



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2010-0333; FRL-9904-72-Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Reasonable Further Progress Plan, Contingency Measures, Motor Vehicle Emission Budgets, and a Vehicle Miles Traveled Offset Analysis for the Houston-Galveston-Brazoria 1997 8-Hour Severe Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving two State Implementation Plan (SIP) revisions submitted by the State of Texas on April 1, 2010, and revised on May 6, 2013, containing a reasonable further progress (RFP) plan, RFP contingency measures demonstration, motor vehicle emission budgets (MVEBs), and a vehicle miles traveled (VMT) offset analysis for the Houston-Galveston-Brazoria (HGB) 1997 8-hour ozone severe nonattainment area. EPA is approving SIP revisions in accordance with the requirements of the Clean Air Act (CAA) and EPA regulations.

DATES: This final rule is effective **[Insert date 30 days after publication in the Federal Register]**.

ADDRESSES: EPA established a docket for this action under Docket ID Number EPA-R06-OAR-2010-0333. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy for public inspection during normal business hours at the U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Carl Young, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-6645; e-mail address young.carl@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document, whenever ``we," ``us," or ``our" is used, we mean EPA. On September 9, 2013 (78 FR 55029), EPA published a proposed approval of the 2010 RFP plan,

RFP contingency measures, MVEBs, and VMT offset analysis for the HGB severe 1997 8-hour ozone nonattainment area. The SIP revisions for this action were formally submitted by the State of Texas on April 1, 2010, and revised on May 6, 2013. The SIP revisions address the RFP and RFP contingency measures requirements for the 1997 8-hour ozone NAAQS, and establish MVEBs for 2013. The revision also provides a VMT offset analysis demonstration, a severe area requirement, which shows the area does not need any additional transportation control measures (TCMs) or transportation control strategies (TCSs) to keep mobile source emissions below the established emissions ceiling. EPA's rationale for our proposed action is explained in the September 9, 2013 proposed rulemaking as well as a more detailed description of the two submittals, and will not be restated here. EPA is approving the SIP revisions because they satisfy the RFP, RFP contingency measures, and transportation conformity requirements for MVEBs of section 110 and part D of the CAA and associated EPA regulations, and section 182 (d)(1)(A) of the CAA.

II. Response to Comments

We received several comments from the Texas Commission on Environmental Quality. In addition to supporting our proposed approval, the state asked for clarification to support consistency across TCEQ and EPA documents for a number of items.

Comment 1. Table 1: *Revisions to the 2002 RFP Base Year Emissions Inventory* on Page 55031 is not the original 2002 RFP Base Year. It is an attainment demonstration base year table. Table 2: *RFP 2002 Baseline Emissions Inventory Summary* is the revised RFP Base Year Emissions Inventory and is correct. Table 1 needs to be updated to contain the original base year information.

Response 1: EPA acknowledges that some confusion may have occurred with the labeling of the base year columns in this table due to the fact that there were multiple submittals with one partial submittal, and with multiple references to base years. We have clarified Table 1 by re-labeling the base year columns and republishing it below to better reflect the years for which the values were calculated. The values in the columns remain unchanged.

Table 1: Revisions to the 2002 RFP Base Year Emissions Inventory (tons/day)

Source Type	NO_x		VOC	
Submittal Date	Previously Approved	Revised Inventory*	Previously Approved	Revised Inventory*
Point	339.48	339.29	297.12	316.62
Area	40.15	89.11	219.51	407.61
On-road Mobile	283.20	371.89	114.30	124.47
Non-road Mobile	167.74	156.98	112.37	84.32
Total	830.57	957.27	743.30	933.02

*Submitted by the State on May 6, 2013.

Comment 2: In the center column on Page 55031, there are several incorrect references to a 15% reduction for HGB between 2002 and 2008. The correct reduction for HGB between 2002 and 2008 is 18%. The references to the required reduction for HGB between 2002 and 2008 may need to be updated to be 18% throughout the whole document, as appropriate.

Response 2: EPA approved the HGB moderate area RFP for the 1997 8-hour ozone standard which included a 15% plan as well as contingency measures and associated MVEBs on April 22, 2009 (76 FR 18298). In that action, EPA recognized that the state had requested, and EPA had

granted, a reclassification of the HGB area from moderate to severe on October 1, 2008 (73 FR 56983). With that reclassification the state was required to provide an RFP with emission reductions for VOC and/or NO_x of 18% for the six-year period, plus 3% per year for all remaining three-year periods after the first six-year period out to the attainment date as prescribed in 40 CFR 51.910(a)(1)(ii)(B). We agree that the correct RFP reduction for the HGB area between 2002 and 2008 is 18%.

Comment 3: The EPA's RFP demonstration summary and the associated Table 6 on Page 55033 only discuss an RFP demonstration for 2018. There are RFP demonstrations for 2008, 2011, 2014, 2017, and 2018. The summaries of the RFP controls (Tables 4 and 5) have all five years but the RFP demonstration table only has 2018. The RFP demonstration discussion may need to be updated to include all five RFP demonstration years.

Response 3: The efficacy of providing only the 2018 RFP demonstration table as an example of the state meeting RFP was done that way because the 2018 table was built upon all the other RFP demonstration tables which also showed the milestone RFP targets were met. We are providing a summary table here as Table 6-1 to show how all the RFP milestones were met.

Table 6-1. Update Summary of RFP Demonstration for HGB

Inventory Description	2008	2011	2014	2017	2018
Forecast NO _x Emissions	642.55	635.68	571.88	528.37	522.17
NO _x Target	816.10	754.15	667.70	580.60	555.22
Forecast VOC Emissions	883.13	875.72	886.17	896.41	901.62
VOC Target	923.82	927.98	919.19	912.54	907.50

Targets Met?	Yes	Yes	Yes	Yes	Yes
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Comment 4: The last column on Page 55033 indicates that the RFP contingency may be met by including a demonstration of 27% Volatile Organic Compounds (VOC) and nitrogen oxides (NOx) reductions in the RFP plan. On Page 55034, the 27% is stated as being calculated by adding 15 and 12%. The RFP contingency is met by including a cumulative demonstration of 51%, which is the sum of the VOC and NOx reductions requirement, from 2002 base year, with 2008, 2011, 2014, 2017 milestone years, 2018 attainment year, and 2019 contingency year (18+9+9+9+3+3). Either the amount needs to be changed to 51% or a further explanation of the 27%, 15%, and 12% reductions is suggested for clarification.

Response 4: EPA acknowledges this misstatement and corrects the percentage here in this final action to reflect that the actual achievement shown in the RFP is 51% and not the 27% as stated in the proposal. This change does not alter the final outcome of our analysis.

Comment 5: In the first full paragraph of the middle column on Page 55036, the description of the values in Table 9: *RFP Motor Vehicle Emissions Budgets for HGB* are referred to as the total projected transportation emissions for milestone years 2008 to 2018. In actuality, the values are the MVEBs, which are the projected emissions adjusted with transportation conformity safety margins. The description may be more accurate if it is modified: a) to indicate the safety margin adjustment; or b) to refer to values as the MVEBs rather than projected emissions.

Response 5: EPA agrees that the values in Table 9 show the total projected transportation emissions for milestone years 2008 through 2018 plus safety margins. We modify here our

description preceding Table 9 to include this clarifying phrase: “Table 9 shows the total projected transportation emissions plus safety margins for milestone years 2008-2018 as submitted in Tables 7-43 through 7-47 of the 2013 SIP Submittal.”

Comment 6: Clarification is needed to support consistency across TCEQ and EPA documents. As EPA notes in the technical support document (TSD), there was an error in the spreadsheet calculation that lowered the VOC values in Tables 7-29 through 7-31 by 19.82 tons per day of VOC. This error resulted in a conservative projection of VOC emission reductions taking place by that amount. The resulting surplus of VOCs could have been greater by 19.82 tons per day. EPA should clarify in the final approval notice that this surplus is appropriate for the HGB area, and that TCEQ will address this error in the next SIP submittal, without penalty.

Response 6: For the purposes of the proposal, EPA did not see the need to mention the particulars of this error in the proposed approval. However, in this final action we are acknowledging that the excess emissions of VOC available to the TCEQ for future SIP submittals is actually 19.82 ton per day more than the 5.88 tons per day shown in Table 7-31 of the 2013 submittal. This provides the state with 25.60 tons per day of excess VOC emissions available for future planning purposes. We are not modifying any tables in this final action to reflect this because the tables show what was in the 2013 submittal.

III. Final Action

The EPA is approving the 2010 RFP plan; RFP contingency measures; 2013 MVEBs; and the VMT offset analysis for the HGB 1997 8-hour severe ozone nonattainment area. The SIP

revision satisfies requirements for 1997 8-hour ozone NAAQS nonattainment areas classified as severe and demonstrates reasonable further progress in reducing ozone precursors. The VMT offset analysis demonstrates that the credited TCSs and TCMs for the attainment year are sufficient to offset the anticipated increase in VMT over time, and therefore no additional TCSs or TCMs are needed to attain the NAAQS.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect

until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: December 16, 2013

Ron Curry,
Regional Administrator,
Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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 second table in paragraph (e) entitled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP” is amended by adding, at the end of the table, entries for “Reasonable Further Progress Plan (RFP), RFP Contingency Measures”; “RFP Transportation Conformity Motor Vehicle Emission Budgets (2008, 2011, 2014, 2017 and 2018)” and “Vehicle Miles Traveled (VMT) Offset Analysis” to read as follows:

§ 52.2270 Identification of plan.

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(e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/effective date	EPA approval date	Comments
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Reasonable Further Progress Plan (RFP), RFP Contingency Measures	Houston-Galveston-Brazoria, TX	4/1/2010 5/6/2013	[Insert page number where the document begins].	
RFP Motor Vehicle Emission Budgets (2008, 2011, 2014, 2017 and 2018)	Houston-Galveston-Brazoria, TX	5/6/2013	[Insert page number where the document begins].	
Vehicle miles traveled offset analysis	Houston-Galveston-Brazoria, TX	5/6/2013	[Insert page number where the document	

			begins].	
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[FR Doc. 2013-30876 Filed 12/31/2013 at 8:45 am; Publication Date: 01/02/2014]