

time for the bridge operator to open the bridge after a request is given.

Under this temporary deviation the Northern Avenue Bridge shall open on signal after a one-hour advance notice is given from 7 a.m. to 11 p.m., September 15, 2005 through October 31, 2005, and from 7 a.m. to 3 p.m., November 1, 2005 through November 14, 2005. From 11 p.m. to 7 a.m., September 15, 2005 through October 31, 2005, the bridge shall open on signal after a two-hour notice is given. From 3 p.m. to 7 a.m., November 1, 2005 through November 14, 2005, the bridge shall open on signal after a twenty-four hour notice is given.

Mariners may request bridge openings by calling the bridge operator on channel 13 or by telephone at (617) 635-7520.

This deviation from the operating regulations is authorized under 33 CFR 117.35(b), and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: September 15, 2005.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[TX-126-1-7691; FRL-7974-7]

#### Approval and Promulgation of Implementation Plans; Texas; Transportation Control Measures in the Dallas/Fort Worth Ozone Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving revisions to the Texas Ozone State Implementation Plan (SIP). This approval incorporates the Transportation Control Measures, submitted by the Governor of Texas on April 25, 2000 (as substituted by the Texas Commission on Environmental Quality on January 14, 2004), into the SIP for the Dallas/Fort Worth Ozone Nonattainment Area. The inclusion of Transportation Control Measures in the SIP fulfills one requirement found under Section 182(c)(5) of the Federal Clean Air Act which provides that serious ozone nonattainment areas incorporate such measures into the state air quality plan. This action also fulfills

of EPA's obligations under a Federal district court Consent Decree to act on these measures (70 FR 32326).

**DATES:** This rule is effective on October 27, 2005.

**ADDRESSES:** Copies of the documents relevant to this action are in the official file which is available at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

Copies of any State submittals are also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Peggy Wade, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202, telephone (214) 665-7247; fax number (214) 665-7263; e-mail address [Wade.Peggy@epa.gov](mailto:Wade.Peggy@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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

#### Outline

- I. What Action Is EPA Taking?
- II. What is the Background for This Action?
- III. What Comments Were Received During the Public Comment Period?
- IV. Final Action
- V. Statutory and Executive Order Reviews

#### I. What Action Is EPA Taking?

The EPA is approving the Transportation Control Measures (TCM) for the Dallas-Fort Worth 1-hour ozone nonattainment area (*i.e.*, Collin, Dallas, Denton and Tarrant counties) submitted by Texas on April 25, 2000. In addition, we note that certain changes to the original TCMs occurred as they were substituted in January 2004 in accordance with the Texas TCM substitution rule (30 TAC 114.270; see 67 FR 72379) and the EPA guidance

document Policy Guidance on the Adoption and Use of SIP TCM Substitution Mechanisms in SIPs (EPA Office of Transportation and Air Quality, April 7, 2004). The Texas TCM substitution rule provides a mechanism in Texas to allow an area to substitute TCMs without the requirement of a SIP revision.

#### II. What Is the Background for This Action?

A SIP revision for the Dallas—Fort Worth (DFW) 1-hour ozone nonattainment area was submitted to EPA by the State of Texas on April 25, 2000. This SIP revision contained many control measures designed to improve the air quality in the DFW area. EPA has since approved, in separate **Federal Register** notices, a number of aspects of this SIP submittal. EPA proposed approval of the TCMs in this SIP, which are located in Appendix G, on January 18, 2001 (66 FR 4756). Our proposed approval of these original TCMs did not remove or revise any previously approved TCMs in the SIP. The total emission reductions creditable to the TCMs contained in this appendix are 4.73 tons per day (tpd) of nitrogen oxide (NO<sub>x</sub>) emissions and 2.95 tpd of volatile organic compounds (VOC) emissions in the 4-county nonattainment area. These TCMs are scheduled to be implemented no later than July, 2007. These TCMs strengthen the SIP and comply with the requirements of section 110(l) of the Clean Air Act. Specific details on these TCMs, and the amount of reductions attributable to each measure, are available in the Technical Support Document associated with this action.

The EPA transportation conformity regulations define TCMs as any measure specifically identified and committed to in the SIP that is either one of the types listed in the Clean Air Act (CAA) at Section 108(f)(1)(A), or any other measure with the purpose of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. According to the transportation conformity regulations, Metropolitan Planning Organizations (MPO), such as the North Central Texas Council of Governments (NCTCOG), must demonstrate timely implementation of TCMs by incorporation into the area's Metropolitan Transportation Plan (MTP) and Transportation Improvement Program (TIP) with appropriate funding dedicated to each TCM (40 CFR 93.113).

In some cases, the MPO might find itself unable to demonstrate that TCMs are meeting the timely implementation criteria because obstacles to

implementation are impossible to overcome. In the August 15, 1997 transportation conformity rule (62 FR 43779, see p. 43810), EPA committed to issuing guidance on how an area may substitute TCMs without the requirement for a SIP revision. EPA believes that such a substitution mechanism is possible if states explicitly incorporate such a policy containing replicable procedures into the SIP and we have since issued guidance to that effect (Policy Guidance on the Adoption and Use of SIP TCM Substitution Mechanisms in SIPs, EPA Office of Transportation and Air Quality, April 7, 2004). The State of Texas has developed a TCM substitution policy (30 TAC 114.270) and submitted it to EPA as a SIP revision on May 17, 2000. EPA approved this policy as a revision to the Texas SIP on December 5, 2002 (67 FR 72379). Among the requirements of this policy are that the substituted measures provide equal or greater emission reductions than those being eliminated. It also requires that the substituted measures, in accordance with section 110(l) of the Clean Air Act, do not interfere with any applicable requirement for reasonable further progress or timely attainment of any NAAQS. The policy creates a replicable process whereby a TCM working group recommends potential substitutions to TCEQ and, following a public hearing and EPA review and concurrence, TCEQ approves the substitute TCMs.

Pursuant to 30 TAC 114.270, on September 19, 2003, the NCTCOG convened an interagency working group of the transportation partners to review proposed TCMs to be used as substitute measures for certain TCMs contained in Appendix G of the April 2000 SIP which were no longer feasible to implement. Substitution of TCMs was needed because many of the original TCMs were impossible to implement due to design concept, scope or funding issues, or were inadvertently given double-credit in the original SIP (e.g., one measure was counted as a reduction in two separate categories), or the scheduled implementation date had slipped beyond the July 2007 commitment in the SIP. By letter dated November 20, 2003, after appropriate public notice and hearing, EPA concurred on the substituted measures and they were subsequently adopted by the TCEQ on January 14, 2004. The substituted measures fall into the categories of intersection improvements, bicycle and pedestrian projects, high-occupancy-vehicle facilities, rail, grade separations, park-and-ride facilities, and van pools. As a whole, they provide

additional emission reductions of 59.4 pounds-per-day of NO<sub>x</sub> and 372.8 pounds-per-day of VOC as compared to the original TCMs.

### III. What Comments Were Received During the Public Comment Period?

EPA proposed approval of this SIP, including the TCMs and other measures, on January 18, 2001. The comment period closed on March 19, 2001, and we did not receive any comments on the original TCMs included in the SIP. The TCEQ held another comment period culminating in a public hearing regarding the appropriateness of the proposed measures to be used as TCM substitutions from September 24, 2003, to October 29, 2003. No comments were received.

### IV. Final Action

The EPA is approving the TCMs found in the SIP for the Dallas-Fort Worth 1-hour ozone nonattainment area submitted by Texas on April 25, 2000. These TCMs were substituted in January, 2004, in accordance with the Texas TCM substitution rule.

### V. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review." This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. 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 (Pub. L. 104-4).

This rule also does not have tribal implications because it will 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). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action 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 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997). EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it approves a state program.

In reviewing SIP submissions under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note), 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 do not apply. 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. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 28, 2005. 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: September 19, 2005.  
**Lawrence E. Starfield,**  
*Acting Regional Administrator, Region 6.*

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart SS—Texas**

■ 2. In § 52.2270, the second table in paragraph (e) entitled "EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP" is amended by adding one new entry 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/effective date	EPA approval date	Comments
* * * * *				
Dallas—Fort Worth SIP, Appendix G; Transportation Control Measures in the Dallas/Fort Worth Ozone Nonattainment Area.	Dallas/Fort Worth Ozone Nonattainment Area.	01/14/2004	09/27/2005	[Insert FR page number where document begins].

[FR Doc. 05–19257 Filed 9–26–05; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 32**

RIN 1018–AU14

**2005–2006 Refuge-Specific Hunting and Sport Fishing Regulations; Corrections**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Correcting amendments.

**SUMMARY:** The Fish and Wildlife Service published a document in the **Federal Register** on September 13, 2005 (70 FR 54146), amending 50 CFR part 32. This document related to the addition of refuges and wetland management districts to the list of areas open for hunting and/or sport fishing programs and increased the activities available at other refuges. We also developed pertinent refuge-specific regulations for those activities and amended certain regulations on other refuges that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing for the 2005–2006 season. This document corrects the final regulations.

**DATES:** Effective September 27, 2005.

**FOR FURTHER INFORMATION CONTACT:** Leslie Marler, (703) 358–2397.

**SUPPLEMENTARY INFORMATION:** Most corrections are in the instructions to the typesetters for adding or revising paragraphs in the regulatory text section. Two corrections are for spelling, and one correction is for section number.

**List of Subjects in 50 CFR Part 32**

Fishing, Hunting, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

■ Accordingly, 50 CFR part 32 is corrected by making the following correcting amendments:

**PART 32—HUNTING AND FISHING**

■ 1. The authority citation for part 32 continues to read:

*Authority:* 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd–668ee, and 715i.

**§ 32.37 [Amended]**

■ 2. Amending § 32.37 Louisiana by:

■ a. Revising in instruction 15.c. the spelling of "Boque Chitto National Wildlife Refuge" to read "Bogue Chitto National Wildlife Refuge";

■ b. Revising instruction 15.e. to read as follows: "Revising paragraphs A.1. and A.8., adding paragraphs A.21. through A.25., revising paragraphs B.1. and C.1., redesignating paragraphs C.3. through

C.8. as paragraphs C.4. through C.9. respectively, adding a new paragraph C.3., revising newly redesignated paragraphs C.4. and C.5., and adding paragraphs C.10., D.10., and D.11. of Cat Island National Wildlife Refuge;";

■ c. Revising the alphabetical listing of "Boque Chitto National Wildlife Refuge" to read "Bogue Chitto National Wildlife Refuge"; and

■ d. Revising paragraph designation "C.9." to read "C.10." of Cat Island National Wildlife Refuge.

**§ 32.40 [Amended]**

■ 3. Amending § 32.40 Massachusetts instruction 18.b. to read as follows: "Revising Great Meadows National Wildlife Refuge; and".

■ 4. Amending § 32.44 Missouri by redesignating paragraphs C.5. through C.8. as C.6. through C.9. and adding a new C.5. to Mingo National Wildlife Refuge to read as follows:

**§ 32.44 Missouri.**

\* \* \* \* \*

Mingo National Wildlife Refuge

\* \* \* \* \*

C. \* \* \*

5. We allow spring turkey hunting. We only allow shotguns with approved nontoxic shot (see § 32.2(k)).

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