaration regarding industrial cleaning solvents category sources was submitted to USEPA in a letter dated December 23, 1999.

DATES: This rule is effective on April 9, 2001, unless USEPA receives adverse written comments by March 9, 2001. If adverse comment is received, USEPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the negative declarations are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Randolph O. Cano at (312) 886–6036 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR–18J), USEPA, Region 5, Chicago, Illinois 60604,(312) 886–6036.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' is used we mean USEPA.

Table of Contents

I. What is the background for this action?
II. Negative declarations and their justification.
III. USEPA review of the negative declarations.
IV. Administrative requirements.
A. Executive Order 12866
B. Executive Order 13045
C. Executive Order 13084
D. Executive Order 13132
E. Regulatory Flexibility
F. Unfunded Mandates
G. Submission to Congress and the Comptroller General
H. National Technology Transfer and Advancement Act
I. Petitions for Judicial Review

I. What Is the Background for This Action?

Under the Clean Air Act (Act), as amended in 1977, ozone nonattainment areas were required to adopt emission controls reflective of reasonably available control technology (RACT) for sources of volatile organic compound (VOC) emissions. USEPA issued three sets of control technique guidelines (CTGs) documents, establishing a ''presumptive norm'' for RACT for various categories of VOC sources. The three sets of CTGs were: (1) Group I—issued before January 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued in the early 1980's (5 CTGs). Those sources not covered by a CTG are called non-CTG sources. USEPA determined that an area's State Implementation Plan (SIP) approved attainment date established which RACT rules the area needed to adopt and implement. In those areas where the State sought an extension of the attainment date under section 172(a)(2) to as late as December 31, 1987, RACT was required for all CTG sources and for all major (100 tons per year or more of VOC emissions under the pre-amended Act) non-CTG sources. Illinois sought and received such an extension for the Chicago area.

Section 182(b)(2) of the Act as amended in 1990 requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing CTG—i.e., a CTG issued prior to the enactment of the amended Act of 1990; (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG. These section 182(b)(2) RACT requirements are referred to as the RACT ''catch-up'' requirements.

Section 183 of the amended Act requires USEPA to issue CTGs for 13 source categories by November 15, 1993. CTGs were published by this date for the following source categories—Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactors and Distillation, aerospace manufacturing coating operations, shipbuilding and ship repair coating operations, and wood furniture coating operations; however, the CTGs for the remaining source categories have not been completed. The amended Act requires States to submit rules for sources covered by a post-enactment CTG in accordance with a schedule specified in the CTG document.

The USEPA created a control guideline document as Appendix E to the *General Preamble for the*