



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2010-0890; FRL– 9914-31-Region-6]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Control of Air Pollution from Motor Vehicles, Vehicle Inspection and Maintenance and Locally Enforced Motor Vehicle Idling Limitations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Texas State Implementation Plan (SIP). The revisions to the Texas Administrative Code (TAC) were submitted in 2002, 2005, 2006, 2008, 2010, 2011 and 2012. These revisions are related to the implementation of the state's motor vehicle emissions Inspection and Maintenance (I/M) program and the Locally Enforced Motor Vehicle Idling Limitations. The EPA is approving these revisions pursuant to the Clean Air Act (CAA).

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2010-0890. All documents in the docket are listed in the *www.regulations.gov* index and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253.

FOR FURTHER INFORMATION CONTACT: Mr. John Walser (6PD-L), Air Planning Section, telephone (214) 665-7128, e-mail: *walser.john@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” means EPA.

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I. Background

The background for today’s action is discussed in detail in our April 15, 2014 proposal (79 FR 21179) and the accompanying Technical Support Document. In that notice we proposed

to approve submittals that revise the Texas State Implementation Plan (SIP) related to the implementation of the state's motor vehicle emissions Inspection and Maintenance (I/M) program and the Locally Enforced Motor Vehicle Idling Limitations. We received no comments on our proposed approval. Therefore, we are finalizing our approval as proposed, with the exception of the clerical errors noted below. Specifically, we are approving submittals dated August 16, 2002, December 30, 2002, November 14, 2005, May 15, 2006, February 28, 2008, December 22, 2010, August 30, 2011 and August 31, 2012. These submittals include revised narratives, rules, and supporting documentation. We are approving these revisions to Title 30 of the Texas Administrative Code (30 TAC). The revisions address testing requirements, updating equipment analyzer specifications, repealing duplicative I/M waiver rules, withdrawing OBD as a contingency measure, repealing an early participation incentive program, revising vehicles idling waivers and numerous other administrative, non-substantive rule changes that add clarity and improve readability of the rules. EPA is approving these revisions pursuant to sections 110 and 182 of the CAA.

The Proposed Action section of our April 15, 2014 proposal contained clerical errors. Specifically, that section inadvertently lists revisions to Chapter 114 of 30 TAC 114.211, 114.212, 114.213, 114.214, 114.215, 114.216, 114.217 and 114.219. See 79 FR at 21186. However, those sections are not in the SIP; and we are not acting on any submittal of those sections at this time. Additionally, we incorrectly listed Chapter 114.1 and 114.4 in the Proposed Action section of the April 15, 2014 proposal, but we are not taking any action on revisions to Section 114.1 or 114.4 at this time. This action finalizes approval of revisions to only 30 TAC §§ 114.2, 114.50, 114.51, 114.52, 114.53, 114.512, and 114.517.

II. Final Action

The EPA is approving revisions to regulations, and updates to the I/M portion of the mobile source strategies that control emissions from motor vehicles in Texas. We are approving revisions to the following sections within Chapter 114 of 30 TAC: 114.2, 114.50, 114.51, 114.52 (repealed), 114.53, 114.512, and 114.517. We are also approving revisions to 37 TAC 23.93. We are approving the following SIP revisions, including narratives, that revise the I/M and vehicle idling programs: August, 16, 2002, December 30, 2002, November 14, 2005, May 15, 2006, February 28, 2008, December 22, 2010, August 30, 2011 and August 31, 2012. We are approving these SIP revisions except for the revisions to 114.50(b)(2) as explained in the discussion of the November 14, 2005 submittal in the proposal. The EPA is approving these revisions in accordance with sections 110 and 182 of the Act and EPA's regulations and consistent with EPA guidance.

III. 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 CAA. Accordingly, this action 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 CAA; 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. 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 from date of publication of this document 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 dioxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: July 15, 2014.

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:

a. In paragraph (c), the table entitled “EPA Approved Regulations in the Texas SIP” is amended by revising entries for Sections 114.2, 114.50, 114.51, 114.53, 114.512, 114.517, removing the entry for Section 114.52, and adding a new centered heading and entry for Texas Department of Public Safety – 37 TAC Chapter 23 – Vehicle Inspection, and Section 23.93 immediately after the entry for Section 17.80.

b. In paragraph (e), the second table entitled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP” is amended by adding a new entry to the end of the table for Vehicle Inspection and Maintenance.

The revisions and additions 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
* * * * *				
114.2	Inspection and Maintenance Definitions	11/18/2010	[Insert date of FR publication] [Insert FR page number where document begins]	
* * * * *				

Section 114.50	Vehicle Emission Inspection Requirements.	10/26/2005	[Insert date of FR publication] [Insert FR page number where document begins]	
114.51	Equipment Evaluation Procedures for Vehicle Gas Analyzers	11/18/2010	[Insert date of FR publication] [Insert FR page number where document begins]	
114.53	Inspection and Maintenance Fees	10/26/2005	[Insert date of FR publication] [Insert FR page number where document begins]	
* * * * *				
Section 114.512	Control Requirements for Motor Vehicle Idling.	7/20/2011	[Insert date of FR publication] [Insert FR page number where document begins]	
Section 114.517	Exemptions.	8/08/2012	[Insert date of FR publication] [Insert FR page number where document begins]	
* * * * *				
Texas Department of Public Safety – 37 TAC Chapter 23 – Vehicle Inspection				
Section 23.93	Vehicle Emissions Inspection Requirements	10/26/2005	[Insert date of FR publication] [Insert FR page number where document begins]	
* * * * *				

(e) * * *

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

Name of SIP provision	Applicable geographic or non-attainment area	State submittal/ effective date	EPA approval date	Comments
* * * * *				
Vehicle Inspection and Maintenance	Dallas-Fort Worth, El Paso County and Houston-Galveston-Brazoria	12/22/2010	[Insert date of <u>FR</u> publication] [Insert <u>FR</u> page number where document begins]	

[FR Doc. 2014-17478 Filed 07/24/2014 at 8:45 am;
Publication Date: 07/25/2014]