

§ 501.22 Distribution controls.

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(s) A demonstration meter is typically used to acquaint a potential user with the features of a meter as part of the sales effort. The following procedures must be followed to implement controls over demonstration meters:

(1) A demonstration meter may print only specimen indicia and must not be used to meter live mail.

(2) A demonstration meter must be recorded as such on internal manufacturer inventory records and must be tracked by model number, serial number, and physical location. If the meter's status as a demonstration meter changes, the meter must be administered according to the procedures that apply to its new status.

(3) A demonstration meter may be used only for demonstrations by a manufacturer's dealer or branch representative and must remain under the dealer's or representative's direct control. A demonstration meter may not be left in the possession of the potential customer under any circumstance.

(t) A postage meter loaned to a customer for temporary use (a "loaner meter") is typically used to acquaint a potential user with the features of a meter as part of the sales effort, or serves as a temporary placement while the customer awaits delivery of a new meter. The following procedures must be followed to implement controls over loaner meters:

(1) A loaner meter prints valid indicia and may be used to apply postage to a mailpiece. Only electronic, remote-set meters may be used as loaner meters. The city/state designation in the loaner meter indicia must show the location where the user's mail will be deposited.

(2) A customer may have possession of a loaner meter for a maximum of five consecutive business days. When the customer chooses to continue the use of a postage meter, the loaner meter must be retrieved and a new meter must be installed under the customer's license.

(3) The manufacturer's dealer or branch representative ("representative") must have a USPS-issued meter user license to place a loaner meter. A single license per USPS district can be used to issue loaner meters to customers in any of the different Post Office service areas within that district.

(4) Loaner meters must be reported electronically to the USPS meter tracking system when activated. A Form 3601-C, Postage Meter Activity Report, must be initiated to activate a loaner meter under the representative's meter license. The licensee and meter location information on the form will show the representative rather than the temporary

user. However, loaner meters may only be placed with customers who have been issued a USPS meter license.

(5) Representatives must record and verify the accuracy of the ascending and descending register readings when a loaner meter is placed with the customer. Any discrepancies detected during the verification process must be reported immediately to the meter manufacturer, who will then notify Postage Technology Management.

(6) The representative is responsible for resetting the loaner meter with postage and must arrange for reimbursement directly with the customer.

(7) The representative maintains full responsibility for the loaner meter. As both a manufacturer's representative and a meter licensee, the representative is subject to the provision of Domestic Mail Manual part P030 and Code of Federal Regulations part 501. As a licensee, the representative assumes all licensee responsibilities under USPS meter regulations and must ensure that loaner meters are available for examination by the Postal Service on demand and are examined in accordance with Postal Service policy. Any losses incurred by the Postal Service as a result of fraudulent use of the loaner meter by the customer are the responsibility of the meter licensee, the customer, and the manufacturer.

(8) When the customer returns the meter, the dealer or branch representative must record and verify the accuracy of the ascending and descending register readings and inspect the meter. Any discrepancies or indication of tampering or fraudulent use must be reported immediately to the meter manufacturer, who will then notify Postage Technology Management. In such circumstance, the meter must not be used and must be returned to the manufacturer's QAR department via Registered Mail.

(9) Loaner meters must be reported electronically to the USPS meter tracking system when withdrawn from service. The dealer or branch representative must prepare Form 3601-C, Postage Meter Activity Report, for each loaner meter withdrawn.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 01-10148 Filed 4-24-01; 8:45 am]

BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[TX-101-1-7394a; FRL-6969-3]

Approval and Promulgation of Implementation Plans; Texas; Post 96 Rate of Progress Plan, Motor Vehicle Emissions Budgets (MVEB) and Contingency Measures for the Houston/Galveston (HGA) Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action on portions of the Texas Ozone State Implementation Plan (SIP) revision submitted by the Governor of Texas on May 19, 1998, to meet the reasonable further progress requirements of the Federal Clean Air Act (the Act). We are approving the Post-1996 Rate-of-Progress (ROP) Plan, the Motor Vehicle Emissions Budgets (MVEB) established by the ROP Plan, revisions to the contingency measures, and revisions to the 1990 base year emissions inventory for the Houston/Galveston (HGA) 1-hour ozone nonattainment area.

DATES: This direct final rule is effective June 25, 2001 unless adverse or critical comments are received by May 25, 2001. If adverse comments are received, EPA will publish timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), at the EPA Region 6 Office listed below.

Copies of the documents, including the Technical Support Document, relevant to this action are available for public inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, Dallas, 1445 Ross Avenue, Texas 75202-2733, telephone: (214) 665-7214. Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Mr. Guy R. Donaldson, Air Planning Section (6PD-L), Multimedia Planning and

Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone: (214) 665-7242.

SUPPLEMENTARY INFORMATION:

Throughout this document "we," "us," and "our" refers to EPA.

I. What Action Are We Taking?

We are approving portions of the revision to the Texas Ozone State Implementation Plan for the HGA ozone nonattainment area received May 19, 1998, to meet the Reasonable Further Progress requirements of the Act. We are approving the Post 96 Rate of Progress (OP) plan that is designed to reduce ozone forming emissions by November 15, 1999 from the baseline emissions by an additional 9% in the HGA nonattainment area. In addition, we are approving the MVEBs associated with the 9% ROP Plan. We are also approving the revisions to the contingency plan, and the 1990 base year emissions inventory for the HGA area, which were included with the May 19, 1998, SIP revision. In this action, we are not acting on other portions of the May 19, 1998, SIP revision regarding the attainment demonstration. In a separate action, we proposed conditional approval, and alternatively, disapproval of the portions of the May 19, 1998, SIP revision that pertained to the attainment demonstration (64 FR 70548, December 16, 1999).

II. Why Is Texas Required To Develop a Post 96 Rate of Progress Plan for Houston?

Section 182(c)(2) of the CAA requires each serious and above ozone nonattainment area to submit a SIP revision by November 15, 1994, which describes, in part, how the area will achieve an actual volatile organic compound (VOC) emission reduction from the baseline emissions of at least 3 percent of baseline emissions per year averaged over each consecutive 3-year period beginning 6 years after enactment (i.e., November 15, 1996) until the area's attainment date. Section 182(c)(2)(C) explains the conditions under which reductions of oxides of nitrogen (NO_x) may be substituted for reductions in VOC emissions. The HGA ozone nonattainment area is classified as severe-17, with an attainment date of 2007.

Texas submitted a plan to achieve the 9% reductions in a letter dated November 9, 1994. This plan was revised in a letter dated August 9, 1996. On March 9, 1998, we proposed to disapprove the 1994 Post '96 ROP plan, as revised in 1996, primarily because the plan projected too much emission

reductions from the Compliance Assurance Monitoring program. The May 19, 1998, SIP revision addresses the concerns expressed in our proposed disapproval.

III. When Will Texas Submit Plans for the Remaining Required Rate of Progress Reductions?

Section 182(c)(2) requires that States provide a plan that includes emission reductions of at least 3% of baseline emissions per year from November 15, 1996, until the attainment date. It was anticipated that these emission reductions would be consistent with the attainment demonstration modeling that was due November 15, 1994. We, however, have acknowledged the difficulty States were having in meeting the November 15, 1994 deadline to develop attainment demonstrations. In a March 2, 1995 policy memorandum, we provided that States could submit their attainment demonstration and Rate-of-Progress plans in phases. Phase I was to insure that progress was maintained while a complete plan was developed. The Phase I plan was to include a set of specific control measures to obtain major reductions in ozone precursors. For Texas, these were to include:

- Rules to insure that Reasonably Available Control Technology (RACT) was implemented on major sources of volatile organic compounds,
- A demonstration that 3% of baseline emissions per year reduction in emissions would occur during the time period 1997-1999 (Post 96 Rate of Progress),
- An enforceable commitment to submit an attainment demonstration by mid-1997, and
- A commitment to participate in a consultative process to address Regional transport of ozone and precursors.

A December 29, 1997, guidance memorandum provided for submittal of an attainment demonstration from mid-1997 until April, 1998. The December 29, 1997, memorandum explained that additional time was warranted because the consultative process to address transport, which had become known as the ozone transport assessment group (OTAG), had been delayed by 9 months so it was appropriate to delay the submittal of the attainment demonstrations.

The December 29, 1997, memorandum indicated EPA's view that by April, 1998, States should submit the following:

- An attainment demonstration for the one-hour ozone standard, modeling analysis and supporting documentation.
- Evidence that all measures and regulations required for the

nonattainment area by subpart 2 of title I of the Act to control ozone and its precursors have been adopted and implemented or are on an expeditious schedule to be adopted and implemented.

- A list of measures and regulations and/or a strategy including technology forcing controls needed to meet ROP requirements and attain the 1-hour NAAQS.

- For severe and higher classified nonattainment areas, a SIP commitment to submit a plan on or before the end of 2000 which contains (a) target calculations for post-1999 ROP milestones up to the attainment date (unless already submitted to satisfy EPA's previous findings of failure to submit) and (b) adopted regulations needed to achieve the post-1999 ROP requirements up to the attainment date and to attain the 1-hour NAAQS.

- A SIP commitment and schedule to implement the control programs and regulations in a timely manner to meet ROP and achieve attainment.

- Evidence of a public hearing on the State submittal.

The May 19, 1998 SIP revision contains a commitment to submit a plan by December 15, 2000, which contains target calculations for Post-1999 ROP milestones up to the attainment date and adopted regulations to achieve the Post-99 ROP requirements up to the attainment date and to attain the 1-hour National Ambient Air Quality Standard (NAAQS). In a letter from the Governor dated December 20, 2000, Texas submitted a plan to achieve the Post 99 Rate of Progress requirements. EPA will be evaluating the December 20, 2000, SIP revision in a separate action.

IV. Why Control Volatile Organic Compounds (VOC) and NO_x?

VOCs participate in a chemical reaction with Oxides of Nitrogen (NO_x) and oxygen in the atmosphere to form ozone, a key component of urban smog. Inhaling even low levels of ozone can trigger a variety of health problems including chest pains, coughing, nausea, throat irritation, and congestion. It can worsen bronchitis, asthma and reduce lung capacity.

V. How Much Reduction in Emission Is Needed?

Calculating the needed emission reductions is a multi-step process as described below.

Emissions Inventory

The 1990 Final Base Year Inventory is the starting point for calculating the reductions necessary to meet the requirements of the 1990 Act. The 1990

Final Base Year Inventory includes all area, point, and mobile sources emissions in the 8 county HGA ozone nonattainment area. The 1990 base year inventory was originally approved November 8, 1994 (59 FR 55586). The State revised the VOC inventory on August 8, 1996. These changes were approved November 10, 1998. As part of the May 19, 1998, SIP revision, Texas again revised the 1990 base year inventory. We are approving these changes to the inventory. The new inventory is summarized in Table 1. The changes to the inventory are described later.

TABLE 1.—1990 RATE-OF-PROGRESS BASE YEAR INVENTORY

Source type	VOC Tons/day	NO _x Tons/day
Point	483.28	794.85
Area	200.07	14.37
Mobile	251.52	337.03
Nonroad	129.98	198.08
Total	1064.85	1344.33

Adjusted Base Year Inventory

Section 182(b)(2)(C) explains that the baseline from which emission reductions are calculated should be determined as outlined in section 182(b)(1)(B) for 15% ROP plans. This requires that the baseline exclude emission reductions due to Federal Motor Vehicle Control Programs promulgated by the Administrator by January 1, 1990, and emission reductions due to the regulation of Reid Vapor Pressure promulgated by the Administrator prior to the enactment of the Clean Air Act Amendments of 1990. These measures are not creditable to the Rate of Progress Plans.

Estimates of Growth

States need to provide sufficient control measures in their ROP plans to offset any emissions growth. To do this the State must estimate the amount of growth that will occur. The State uses population and economic forecasts to estimate how emissions will change in the future. Generally, Texas followed standard EPA guidelines in estimating

the growth in emissions. For the projection of NO_x emissions from industrial sources, Texas used data collected during the development of the 1996 periodic emissions inventory. With the 1996 periodic inventory, Texas surveyed industry to determine why emissions were changing, to see if changes were actual changes in emissions to the atmosphere or just changes in the emission estimation methodology. For example, many sources installed continuous emission monitors between 1990 and 1996 and actual measurements replaced engineering estimates. For more detail on how emissions growth was estimated see the Technical Support Document for this action.

Calculation of Target Level

Table 2 shows how the emissions inventory, adjusted inventories and growth estimates are used to calculate the target levels of emissions and needed emission reductions.

TABLE 2: CALCULATION OF REQUIRED REDUCTIONS [tons/day]

	VOC	NO _x
1990 Emission Inventory	1064.85	1344.33
1990 Adjusted Relative to 1996	976.72	
1990 Adjusted Relative to 1999	964.98	1269.53
RVP and Fleet Turnover	11.74	76.39
3% of adjusted VOC, 6% of adjusted NO _x	28.95	76.19
1996 Target level	812.77	* NA
1999 Target level	772.08	1191.77
1999 Projection	1076.76	1306.21
Total Reductions required by 1999	304.68	114.44
Reductions required by 15%	213.27	NA
Additional Reductions Required	91.41	114.44

* The 1996 Target level comes from the 15% Rate of Progress plan. The 15% plan could only rely on VOC reductions so there is no 1996 target level for NO_x.

VI. How Are Those Emission Reductions Achieved?

Tables 3 and 4 document how the VOC and NO_x emission reductions for this 9% ROP plan are to be achieved. The following control measures and emission reductions were unchanged from the previous 1994, as revised in 1996, 9% SIP revision: Aircraft Engines, Recreational Marine, Utility Engines, Underground Storage Tank Remediation, Transportation Control Measures, Reformulated Gasoline in Storage Tanks, Reformulated Gasoline in Loading Racks and Rule Effectiveness in Floating Roof Storage Tanks. In our proposed disapproval (63 FR 11387, March 9, 1998), we explained why we could accept the projected emission reductions from the above-listed

measures. Please refer to the proposed disapproval **Federal Register** notice and its Technical Support Document where we explained our basis for acceptance of the projected emission reductions from these measures.

In the May 19, 1998, SIP revision, Texas did change its projected emission reductions from the Pulp and Paper MACT measure. The State had originally based their estimate of emission reductions on the proposed MACT standard. The final MACT rule did not achieve as much emission reduction as anticipated. The difference between the proposed and final MACT standard was 2.2 tons/day. The State, however, has documented 2.2 tons/day estimated emission reductions due to its

vent gas control rule and permits containing vent gas controls.

The State also changed its estimates of on-road motor vehicle emissions based on revised Vehicle Miles Traveled estimates. We reviewed the revised estimates and find them acceptable. Refer to the TSD for further discussion.

Finally, Texas is now projecting emission reductions due to the implementation of NO_x Reasonably Available Control Technology (RACT) in the Houston/Galveston area. We approved the NO_x RACT rules in a separate **Federal Register** (see 65 FR 53172, September 1, 2000). We have reviewed the projected emission reductions from the NO_x RACT rules and find them acceptable. Refer to the TSD for the NO_x RACT action for the

discussion of the projected emission reductions from each approved rule for each source category.

TABLE 3.—SUMMARY OF VOC EMISSION REDUCTIONS HOUSTON/GALVESTON

[tons/day]	
Required Reduction	91.41
Creditable Reductions:	
HON	0.47
Aircraft Engines	0.97
Pulp and Paper MACT	2.20
Recreational Marine	0.06
Utility Engine 1997–1999	6.31
UST remediation	2.05
TCMs	0.5
Tier I, I/M, RFG	18.59
MSW landfills—NSPS	4.06
RFG—Tanks	2.45
RFG—Loading Racks	3.76
RE—Floating Roof Tanks	26.86
Excess emissions from the 15% plan	23.37
Total	92.03

TABLE 4.—SUMMARY OF NO_x EMISSION REDUCTIONS HOUSTON/GALVESTON

[tons/day]	
Required Reduction	101.61
Creditable Reductions:	
NO _x RACT	95.00
RFG, I/M, FMVCP Tier I	36.49
Total	131.49

VII. How Has Texas Addressed EPA's Concerns Identified in Our Proposed Disapproval?

In the March 9, 1998, proposed disapproval, we proposed to disapprove the emission reductions that Texas had projected for three control measures. These were the Federal Compliance Assurance Monitoring Program, Texas Alternative Fuel Fleets and surplus emissions from the 15% plan due to the gas cap check. In the May 19, 1998, submission, Texas has, in effect, replaced these three programs' projected emission reductions with the reductions projected from the NO_x RACT rules.

VIII. What Is a Motor Vehicle Emissions Budget (MVEB) and Why Is It Important?

The MVEB is the level of total allowable on-road emissions established by a control strategy implementation plan or maintenance plan. In this case, the MVEB establishes the level of on-road emissions that can be produced in 1999, when considered with emissions from all other sources, that meets the RFP milestones. It is important because

the MVEB is used to determine the conformity of transportation plans and programs to the SIP, as described by section 176(c)(2)(A) of the Act.

IX. What Are the MVEB's Established by This Plan and Approved by This Action?

The MVEB's established by this plan and that the EPA is approving are contained in the following table.

TABLE 5.—HOUSTON 1999 MOTOR VEHICLE EMISSIONS BUDGET

[tons/day]		
Pollutant	VOC	NO _x
Motor Vehicle Emissions Budget	132.68	283.01

X. What Is the Applicable MVEB To Use for Conformity Analysis After 1999?

When evaluating transportation plans, emissions in years after 1999 must be less than the 1999 ROP progress MVEB being approved here. In November 1999, the State submitted the 2007 attainment year MVEBs for VOC and NO_x. On May 31, 2000, EPA found these MVEB adequate for conformity purposes. This decision was effective June 29, 2000. The projected emissions in years after 2007 must be less than the appropriate MVEBs.

On December 20, 2000, Texas submitted Rate of Progress MVEBs for 2002, 2005 and 2007. They also submitted revised attainment level MVEBs for 2007 which were initially submitted in November 1999. If EPA finds these MVEBs adequate for conformity purposes, then they will be the applicable budgets that must be used for such later years in future conformity evaluations.

XI. What Are the Contingency Measures for Houston?

Ozone areas classified as moderate or above must include in their submittals under section 172(b) of the CAA, contingency measures to be implemented if 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, we interpret the Act to require States with moderate and above ozone nonattainment areas to include sufficient contingency measures so that upon implementation of such measures

additional emissions reductions of up to 3 percent of the emissions in the adjusted base year inventory (or a lesser percentage that will cure the identified failure) would be achieved in the year following the year in which 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 rule making actions such as public hearings or legislative review.

Texas has developed contingency measures to be implemented if they fail to achieve the required reductions, that were expected as part of the 9% plan. They have chosen to meet the 3% emission reductions contingency with 2% VOC emission reductions and 1% additional NO_x reductions. These contingency measures are summarized in Tables 6 and 7. Consult the Technical Support Document for this action for more information.

TABLE 6.—SUMMARY OF VOC CONTINGENCY MEASURES HOUSTON/GALVESTON

[tons/day]	
Required Contingency	19.33
Creditable Reductions:	
Tier I, RFG, Phase II	15.07
Recreation Marine (2000)	0.31
Offset Printing	2.34
Naphtha Dry Cleaning	1.97
Utility Engine	1.51
Surplus Emission Reductions from the 9% ROP Plan	0.41
Total	21.61

TABLE 7.—SUMMARY OF NO_x CONTINGENCY MEASURES HOUSTON/GALVESTON

[tons/day]	
Required Contingency	12.70
Creditable Reductions:	
Excess Emission Reductions 9% ROP Plan	17.05
Tier I, RFG, Phase II	7.42
Total	24.47

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are received. This rule will be effective on June 25, 2001 without further notice unless we receive adverse comment by May 25, 2001. If EPA receives adverse comments, we

will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

III. Administrative Requirements.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR

19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 rule 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). This rule will be effective June 25, 2001 unless EPA receives adverse written comments by May 25, 2001.

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 June 25, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 5, 2001.

Jerry Clifford,

Acting Regional Administrator, Region 6.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart SS—Texas

2. In § 52.2270, paragraph (e) in the table entitled "EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP" two entries are added to the end of the table to read as follows:

§ 52.2270 Identification of plan.

* * * * *
(e) * * *

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

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Comments
* * *	* * *	* * *	* * *	* * *
Post 96 Rate of Progress Plan	Houston, Texas	5/19/98	4/25/01 66 FR 20750	Originally submitted 11/9/94 and revised 8/9/96.

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

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Comments
Contingency Measures	Houston, Texas	5/19/98	4/25/01 66 FR 20751	Originally submitted 11/9/94 and revised 8/9/96.

3. Section 52.2309 is amended by adding paragraph (f) to read as follows:

§ 52.2309 Emissions inventories.

* * * * *

(f) The Texas Natural Resource Conservation Commission submitted a revision to the State Implementation Plan (SIP) on May 19, 2000. This revision was submitted for the purpose of satisfying the 9 percent Rate-of-Progress requirements of the Clean Air Act, which will aid in ensuring the attainment of the National Ambient Air Quality Standards for ozone. This submission also contained revisions to the 1990 base year emissions inventory for the Houston/Galveston areas.

[FR Doc. 01-10117 Filed 4-24-01; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 13 and 97

[WT Docket No. 98-143, RM-9148, RM-9150, RM-9196; FCC 01-108]

Amateur Service Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: This document denies in part and grants in part various petitions for reconsideration of the *Report and Order* in this proceeding. It also revises part 13 of the rules to ensure the telegraphy requirements for commercial radio operator licenses remain unchanged and it makes minor editorial changes to certain part 97 rules. This action will allow current Amateur Radio Service licensees to contribute more to the advancement of the radio art; reduce the administrative costs that the Commission incurs in regulating this service and streamline our licensing processes; and promote efficient use of spectrum allocated to the Amateur Radio Service.

DATES: Effective July 1, 2001.

FOR FURTHER INFORMATION CONTACT: William T. Cross, Public Safety and Private Wireless Division, Wireless

Telecommunications Bureau, (202) 418-0680, TTY (202) 418-7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order*, WT Docket No. 98-143, FCC 99-412, adopted March 27, 2001, and released April 6, 2001. The complete text of this document is available for inspection and copying during normal business hours in the FCC's Reference Information Center, 445 12th Street SW., Room CY-A257, Washington, DC. The complete text of this document may also be obtained from the Commission's copy contractor, International Transcription Services, Inc., 1231 20th St., NW., Washington, DC 20036, telephone (202) 857-3800. Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418-0620 (voice) or (202) 418-2555 (TTY), or at mcontee@fcc.gov. The complete (but unofficial) text is also available on the Commission's Internet site at <http://www.fcc.gov/Bureaus/Wireless/Orders/2001>.

Summary of Memorandum Opinion and Order

1. In the *Notice of Proposed Rule Making* (NPRM) (63 FR 49059, September 14, 1998) in WT Docket No. 98-143, the Commission initiated the instant proceeding to examine the Amateur Radio Service rules in an effort to streamline its licensing processes and eliminate unnecessary and duplicative rules.

2. By its *Report and Order*, (65 FR 6548, February 10, 2000) the Commission substantially revised the amateur service license structure by streamlining our licensing processes and eliminating unnecessary and duplicative rules. This *Memorandum Opinion and Order* addresses pending petitions for reconsideration of the *Report and Order*. Because the petitioners' suggested clarifications generally already were considered and rejected, or because they are beyond the scope of the proceeding, the Commission has not modified any part 97 provisions based on the petitions. The Commission granted the request of

petitioners that the amateur service database distinguish between Technician and Technician Plus Class licensees, however, to the extent that these database changes already have been implemented. Additionally, on its own motion, the Commission adopted changes to its part 13 rules to ensure the telegraphy requirements for commercial radio operator licenses remain unchanged and the Commission made minor editorial changes to certain part 97 rules.

3. The Regulatory Flexibility Act (RFA) requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." 5 U.S.C. 605(b). In the NPRM, the Commission certified that the proposed rule amendments, if promulgated, would not have a significant economic impact on a substantial number of small business entities, as defined in section 601(3) of the RFA because the rule amendments do not apply to small business entities. Rather, these rules apply to individuals who are interested in radio technique solely with a personal aim and without pecuniary interest. No comments were received concerning this certification. The Commission now affirms this certification with respect to the rules adopted in this *Memorandum Opinion and Order*. Accordingly, because small business entities, as defined in section 601(3) of the RFA, are not eligible to make an application for an amateur service license or be a licensee in the amateur service, the Commission certifies, pursuant to section 605(b) of the RFA, that the rules adopted herein will not have a significant economic impact on a substantial number of small entities, as defined in the RFA.

List of Subjects

47 CFR Part 13

Radio.

47 CFR Part 97

Radio, Volunteers.