

PART 281—FOREIGN EXCHANGE OPERATIONS

1. The authority citation for part 281 is revised to read as follows:

Authority: 22 U.S.C. 2363; 31 U.S.C. 3513; E.O. 10488, 18 FR 5699, 3 CFR 1949-1953, Comp., p. 972; E.O. 10900, 26 FR 143, 3 CFR 1959-1963, Comp., p. 429.

2. Section 281.7(c) is revised to read as follows:

§ 281.7 Limitations.

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(c) Unless otherwise authorized by the Secretary, no accountable officer shall purchase foreign exchange which, together with the balance on hand at the time of purchase, would exceed estimated requirements for a 5-7 business day period.

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Dated: December 4, 1995.

Russell D. Morris,

Commissioner.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[TX43-1-6275; FRL-5403-7]

Clean Air Act Limited Approval and Limited Disapproval of 15 Percent Rate of Progress and Contingency Plans for Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The EPA proposes a limited approval and limited disapproval of the State Implementation Plan (SIP) revisions submitted by the State of Texas to meet the 15 Percent Rate of Progress Plan requirements of the Clean Air Act. The EPA is proposing a limited approval because the 15 Percent Plans, submitted by Texas, will result in significant emission reductions from the 1990 baseline and thus, will improve air quality. Simultaneously, the EPA is proposing a limited disapproval of the 15 Percent Plans because they fail to demonstrate sufficient reductions of area-wide Volatile Organic Compounds (VOC) to meet the 15 Percent Rate of Progress requirements. Also, the EPA is proposing a limited approval of the contingency plans because these plans, if implemented, will result in emission reductions that will improve air quality. Simultaneously, the EPA is proposing a limited disapproval of the contingency

plans because they fail to demonstrate that the required three percent reduction of VOC emissions will be achieved if the plans are implemented.

The EPA is also proposing a limited approval of the specific control measures in the 15 Percent and Contingency Plans because these rules will strengthen the SIP. A final action on these control measures will incorporate these rules into the Federally approved SIP.

DATES: Comments on this proposed action must be post marked by March 29, 1996.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700, Dallas, Texas 72202-2733.

Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78711-3087.

FOR FURTHER INFORMATION CONTACT: Mr. Guy R. Donaldson, Air Planning Section (6PD-L), USEPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7242.

SUPPLEMENTARY INFORMATION:**Background:**

Section 182(b)(1) of the Clean Air Act (CAA), as amended in 1990, requires ozone nonattainment areas with classifications of moderate and above to develop plans to reduce area-wide VOC emissions by 15 percent from a 1990 baseline. The plans were to be submitted by November 15, 1993 and the reductions were required to be achieved within 6 years of enactment or November 15, 1996. The Clean Air Act also sets limitations on the creditability of certain types of reductions. Specifically, States cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures (new car emissions standards) promulgated prior to 1990 or for reductions resulting from requirements to lower the Reid Vapor Pressure of gasoline promulgated prior to 1990. Furthermore, the CAA does not allow credit for corrections to Vehicle Inspection and Maintenance Programs (I/M) or corrections to Reasonably

Available Control Technology (RACT) rules as these programs were required prior to 1990.

In addition, section 172(c)(9) of the Clean Air Act requires that contingency measures be included in the plan revision to be implemented if reasonable further progress is not achieved or if the standard is not attained.

In Texas, four moderate and above ozone nonattainment areas are subject to the 15 Percent Rate of Progress requirements. These are the Beaumont/Port Arthur (serious), Dallas/Fort Worth (moderate), El Paso (serious), and the Houston/Galveston (severe) areas. Texas adopted measures for the 15 Percent Rate of Progress Plans and the required contingency measures in two phases. Phase I was submitted to the EPA on November 13, 1993, and contained measures achieving the bulk of the required reductions in each of the nonattainment areas. Phase II was submitted May 9, 1994. The Phase II submittal was to make up the shortfall in reductions not achieved in the Phase I measures. The combination of the Phase I and Phase II measures was ruled complete by the EPA on May 12, 1994.

On August 3, 1994, Texas submitted rules for the review and processing of Alternate Means of Control (AMOC). These revisions provide for the EPA review and approval of AMOC plans. On November 9, 1994, Texas submitted a narrative explanation and justification of the AMOC process with their plan to reduce emissions an additional 9 percent in the Houston/Galveston and Beaumont/Port Arthur Areas.

The EPA has analyzed the November 13, 1993, submittal; May 9, 1994, submittal; August 3, 1994 submittal; and the AMOC narrative portion of the November 9, 1994, submittal; and believes that these proposed 15 Percent Plans and Contingency Plans can be given limited approval because they overall would strengthen the SIP by achieving reductions in VOC emissions. The 15 Percent Plan and Contingency Plans do not, however, achieve the total required percentage of reductions. Therefore, the EPA is proposing a limited disapproval of the plans. Also, the control measures in the four 15 Percent Plans and Contingency Plans cannot be completely approved, because they do not meet all of the underlying conditions of the Clean Air Act. Therefore, the EPA is only proposing limited approval of the control measures in the 15 Percent Plans and the Contingency Plans as a strengthening of the SIP. The EPA is not taking any action on whether the control measures included in these plans comply with the

RACT requirements of CAA section 182(b)(2), or any other underlying CAA requirement. In addition, the EPA is proposing limited approval of only the AMOC portion of the November 9, 1994, submittal as a strengthening of the SIP. The EPA is taking no action on any other portion of the November 9, 1994, submittal. For a complete discussion of EPA's analysis of the State submittals, please refer to the Technical Support Document for this action. A summary of the EPA's findings follows.

Analysis

Emission Inventory

The base from which States determine the required reductions in the 15 Percent Plan is the 1990 emission inventory. The EPA approved the Texas 1990 base year inventory on November 8, 1994 (59 FR 55586). The inventory approved by the EPA and the one used in the 15 Percent Rate of Progress plans are the same except for some minor differences. The inventory used in the 15 Percent Rate of Progress Plans is slightly larger than the approved inventory. So it results in slightly more required reductions. It is, therefore, a somewhat conservative approach.

Calculation of Target Level Emissions

Texas subtracted the non-creditable reductions from the FMVCP and Reid Vapor Pressure (RVP) program from the 1990 inventory. This subtraction results in the 1990 adjusted inventory. The total emission reduction required to meet the 15 Percent Rate of Progress Plan requirements equals the sum of 15 percent of the adjusted inventory, plus reductions to offset any growth that takes place between 1990 and 1996, plus any reductions that result from corrections to the I/M or VOC RACT rules. Table 1 summarizes the calculations for the nonattainment areas in Texas.

TABLE 1.—CALCULATION OF REQUIRED REDUCTIONS (TONS/DAY)

	Dallas/Fort Worth	El Paso	Beaumont/Port Arthur	Houston/Galveston
1990 Emission Inventory	644.93	87.24	342.63	1179.27
1990 Adjusted	542.68	73.97	331.16	1090.94
15% of adjusted	81.40	11.10	49.67	163.64
RACT and I/M Corr .....	.99	1.57	4.28	11.83
1996 Target	460.29	61.30	277.21	915.47
1996 ¹ Projection	606.22	82.68	324.89	1147.71
Required Reduction	145.93	21.38	47.68	232.24

¹ 1996 forecasted emissions with growth and pre-1990 controls.

Measures Achieving the Projected Reductions

For each of the four nonattainment areas, Texas provided a plan to achieve the required reductions. The specific measures adopted in each of the areas vary with the combination of sources in each area. The following is a concise description of each control measure Texas used to achieve reductions credit in the plan. The EPA is proposing limited approval of the following control measures as a strengthening of the SIP and agrees with the emission reductions projected in the State submittals for these measures.

Stage II Vapor Recovery

This measure requires the installation and operation of vapor recovery equipment on gasoline pumps to reduce the emissions during refueling. The rules of the program are contained in 30 TAC Chapter 115.241–259. The EPA approved these rules in the Federal Register on April 15, 1994, (59 FR 17940). The EPA agrees with the reductions projected for this measure in the Beaumont/Port Arthur, Dallas/Fort Worth and Houston areas. In the El Paso area, the EPA believes that too much credit has been claimed in the proposed SIP revision. (see noncreditable reductions).

Bakeries

Texas made revisions to its vent gas control rules (30 TAC 115.121–129) to require controls on commercial bakeries. These bakeries can be significant sources of VOC emissions in the form of ethanol produced by yeast in the leavening process. The ethanol is liberated primarily when the bread is baked in the oven. These rules apply to major source bakeries in the Dallas/Fort Worth and Houston/Galveston areas. Major sources are defined as those emitting more than 100 tons/year in the Dallas/Fort Worth area and more than 25 tons/year in the Houston area. These rules require that the bakeries reduce emissions by 30 percent from the levels reported in the 1990 emissions inventory. Each of the affected bakeries has submitted control plans to achieve the required reductions. Upon the EPA's approval of these rules, these control plans will become Federally enforceable. The control plans all rely on some form of incineration and should easily achieve the expected reductions. The EPA proposes to approve these rules as a strengthening of the SIP and agrees with the associated projected emission reductions.

Offset Lithography:

These rules, contained in 30 TAC 115.442–449, regulate emissions from

offset printing operations in the El Paso area. This control measure was also adopted as a contingency measure in the Houston/Galveston and Beaumont/Port Arthur areas. These operations produce a wide variety of products such as magazines, newspapers and books. The rules regulate emissions from the fountain solution, clean up solvent, and dryer exhaust. The EPA believes that these rules will result in enforceable emission reductions. The EPA is proposing to approve these rules as a strengthening of the SIP and agrees with the associated projected emission reductions.

Consumer Products

Under section 183(e)(9) of the Clean Air Act, states may develop and submit to the Administrator a procedure under state law to regulate consumer and commercial products, provided they consult with the EPA regarding other State and local regulations for consumer and commercial product rules. Throughout the process of regulating consumer and commercial products, Texas has consulted the EPA and other states to utilize the collective expertise of other regulatory bodies in drafting and adopting their regulation. The rule applies to any person offering a consumer or commercial product for sale, supply, distribution, manufacture or use in Texas. Consumer and

commercial products include all VOC-emitting products used in homes, businesses, institutions, and a multitude of commercial manufacturing operations. The Texas rules, found at 30 TAC 115.600–625 apply standards for the VOC content of the products in 26 categories.

The rules allow the Executive Director of the Texas Natural Resource Conservation Commission (TNRCC) to grant Innovative Product Waivers to exempt products from the VOC content requirements of this rule; if the Executive Director determines the innovative product emits, equal to or less than, the emissions from a representative consumer product that is in compliance. In general, the EPA can grant approval of a rule that allows the State discretion to grant variances or exemptions without a full SIP revision, only if the rule contains specific conditions and a replicable procedure for the granting of the waivers. The EPA does not believe that the Texas consumer/commercial product rule contains such a replicable procedure that the EPA could use to verify a waiver was merited. The EPA believes it is appropriate to approve the rule as a strengthening of the SIP in this specific case, because EPA intends to promulgate national rules for the regulation of consumer and commercial products under section 183 of the CAA in the near future. Thus, requiring the state to develop a replicable waiver procedure now would duplicate efforts that will also occur through promulgation of the national rules. The EPA is proposing to approve these rules as a strengthening of the SIP and agrees with the projected emission reductions.

Automobile Refinishing:

Texas has adopted measures to reduce emissions from repainting cars at auto body repair shops. Reductions are achieved through two mechanisms. First, limits on the VOC content of paints and primers have been set. Second, the application equipment must be High Volume Low Pressure equipment or equivalent. This equipment tends to increase the transfer efficiency, or the percentage of paint that actually adheres to the vehicle. By getting a higher percentage of the paint on the car, less paint is used and less VOC is emitted to the atmosphere. The rules also require special equipment be used for equipment cleaning which will result in lower solvent emissions. These requirements contained at 30 TAC 115.421–422 have been adopted for all four nonattainment areas.

In addition to the State rules, the EPA intends to promulgate a national rule

that will further limit the VOC content of coatings. The EPA believes the combination of the emission reductions from the State rules and creditable emission reductions from future national rules will result in the levels projected in the State's submittal. The EPA is proposing to approve these State rules as a strengthening of the SIP.

RACT Catch Up

Section 182(b)(2)(B) of the Clean Air Act requires that moderate and above ozone nonattainment areas adopt rules to require RACT for all VOC sources in the area covered by any Control Technique Guideline (CTG) issued before the date of the enactment of the Clean Air Act Amendments of 1990. In practice, this required areas that were considered rural under pre-amendment guidance to "catch up" by adopting the same requirements as urban nonattainment areas. Newly designated nonattainment areas were required to adopt rules based on the pre-amendment CTG's. Also, RACT was to be applied to smaller sources of emissions in some instances because the amount of emissions defining a major source in serious and above nonattainment areas was reduced by the Clean Air Act Amendments of 1990.

In Texas, Beaumont/Port Arthur was a rural nonattainment area prior to the 1990 amendments. Also, the following counties were added to the nonattainment areas based on the Clean Air Act amendments of 1990; Collin, Denton, Fort Bend, Liberty, Montgomery, Waller, Chambers and Hardin. Texas submitted rules to meet the RACT catch up requirements. The EPA approved these submittals on May 8, 1995 (60 FR 12438). Emission reductions from these rule changes are creditable toward the Rate of Progress requirement. The EPA agrees with the reductions projected in the 15 Percent Rate of Progress plans due to RACT catch up rule changes.

Rule Effectiveness Improvements

Rule Effectiveness (RE) is an adjustment to an emission reduction calculation that compensates for the fact that facilities are not fully in compliance with a given rule 100 percent of the time. Texas expects that compliance will improve from 1990 levels for various reasons, the most important of which is a large projected increase in State enforcement staff. To insure that real emission reductions have occurred, the State must commit to performing a study to confirm that the rule has achieved the expected effectiveness. Texas has committed to conducting detailed inspections of in-

use control efficiency during annual inspections and to revising the State's upset/maintenance rule to require more record keeping. These confirmation studies will be expected to be submitted with the State's Milestone Compliance Demonstration. The EPA believes the projected emission reductions are appropriate.

Wood Parts and Products Coatings

These rules, found at 30 TAC 115.421(a)(13), limit the VOC content of wood coatings. The rules apply to wood part and product manufacturers in the Houston, El Paso and Dallas/Fort Worth areas. Texas has projected a 20 percent reduction in emissions due to the rules, which the EPA believes is appropriate. The EPA is proposing to approve these rules as a strengthening of the SIP. The EPA also agrees with the projected reductions.

Fugitive Emission Control

115.352–115.357 These rules, contained at 30 TAC 115.352–115.357, tighten leak detection and repair requirements in petroleum refining and petrochemical processes. Texas changed the leak detection minimum from 10,000 ppm to 500 ppm for valves. The EPA is proposing to approve these rules as a strengthening of the SIP. The EPA also agrees with the projected reductions.

Municipal Waste Landfills

These rules, contained at 30 TAC 115.152–115.159, limit emissions from municipal waste landfills. The decomposition of municipal waste generates large amounts of methane and significant amounts of VOC's. These emissions can be captured and recycled or flared. The EPA has proposed a New Source Performance Standard for new landfills, and also proposed requirements which States will be required to adopt for existing landfills under section 111(d) of the CAA. Texas has proceeded with rules in advance of final national rules so the reductions can be achieved by 1996. The EPA is proposing to approve these rules as a strengthening of the SIP. The EPA also agrees with the projected reductions.

SOCMI Reactor and Distillation

These rules require control of emissions from reactor and distillation vents in the synthetic organic chemical manufacturing industry. These rules were based on a draft CTG that has since been finalized. The EPA is proposing approval of these rules as a strengthening of the SIP. The EPA also agrees with the projected emission reductions.

Carswell Fire Training

This emission reduction is included in the Rate of Progress plan because Carswell Air Force Base no longer conducts fire training exercises. A letter of commitment from the Air Force Base, adopted into the Dallas/Fort Worth 15 percent plan, documents that these training exercises are no longer conducted at the base and will not be conducted in the future. The EPA also agrees with the projected emission reductions.

Degassing or Cleaning of Vessels (115.541-115.549)

These rules require the control of emissions that occur during the degassing or cleaning of stationary or transport vessels by the capture and either recovery or destruction of the resulting emissions. The EPA is proposing to approve these rules as a strengthening of the SIP. The EPA also agrees with the projected reductions.

Outdoor Burning

Texas has calculated the reduction in VOC emissions that have occurred due to the more stringent outdoor burning restrictions that have been implemented in the El Paso area as required by the El Paso PM-10 SIP approved on January 18, 1994 (59 FR 2532). The EPA also agrees with the projected emission reductions.

Gasoline Terminals

Texas projected emission reductions from tightening the control requirements contained in 30 TAC 115.211-219 for vapor recovery devices on gasoline terminals used by gasoline powered transport trucks. Various other changes have also been made to strengthen these rules. The EPA is proposing to approve these revisions to the State rules as a strengthening of the SIP. The EPA also agrees with the emission reductions associated with these measures.

Reformulated Gasoline

Section 211(k) of the CAA requires that after January 1, 1995, in severe and above ozone nonattainment areas, only reformulated gasoline be sold or dispensed. This gasoline is reformulated to burn cleaner and produce fewer evaporative emissions. As a severe area, Houston will benefit from these emission reductions. The EPA agrees with the emission reductions that the State has projected for the Houston area.

Section 211(k)(6) allows other nonattainment areas to "opt in" to the program. On June 11, 1992, the Governor of Texas asked that the Dallas/Fort Worth area also participate in the

program. This request was approved in the Federal Register on October 8, 1992 (57 FR 46317). These emission reductions are fully creditable toward the Dallas/Fort Worth Plan. The EPA agrees with the reductions that have been projected due to the introduction of reformulated gasoline in the Dallas/Fort Worth area.

Reid Vapor Pressure Control

Texas has enacted rules (30 TAC 115.252-115.259) lowering the allowed RVP of gasoline sold in the El Paso nonattainment area. RVP is a measure of the tendency of gasoline to evaporate. Lowering the RVP results in lower VOC emissions and the reductions can be credited to the plan. The rules require the gasoline sold in El Paso between June 1 and September 15 of each year to have an RVP of no greater than 7.0 psi.

State governments are generally preempted under section 211(c)(4)(A) of the CAA from requiring gasoline sold in any area in a State to meet an RVP standard different from the federal standard. However, under 211(c)(4)(C) a State can require a more stringent RVP standard in its SIP if the more stringent standard is necessary to achieve the National Ambient Air Quality Standard (NAAQS) in a particular nonattainment area. The State can make this demonstration of necessity by providing evidence that no other measures exist that would bring about timely attainment, or that such measures exist, are technically possible to implement, but are unreasonable or impracticable. Economic consequences may be considered in this demonstration. If a State makes this demonstration, it can lower the volatility to whatever standard is necessary for the nonattainment area.

In addition to the control measures mandated by the CAA, Texas has compiled a Control Measure Catalog for each of its nonattainment areas and has graded each measure on its viability for use in these 15 Percent Plans. The grade was based on six criteria: cost of implementation, reactivity, emission reductions potential, technical feasibility, toxicity, and enforceability. The Catalog identified fourteen control measures for the El Paso area; the El Paso 15 Percent Plan contained all of these measures and an additional ten for a total of twenty-four. The EPA believes the State has considered all of the reasonably available control measures.

Included among these control measures was control of VOC's from fuel. In the absence of fuel controls, it was projected there would be insufficient VOC reductions to achieve

the 15 percent SIP target and there may ultimately be insufficient VOC reductions to achieve attainment of the NAAQS. The State considered two fuel control measures: opting into the federal reformulated gasoline program (RFG) or implementing a Low RVP (7.0 psi) Program. The State, with help and input from local area refineries, determined the two programs would generate the same VOC emission reductions in the El Paso ozone nonattainment area. However, as explained below, El Paso may receive additional VOC reductions from the Low RVP Program when the Juarez area is considered. The local area refineries expressed support for the Low RVP Program over an RFG Program because of economic reasons as outlined below.

El Paso and Juarez, Mexico are essentially one air shed from an air quality standpoint. Modeling submitted by the State demonstrates El Paso is in attainment of the NAAQS for ozone but for emissions from Juarez and suggests that reduction of VOC emissions from Juarez will be needed for the El Paso area to attain the NAAQS for ozone. This modeling, in support of a 179B demonstration, has been submitted by the State and is pending before the EPA. Action on this submittal will be taken in a separate Federal Register notice.

Currently, Juarez is receiving in excess of 80 percent of its gasoline from refineries located in El Paso. The local area refineries estimated the cost to produce low RVP gasoline would be about one cent per gallon over that of conventional gasoline. The capital investments and other costs necessary for the production of RFG was estimated to increase the cost of RFG by about four cents per gallon. The State concluded that the Juarez market would accept the small increase in the cost of low RVP gasoline and El Paso would be subjected to VOC emissions from Juarez based on gasoline with an RVP of slightly more than 7.0 psi. Contrarily, the State concluded that the higher cost of RFG would likely result in Juarez requesting conventional gasoline from the El Paso refineries, with an RVP of 9.0 psi or higher, rather than RFG. Because the low RVP gasoline is more likely to be accepted in Juarez, it is expected to generate additional reductions that will be needed for attainment of the NAAQS for ozone in El Paso beyond those reductions generated by an RFG program. In a letter to the Chairman of the Texas Natural Resource Conservation Commission from the Director of the EPA's Office of Air Quality Planning and Standards, dated June 23, 1995, the EPA indicated the State could, with conditions, use the

expected emission reductions from Juarez to meet the requirements of the 15 Percent SIP. In a future submittal, Texas will need to substantiate and quantify the expected reductions from the Juarez area as a result of the Low RVP Program.

El Paso is also a Carbon Monoxide nonattainment area and Texas has implemented an Oxygenated Fuel Program with a control period from September 1 of one year to March 31 of the next. The monitoring and enforcement of the program has been delegated to the El Paso City/County Health and Environmental District (District). The District has dedicated resources, personnel and equipment, to this program. The State also intends to delegate the monitoring and enforcement of the Low RVP Program to the District. Since the Oxygenated Fuel Program is a winter program and the Low RVP Program is a summer program the District will be able to utilize the same resources in both programs resulting in a savings of administrative costs. Thus the State is implementing strategies specific to their pollution abatement needs; an Oxygenated Fuel Program in the winter months and a Low RVP Program during the high ozone period of the summer.

For the reasons stated above, the EPA believes the State has satisfied the requirements of section 211(c)(4)(C) to demonstrate that the Low RVP Program is necessary to achieve the NAAQS for ozone in the El Paso area. The State has demonstrated that all other reasonable and available sources of VOC reductions have been considered and used; and that the only other alternative available for VOC emissions reductions, the RFG Program, will not yield VOC reductions in Juarez that will be needed for the eventual attainment of the NAAQS of ozone in the El Paso area. The EPA is proposing limited approval of the State's Low RVP Program. The EPA agrees with the projected emission reductions, in the El Paso area from the Low RVP program. However, if the State wishes to credit emission reductions occurring in the Juarez area, due to the low RVP program, as outlined in the EPA's June 23, 1994 letter; Texas will, in future SIP revisions, need to substantiate and quantify the expected reductions from the Juarez area as a result of the Low RVP Program.

Tier I Federal Motor Vehicle Control Program

The EPA promulgated standards for 1994 and later model year light-duty vehicles and light-duty trucks (56 FR 25724, June 5, 1991). Since the standards were adopted after the CAA

amendments of 1990, the resulting emission reductions are creditable toward the 15 percent reduction goal. The EPA agrees with the State's projected emission reductions.

Transportation Control Measures (TCM)

The State has included several TCM's such as high occupancy vehicle lanes, traffic signal and intersection improvements in the plans that result in emission reductions in the Dallas/Fort Worth, Houston, and El Paso nonattainment areas. The emission reductions from TCM's are approximately 6.94 tons/day for Dallas/Fort Worth, 0.30 tons/day for El Paso, and 0.10 tons/day for the Houston area. In addition, TNRC has adopted a set of TCM rules which were submitted under separate cover as a SIP revision for the EPA's approval. The TCM rules will be supplementing the control strategy SIPs in order to assure implementation of the TCM's. The EPA has reviewed the TCM's included in the 15 Percent Rate of Progress plans and agrees with the projected reductions. The EPA is not, however, taking action at this time on the TCM rules. The EPA will be taking action on the TCM rules in a separate Federal Register notice.

Small Gas Utility Engines

Texas calculated emission reductions that were expected to result from a State rule requiring that cleaner burning small gas utility engines be manufactured for sale in Texas. The State has since revised the rule to allow for a later compliance date. This could have resulted in a loss of projected emission reductions. The EPA, however, believes that the expected emission reductions still occurred during 1994 and 1995 and will occur during 1996, as a result of small engine modifications made by the industry's major manufacturers. These reductions are the result of actions taken by the industry in advance of the Federal Emission Standards for New Non-road Spark-Engines at or below 25 Horsepower (Phase I) that will take effect in the 1997 model year. To demonstrate that reductions have occurred, the industry has provided sufficient Texas specific sales data and engine specification information to the EPA demonstrating that significant emission reductions are expected to occur during the 1994, 1995, and 1996 calendar years. The EPA agrees these emission reductions will occur. The EPA is taking no action on Texas' small engine rule because it now largely duplicates already promulgated Federal requirements.

Off-Road Reformulated Gasoline

The use of reformulated gasoline will also result in reduced emissions from off-road engines such as outboard motors for boats and lawn mower engines. The EPA agrees with the reductions projected in the plans for off-road engines utilizing reformulated gasoline.

Tier III Jet Engine Standards

Aircraft are required by Federal Aviation Administration (FAA) rules to have engines that meet Tier III standards. These standards result in engines designed to be both quieter and less polluting. These rules contain a phase in schedule with full compliance required by the year 2000. The EPA agrees with the projected emission reductions contained in the State submittal.

Benzene National Emission Standards for Hazardous Air Pollutants (NESHAPS)

In January 1993, the EPA promulgated 40 CFR 61 subpart FF, National Emission Standard for Benzene Waste Operations. Texas has quantified the VOC reductions that will result from these rules in the Beaumont area. The EPA agrees that these reductions will occur.

Measures Achieving Less Than the Projected Emission Reductions

For the following control measures, the EPA believes that the amount of emission reduction that has been claimed in the State submittals is not appropriate or is inadequately documented. The EPA does not agree with the projected emission reductions that are in excess of those which the EPA believes will actually occur.

Architectural and Industrial Maintenance Coatings (AIM)

Emission reductions have been projected for AIM coatings due to the expected promulgation by the EPA of a national rule. In a memo dated March 22, 1995, the EPA provided guidance on the expected reductions from the national rule. It is expected that emissions would be reduced by 20 percent. Texas has taken 25 percent reduction credit in its plan. This was based on previous guidance from the EPA that 25 percent reductions would occur. Since the 20 percent more accurately reflects the emission reductions that will occur in practice, the EPA does not agree with the reductions projected in excess of 20 percent.

Vehicle Inspection and Maintenance (I/M)

The plans in each of the four areas relied on revised vehicle I/M programs that were developed by the State of Texas and submitted to the EPA on November 12, 1993, and on March 9, 1994. The EPA evaluated these programs and approved them into the SIP on August 22, 1994. Texas began implementing these programs in January, 1995. The Texas legislature enacted a bill on May 1, 1995, giving the governor authority to develop a revised program. During the interim, the legislation reinstated the I/M programs in existence prior to January 1, 1995. In June 1995, the TNRCC adopted emergency rules to reinstate the pre-1995 programs. As a result of these actions, the emission reductions that were expected to result cannot be expected to be achieved. Thus, the EPA cannot agree with the projected emission reductions for vehicle inspection and maintenance.

Employee Commute Options

On March 7, 1995 (60 FR 12442), the EPA approved a revision to the Texas SIP incorporating an Employee Commute Options/Employer Trip Reduction Program. The program is required in all severe and extreme ozone nonattainment areas. For Texas, this affects the Houston/Galveston nonattainment area. On April 18, 1995, the Governor of Texas signed legislation which suspended the program for 180 days and allowed additional 45 day suspensions of the program at the discretion of the Governor. The TNRCC is in the process of restructuring the program. Due to the suspension of the program, the 1.81 tons per day of emission reductions claimed for the Houston/Galveston nonattainment area cannot be expected to be achieved. Thus, the EPA cannot agree with the emission reductions projected for this program in the Houston/Galveston 15 Percent Rate of Progress Plan.

Marine Vessel Loading

These rules are designed to reduce emissions that result from the loading of VOC's into marine vessels in the Houston area. The rules control sources that emit more than 100 tons/year. The EPA believes that the rules will result in enforceable emission reductions toward the 15 Percent Rate of Progress Plan for Houston. The EPA is therefore, proposing to approve these rules as a strengthening of the SIP.

Texas, however, projected reductions from both points (defined as greater than 25 tons per year) and area (less

than 25 tons per year) sources, when the rule only applies to 100 ton/year or greater sources. The smaller area sources, those that emit less than 25 tons per year, would remain uncontrolled. The EPA cannot ascertain what portion of the emission reductions claimed from the point source inventory are from sources that emit between 25 and 100 tons/year but expects that this is a relatively small amount. Therefore, the EPA can agree with the emission reductions associated with marine vessel loading operations contained in the point source inventory only with the understanding that before a final action, the State will demonstrate that no emission reductions are being projected for sources in the 25–100 ton/year emissions range. The EPA cannot agree with the projected emission reductions associated with area source marine vessel loading operations.

The EPA is aware that Texas now believes that all of the marine vessel loading emissions are covered in the point source inventory and that the area source inventory is zero. If this is the case, future SIP revisions should reflect this adjustment and the projected emission reductions should be adjusted accordingly.

Industrial Wastewater

Texas has adopted rules for control of emissions from industrial wastewater. These rules were based on a draft Control Technique Guideline for the control of emissions from wastewater. The TNRCC rule applies to VOC emissions from wastewater from the organic chemicals, plastics, and synthetic fibers manufacturing industry (Standard Industrial Classification codes 2821, 2823, 2824, 2865 and 2869), pesticide manufacturing industry, petroleum refining industry, pharmaceutical manufacturing industry, and hazardous waste treatment, storage, and disposal facilities. The essential concept in the TNRCC rule is to suppress VOC emissions from all wastewater streams that have either greater than 10,000 ppm VOC at any flow rate or 1000 ppm VOC and a flow rate greater than 10 liters/minute. The rule encourages facilities to remove the VOC's from the stream before they are emitted to the air. The 15 Percent Rate of Progress plans claim a 90 percent overall control efficiency for this measure.

In contrast, the EPA expects that the overall reductions expected from control of wastewater streams using the exemption cutoffs in the Texas rule are 43 percent for the organic, chemicals, plastics and synthetic fibers industry, and 41 percent control for the petroleum

refining industry. This assumes that the State rule is based on a control program as effective as the wastewater emission control program in the National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Synthetic Organic Chemical Manufacturing Industry (40 CFR 63.100). This rule is generally referred to as the Hazardous Organic NESHAP (HON). The Texas rule, however, is not as stringent in its control requirements when compared to requirements expected in the draft CTG or the HON. Chief among the differences is that the Texas rule merely requires that streams be treated to remove VOC down to a concentration of 1000 ppm. In contrast, the HON requires that the VOC concentration in any stream with a concentration greater than 1000 ppm, must be reduced to the level that can be achieved by a steam stripper. This level can be far lower than 1000 ppm. Even if the Texas control program were similar to the program in the HON for the control of hazardous air pollutants, it would be expected to get less than the 90 percent emission reductions projected by the State because of the exemption levels that were chosen.

The EPA is proposing limited approval of the Texas rules for control of wastewater emissions as a strengthening of the SIP that will result in emission reductions. The EPA cannot agree with all of the emission reductions that have been projected. From the information provided, the EPA cannot ascertain what the actual emission reductions from this program will be. The EPA, perhaps, could agree to emission reductions based on a control efficiency of 42 percent drawn from an average of the petroleum refinery and Synthetic Organic Chemical Manufacturing Industry emission reduction estimates in the draft CTG. However, the Texas wastewater rules could result in less control than contemplated in the draft CTG. To assure creditable emissions reductions, before the EPA's final action, the State should document the actual emission reductions that can be expected from the State rule.

Other Coatings

Reductions are projected in this category in the El Paso area but there are no rules or documentation in the plan. Therefore, EPA cannot agree with these projected emission reductions.

Acetone Substitution

These rules are designed to limit emissions from cultured (synthetic) marble and fiber reinforced plastic (FRP) operations in the Dallas/Fort Worth, El Paso, and Houston areas.

These operations typically used large quantities of acetone as a cleaning solvent. These rules limit the use of acetone or require the use of substitute materials with a low vapor pressure.

The EPA added acetone to the list of non-reactive compounds on June 16, 1995 (60 FR 31633). Therefore, the EPA will take no action on these rules. As a result, the EPA cannot agree with the use of these projected emission reductions toward the 15 Percent Rate of Progress Plan.

Stage II in El Paso

In the SIP revision, Texas assumed an in-use efficiency of 88 percent for Stage II in El Paso. In the other three areas, Texas assumed an 81 percent in-use efficiency. The EPA believes that 81 percent in-use efficiency is appropriate based on the number of inspections being performed and the percentage of exempted stations. Therefore, the emission reductions from the higher in-use efficiency were not documented and cannot be credited toward the rate of progress plan for El Paso. The EPA can agree with emission reductions based on an 81 percent in-use efficiency. The EPA cannot agree with the emission reductions resulting from estimates of an in-use efficiency in excess of 81 percent.

Shortfall

Tables 2 through 5 summarize the proposed creditable and noncreditable reductions.

TABLE 2.—SUMMARY OF CREDITABLE AND NONCREDITABLE EMISSION REDUCTIONS: DALLAS/FORT WORTH (TONS/DAY)

Required Reduction	145.93
Creditable Reductions:	
RACT Catch-up	4.19
Stage II	18.19
Aircraft Stage III	0.60
Other VOC storage, transport	0.05
FMVCP Tier I	1.83
Bakeries	0.12
Auto Refinishing	4.51
Municipal Landfills	3.49
Carswell Fire Training Pit Closure	1.20
RE Improvements	4.77
Gas Utility Engines	6.53
Reform:	
On-Road	33.18
Off-Road	3.17
TCM's	6.94
Consumer/Commercial Products	3.45
Gasoline Terminals	2.17
Fugitives	0.07
Wood Furniture	1.35
AIM	6.22
Total	102.03
Noncreditable Reductions:	
AIM	1.09
Inspection & Maintenance	43.79

TABLE 2.—SUMMARY OF CREDITABLE AND NONCREDITABLE EMISSION REDUCTIONS: DALLAS/FORT WORTH (TONS/DAY)—Continued

Acetone Replacement	0.29
Total noncreditable	45.17
Short fall	43.90

TABLE 3.—SUMMARY OF CREDITABLE AND NONCREDITABLE EMISSION REDUCTIONS: EL PASO (TONS/DAY)

Required Reduction	21.38
Creditable Reductions:	
RACT Catch-up	0.71
Stage II	1.87
Aircraft Stage III	0.02
FMVCP Tier I	0.25
Auto Refinishing	1.13
Offset Printing	0.56
Vessel Loading	0.32
Fugitives	1.13
RE Improvements	0.61
Gas Utility Engines	0.84
TCM's	0.30
Architectural Coatings	1.05
Consumer/Commercial Products	0.61
Municipal Landfills	0.21
Industrial Wastewater	0.27
Bulk Gasoline Terminals	0.82
Outdoor Burning	0.40
Wood Furniture	0.04
RVP (on-road)	2.61
RVP (off-road)	0.09
Total	13.84
Noncreditable Reductions:	
AIM	0.37
Inspection & Maintenance	6.72
Stage II	0.16
Other Coatings	0.30
Total Noncreditable	7.55
Short fall	7.54

TABLE 4.—SUMMARY OF CREDITABLE AND NONCREDITABLE EMISSION REDUCTIONS: BEAUMONT/PORT ARTHUR (TONS/DAY)

Required Reduction	47.68
Creditable Reductions:	
RACT Catch-up	18.84
Benzene NESHAP .....	.28
TSDF .....	.04
Stage II	1.94
FMVCP Tier I .....	.22
Vessel Cleaning/Degassing	0.02
Fugitive Controls	15.61
RE Improvements	5.98
Gas Utility Engines	1.05
AIM	0.59
Consumer/Commercial Products	0.33
Total	44.90
Noncreditable Reductions:	
AIM	0.21
Inspection & Maintenance	3.16

TABLE 4.—SUMMARY OF CREDITABLE AND NONCREDITABLE EMISSION REDUCTIONS: BEAUMONT/PORT ARTHUR (TONS/DAY)—Continued

Total noncreditable	3.37
Short fall	2.78

TABLE 5.—SUMMARY OF CREDITABLE AND NONCREDITABLE EMISSION REDUCTIONS: HOUSTON/GALVESTON (TONS/DAY)

Required Reduction	232.24
Creditable Reductions:	
RACT Catch-up	27.09
TSDF .....	.80
Stage II	16.89
VOC Storage, Transportation	0.46
Reform Gas:	
On Road	19.33
Off Road	6.53
FMVCP Tier I	1.49
Auto Refinishing	7.15
Vessel Cleaning/Degassing	2.74
SOCMI Rct. & Dist.	5.55
Fugitive Controls	34.61
RE Improvements	8.56
Gas Utility Engines	9.08
TCMs .....	.10
Consumer/Commercial Products	3.85
Marine Vessel loading	1 13.73
Gasoline Terminals .....	.81
Wood Coating .....	.37
Bakeries .....	.23
AIM	7.31
Industrial Wastewater	2 6.20
Total	171.88
Noncreditable Reductions:	
AIM	1.83
Indust. Wastewater	7.16
Inspection & Maintenance	34.49
Marine Vessel Loading	13.64
Acetone Replacement	1.43
Employee Commute Options	1.81
Total Noncreditable	60.36
Short fall	60.36

¹ Texas should demonstrate that emission reductions are not being shown here for sources that emit less than 100 tons/year.

² EPA believes these emission reductions may be overstated. Texas should show a control efficiency of 42 percent is appropriate in light of control that is less stringent than the HON. (See the Technical Support Document).

Contingency Measures

Ozone areas classified as moderate or above must include in their submittals, under section 172(c)(9) of the CAA, contingency measures to be implemented if Reasonable Further Progress (RFP) is not achieved or if the standard is not attained by the applicable date. The General Preamble to Title I, (57 FR 13498) states that the contingency measures should, at a minimum, ensure that an appropriate level of emissions reduction progress continues to be made if attainment or RFP is not achieved and additional

planning by the State is needed. Therefore, the EPA interprets the CAA to require States with moderate and above ozone nonattainment areas to include sufficient contingency measures in the November 1993 submittal, so that upon implementation of such measures, additional emissions reductions of up to three percent of the adjusted base year inventory (or a lesser percentage that will make up the identified shortfall) would be achieved in the year after the failure has been identified. States must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions such as public hearings or legislative review .

Analysis of Specific Contingency Measures

The following is a discussion of each of the contingency measures that have been included in the SIP submittals and an analysis of their acceptableness.

Degassing or Cleaning of Vessels

As discussed previously, this measure was adopted as part of the 15 percent rate of progress plans for the Houston and Beaumont areas. It was also adopted as a contingency rule in the El Paso and Dallas/Fort Worth areas. The EPA believes the reductions that have been projected if this measure is needed as a contingency measure are appropriate. The EPA proposes limited approval of these rules as a strengthening of the SIP.

Dry Cleaning Naphtha

These rules adopted at 30 TAC 115.552 as a contingency measure would call for control of dry cleaners that use petroleum naphtha. This rule was adopted as a contingency measure in the Dallas/Fort Worth, El Paso, and Houston areas. The EPA has evaluated this rule and believes that it will achieve the projected reductions in the event it must be implemented. The EPA proposes to give limited approval to these rules as a strengthening of the SIP.

Offset Printing

As discussed previously, regulation of emissions from offset printing was adopted as a 15 percent measure in the El Paso area. It was also adopted as a contingency measure in the Houston and Dallas/Fort Worth areas. The EPA believes that the emission reductions that have been projected if it is necessary to implement these rules are appropriate. The EPA proposes limited approval of these rules as a strengthening of the SIP.

Commercial Bakeries

As discussed previously, Texas adopted control measures for major source bakeries in Dallas/Fort Worth and Houston. Texas also adopted for Dallas, Houston and El Paso, a contingency measure for minor source bakeries to be controlled in the event a milestone demonstration or attainment date is missed. The EPA believes the reductions that are projected if these rules are implemented are appropriate. The EPA is proposing limited approval of these rules as a strengthening of the SIP.

Transportation Control Measures

In Dallas/Fort Worth and El Paso, Texas has projected that additional emission reductions will come from transportation control measures that will be implemented in the 1997 time frame. These additional reductions serve as a contingency measure if these areas miss a milestone or fail to attain the standard. The EPA is proposing limited approval of these Transportation Control Measures as a strengthening of the SIP.

Gas Utility Engines

Texas has relied on emission reductions from the State small utility engine rule toward the contingency plan from new, cleaner, engines placed in service during 1997. As discussed previously, the State rule has been revised to have a later compliance date. While the EPA believes that the data provided by the small engine manufacturers provides the needed reductions during 1994, 1995 and 1996; it is unclear whether the necessary reductions will occur during 1997 to be creditable in the contingency plans. Again, the EPA is taking no action on the State Small utility engine rule. Texas, in future submittals, will have to revise its emission reduction estimates to be consistent with the data provided by the small engine manufacturers and subsequent EPA policy.

Automobile Refinishing

As discussed previously, regulations on emissions from automobile refinishing were adopted in Dallas/Fort Worth, El Paso and Houston. These same rules were adopted as contingency measures in the Beaumont/Port Arthur area. The EPA believes that the projected emission reductions will occur if it is necessary to implement this rule. Therefore, the EPA is proposing limited approval of this rule as a strengthening of the SIP in the Beaumont area.

Vehicle Inspection and Maintenance

All of the contingency plans relied to some extent on reductions from the previously planned vehicle inspection and maintenance program. As discussed previously, these reductions cannot be expected to occur. In addition, the State has combined the projected emission reductions from Tier I FMVCP with the projected I/M reductions. The EPA cannot determine what portion of the combined reductions are attributable to the Tier I program. Therefore, the EPA cannot agree with the projected reductions from the Tier I program.

Pesticide Application

The contingency plan for El Paso includes reductions from the control of emissions during pesticide application. The plan does not include any supporting documentation for these reductions or rules for the control of emissions from pesticide application. Therefore, the EPA cannot agree with these reductions toward the contingency plan.

Tables 6 through 9 summarize the reductions that the EPA agrees with and disagrees with in each of the contingency plans. Because Texas has submitted measures for each of the four nonattainment areas that will result in reductions in emissions if implemented, the EPA is proposing a limited approval of the four contingency plans because, overall, they would strengthen the SIP. However, none of the contingency plans will result in the required three percent reduction. Therefore, the EPA is also proposing a limited disapproval of the contingency plans. The EPA is proposing limited approval of the control measures in the contingency plans because they strengthen the SIP. The control measures cannot be completely approved because they do not meet all of the underlying Clean Air Act requirements.

TABLE 6: SUMMARY OF CREDITABLE AND NONCREDITABLE CONTINGENCY MEASURE REDUCTIONS: DALLAS/FORT WORTH (TONS/DAY)

Required Contingency	16.28
Creditable Contingency Reductions:	
Vessel Cleaning	0.20
Dry Cleaning Naphtha	1.96
Offset Printing	0.85
Commercial Bakeries	0.15
TCMs	2.03
Gas Utility Engines	16.65
Total	11.84
Noncreditable Contingency Reductions:	
I/M Improvements	3.83
I/M and Tier I FMVCP	6.65

TABLE 6: SUMMARY OF CREDITABLE AND NONCREDITABLE CONTINGENCY MEASURE REDUCTIONS: DALLAS/FORT WORTH (TONS/DAY)—Continued

Total noncreditable	10.48
Short fall	4.44

¹ These reductions will need to be reevaluated in light of the emission reductions information provided by the small engine manufacturers.

TABLE 7.—SUMMARY OF CREDITABLE AND NONCREDITABLE CONTINGENCY MEASURE REDUCTIONS: EL PASO (TONS/DAY)

Required Contingency	2.22
Creditable Contingency Reductions:	
Vessel Cleaning	0.09
Dry Cleaning Naphtha	0.28
Commercial Bakeries	0.05
TCMs	0.53
Gas Utility Engines 1997	¹ 0.79
Total	1.74
Noncreditable Contingency Reductions:	
I/M & Tier I FMVCP	0.63
Pesticides	0.08
Total Noncreditable	0.71
Short fall	0.48

¹ These reductions will need to be reevaluated in light of the emission reductions information provided by the small engine manufacturers.

TABLE 8.—SUMMARY OF CREDITABLE AND NONCREDITABLE CONTINGENCY MEASURE REDUCTIONS: BEAUMONT/PORT ARTHUR (TONS/DAY)

Required Contingency	9.93
Creditable Contingency Reductions:	
Gas Utility Engines	¹ 1.05
Auto Refinishing	0.68
Total	1.73
Noncreditable Contingency Reductions:	
I/M & Tier I FMVCP	0.66
Total Noncreditable	0.66
Short fall	8.20

¹ These reductions will need to be reevaluated in light of the emission reductions information provided by the small engine manufacturers.

TABLE 9—SUMMARY OF CREDITABLE AND NONCREDITABLE CONTINGENCY MEASURE REDUCTIONS: HOUSTON/GALVESTON (TONS/DAY)

Required Contingency	32.73
Creditable Contingency Reductions:	
Municipal Landfills	3.99
Dry Cleaning-Naphtha	1.77
Offset Printing	2.21
Utility Engines 1997	9.20 ¹
Total	17.17
Noncreditable Contingency Reductions:	
I/M & Tier I	7.80
Total Noncreditable	7.80
Short fall	15.56

¹ These reductions will need to be reevaluated in light of the emission reductions information provided by the small engine manufacturers.

Alternate Means of Control

The EPA is approving Texas' AMOC rule contained in 115.901, 910, 911–918 as a strengthening of the SIP.

This rule establishes procedures for a facility to request use of an AMOC plan in lieu of complying with control requirements of Chapter 115, relating to the control of air pollution from volatile organic compounds. The rule provides flexibility for a facility to identify alternative emission reductions. The intent is to allow the regulated community flexibility to control air pollution through less costly control strategies while achieving environmental standards.

The rule contains the nine program elements required by the EPA's Economic Incentive Program (EIP) rules (59 FR 16690–16717). The program elements are a Statement of Purpose, Scope, Baseline, Quantification, Source Requirements, Uncertainty/Reconciliation, Implementation, Administrative System, and Enforcement. The EPA is proposing limited approval of the rule under the two-step process described in the EPA rule (59 FR 16694), which permits a State to submit a rule containing the general framework for the elements and a specific trade which provides the regulatory details for similar trades. Texas submitted the rule to the EPA Region 6 on August 3, 1994. A proposed AMOC plan from Du Pont was submitted to the EPA in a letter dated September 19, 1995. The EPA believes that this trade meets the requirements of the AMOC rule and the EIP rule. Having received the general framework and a

specific trade providing the regulatory details, the EPA proposes limited approval of the AMOC provision as strengthening of the SIP.

Proposed Action

The EPA has evaluated these submittals for consistency with the Act, EPA regulations, and EPA policy. The 15 Percent Plans in these SIP submittals will not achieve enough reductions to meet the 15 percent rate of progress requirements of section 182(b)(1) of the CAA. In addition, the contingency plans in these SIP submittals will not achieve enough emission reductions, if implemented, to meet the three percent reduction requirement under 172(c)(9) of the CAA. In light of this shortfall, the EPA cannot grant full approval of these plan revisions under Section 110(k)(3) and Part D. However, the EPA may grant a limited approval of the submitted plans under Section 110(k)(3) and section 301(a) since the 15 Percent Plans and the Contingency Plans will result in a certain percentage of VOC emission reductions. Thus, the EPA is proposing a limited approval of Texas' 15 Percent Plans and Contingency Plans under sections 110(k)(3) and 301(a) of the CAA. The EPA is also proposing a limited disapproval of the Texas submittals under sections 110(k)(3) and 301(a) because the submittals do not fully meet the requirements of section 182(b)(1) of the CAA for the 15 Percent Rate of Progress Plans, and the plans do not achieve the required emission reductions. In addition, the plans do not meet the requirement of section 172(c)(9) for contingency measures because the plans will not achieve the required 3 percent emission reductions, if implemented.

The EPA is aware that Texas has undertaken extensive efforts to improve the accuracy of the 1990 base year emission inventory and the accuracy of the emission projections being made for 1996. In addition, the State has expressed its intention to submit a revised vehicle I/M program during the 120 day time frame required by the recently adopted National Highway System Designation Act of 1995. The improved emission inventory and additional reductions from vehicle I/M may serve to correct the shortfall identified in this proposed Federal Register Action. To gain full approval, Texas will need to submit revised plans that document changes to the emissions inventory and the necessary enforceable reductions, such as those resulting from

a revised I/M program, to meet the 15 percent rate of progress requirements and include sufficient contingency measures to achieve a 3 percent reduction.

The EPA believes that approval of the control measures in these plans will strengthen the SIP. Therefore, the EPA is proposing limited approval of the control measures in the 15 Percent Plans and Contingency Plans. The EPA is not addressing whether these control measures, being approved as a strengthening of the SIP, meet any other underlying requirements of the Act such as the requirement for VOC RACT under 182(b)(2). The EPA will address these requirements in separate Federal Register notices.

Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: highway funding and the imposition of emission offset requirements. The 18-month period referred to in section 179(a) will begin on the effective date established in the final limited disapproval action. If the deficiency is not corrected within 6 months of the imposition of the first sanction, the second sanction will apply. This sanctions process is set forth at 59 FR 39832 (Aug. 4, 1994), to be codified at 40 CFR 52.31. Moreover, the final disapproval triggers the federal implementation plan (FIP) requirement under section 110(c).

Also, 40 CFR 51.448(b) of the Federal transportation conformity rules (40 CFR 51.448(b)) state that if the EPA disapproves a submitted control strategy implementation plan revision which initiates the sanction process under CAA section 179, the conformity status of the transportation plan and transportation improvement plan shall lapse 120 days after the EPA's limited disapproval.

Nothing in this proposed rule should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v US EPA*, 427 US 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The EPA's proposed limited disapproval of the State request under section 110 and subchapter I, Part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements remain in place after this proposed limited disapproval. Federal disapproval of the State submittal does not affect its State-enforceability. Moreover, the EPA's limited disapproval of the submittal does not impose any new Federal requirements. Therefore, the EPA certifies that this proposed limited disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements, nor does it impose any new Federal requirements.

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector; or to State,

local, or tribal governments in the aggregate.

Through submission of these SIP revisions which have been proposed for limited approval in this action, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A of the CAA. The rules and commitments given limited approval in this action may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules and commitments being given limited approval by this action will impose or lead to the imposition of any mandate upon the State, local, or tribal governments, either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector; the EPA's action will impose no new requirements. Such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Therefore, the EPA has determined that this proposed action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Reporting and recordkeeping requirements, Ozone, Volatile organic compounds.

Dated: December 12, 1995.

A. Stanley Meiburg,

Acting Regional Administrator (6RA).

[FR Doc. 96-1543 Filed 1-26-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52 And 81

[OH79-2-7115; FRL-5406-5]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Denial of comment period extension on proposed rule.

SUMMARY: This action denies a request to extend the comment period on the proposed rule approving the Cleveland/Akron/Lorain (CAL) ozone nonattainment area redesignation to