

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 proposed rule to approve revisions to Virginia's enhanced I/M program SIP does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: February 6, 2008.

**William T. Wisniewski,**

*Acting Regional Administrator, Region III.*  
[FR Doc. E8-2552 Filed 2-11-08; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2006-0665; FRL-8528-1]

#### Approval and Promulgation of Air Quality Implementation Plans; Texas; Texas Low-Emission Diesel Fuel Program

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a revision to the State Implementation Plan (SIP) for the state of Texas. This revision makes changes to the Texas Low-Emission Diesel (TXLED) Fuel program. The revision establishes a replicable procedure for the State to approve Alternative Emission Reduction Plans (AERPs), extends the date of state approvals, and brings marine diesel fuels under the TXLED program. The revision also refines and clarifies testing requirements. The changes being proposed for approval positively influence the reductions of oxides of nitrogen (NO<sub>x</sub>) to be achieved. As a result and in accordance with section 110(l) of the Clean Air Act, 42 U.S.C. 7410(l), this revision will not interfere

with attainment, reasonable further progress, or any other applicable requirement of the Clean Air Act.

**DATES:** Comments must be received on or before March 13, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R06-OAR-2006-0665, by one of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *U.S. EPA Region 6 "Contact Us" Web site:* <http://epa.gov/region6/r6coment.htm> Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

- *E-mail:* Mr. Guy Donaldson at [Donaldson.guy@epa.gov](mailto:Donaldson.guy@epa.gov). Also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 am and 4 pm weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R06-OAR-2006-0665. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you

include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 am and 4:30 pm 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 cents 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.

The State submittal is 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:** Ms. Sandra Rennie, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7367; fax number 214-665-7263; e-mail address [rennie.sandra@epa.gov](mailto:rennie.sandra@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever "we," "us," or "our" is used, we mean EPA. This document concerns control of air pollution of NO<sub>x</sub> and VOCs from mobile sources in 110 counties of East Texas where the rule applies. This low-emission diesel fuel program applies to both on-road and non-road vehicles in the affected area.

### What Action Are We Taking Today?

We approved the original TXLED rule on November 14, 2001, (66 FR 57196) in conjunction with the Houston-Galveston One-Hour Attainment Demonstration SIP. We also approved revisions to this rule on April 6, 2005 (70 FR 17321), and on October 6, 2005 (70 FR 58325). Today we are proposing to approve revisions to the TXLED rule submitted May 15, 2006, June 11, 2007, and June 13, 2007. Among other things, the revisions establish a replicable procedure for the State to evaluate Alternative Emission Reduction Plans (AERPs) so that changes to those plans do not have to be submitted to EPA as a SIP revision. Both EPA and the Texas Commission on Environmental Quality view this approach as a way to conserve resources. The revisions also extend the expiration date for state-approved AERPs and require two forms of marine diesel fuel to be subject to TXLED requirements. Other less substantive revisions are listed in the next section.

### What Did the State Submit?

On May 15, 2006, the State submitted revisions to TXLED rules found in 30 TAC 114.6, 114.312, 114.313, 114.315, 114.316, 114.317, and 114.318. These revisions were adopted by the State on April 26, 2006. These include revisions to definitions; low emission diesel standards; designated alternate limits; approved test methods; monitoring, recordkeeping, and reporting requirements; exemption to low emission diesel requirements; and alternative emission reduction plans.

On June 11, 2007, the State submitted revisions adopted on May 9, 2007, to § 114.318, Alternative Emission Reduction Plan. On June 13, 2007, the State submitted revisions adopted on May 23, 2007, to § 114.6, Definitions, and to § 114.319, Affected Counties and Compliance Dates.

### Why Are These Revisions Approvable?

EPA finds that the TCEQ submittal meets the requirements of the CAA. We analyzed the rule revisions to ensure that they did not compromise the integrity of the approved SIP. Some changes were non-substantive editorial or format changes. Some substantive changes are considered minor. Major substantive changes are discussed below. A detailed analysis of all changes can be found in the Technical Support Document that accompanies this action.

#### *Section 114.6. Definitions*

The definition of additive is reworded for clarification. The definition of diesel fuel is expanded to include Diesel Marine fuel type X, also known as DMX,

and Marine Gas Oil, also known as MGO. While these fuels do not share all fuel parameters with an EPA defined diesel fuel, EPA diesel and these marine fuels share many fuel parameters and are all light distillates. Because section 114.312(a) requires all "diesel fuel" to conform to TXLED standards or to an approved AERP, these marine fuels will now be subject to those requirements. Requiring these marine fuels to meet the TXLED requirements will cause these fuels to achieve the desired benefit, thereby ensuring further NO<sub>x</sub> reductions.

#### *Section 114.312. Low Emission Diesel Standards*

Volatile organic compounds (VOCs) were removed from the list of emissions that were required to be comparable to those of TXLED for alternative fuel formulation testing. This change was made to be consistent with changes made elsewhere in the rule. Because this rule is a NO<sub>x</sub> control measure, and not intended to produce VOC reductions, and because VOC emissions from diesel engines are very small in any case, we propose to find approvable the removal of the VOC comparison requirement. Past SIP submittals for attainment, such as the Dallas-Fort Worth 1-hour attainment demonstration (April 2000) and the Houston 1-hour attainment demonstration (December 2000), do not contain values for and do not rely on VOC benefit from the TXLED program.

#### *Section 114.315. Approved Test Methods*

The State added specificity and clarity to the approved rules by making the following changes. The correlation equation to be used with ASTM Test Method D5186 is now specified. This equation is the same equation that appears in the EPA-approved CARB diesel rules. The adopted rule now requires the Executive Director to consult with and obtain agreement from EPA before the State approves an alternative to a test method. Additional fuel properties must be taken into consideration in characterizing the candidate fuel used in alternative fuel formulation testing. These include API gravity index, viscosity at 40 degrees C, flash point, and distillation in degrees F. Additional requirements that the test engine must meet are specified. The test engine must have a minimum specified amount of operation before initiating testing and must operate within 110% of its certified emission levels. An alternative test sequence, which EPA had not previously acted upon, was deleted from the rule. For a fuel to

qualify as a TXLED fuel under the alternative fuel formulation portion of the rules, EPA must also be satisfied with the testing demonstration. These revisions are approvable because the changes make the rule more clear and provide for EPA involvement where necessary.

#### *Section 114.316. Monitoring, Recordkeeping, and Reporting Requirements*

Reporting on the additive used in an alternative fuel formulation is shifted from simply the amount used to a demonstration of how the emission reductions are achieved in the AERP. This strengthens the rule by making it more enforceable.

#### *Section 114.318. Alternative Emission Reduction Plans*

The AERP allows a diesel fuel producer to comply with the NO<sub>x</sub> reduction requirements of TXLED by employing an alternate fuel strategy. In the May 15, 2006, revision a replicable procedure is outlined that removes the requirement for all AERP changes to be approved by EPA with a SIP revision. The procedure describes in detail how a producer can meet the requirements of this section by complying with one or more methods laid out in this section of the rule. Several methods utilize credit for the early introduction of low sulfur gasoline. We had detailed discussions with the State and refiners to reach consensus on these methods. The amount of sulfur reduction from the early introduction of low sulfur gasoline is used to calculate the appropriate gasoline-to-diesel offset ratios. We find the replicable procedure presented in the SIP to be an approvable approach to handling changes to AERPs.

The June 11, 2007 revision extends the expiration date for state-approved AERPs from December 31, 2006 to December 31, 2007. The purpose of extending this date was to provide time for producers and vendors to complete testing of alternative fuel formulations and additives, which in turn would provide more options in the marketplace to comply with the rule requirements. We found that this date extension had no impact on the path to the 2009 attainment year. Therefore this date extension is approvable.

#### *Section 114.319. Affected Counties and Compliance Dates*

This section is amended to set a phased compliance schedule for the implementation of the marine diesel requirements. Producers and importers must comply by October 1, 2007, bulk distributors must comply by November

15, 2007, and retail dispensers and other affected persons must comply by January 1, 2008. Whereas all 110 counties are covered in this section, the revision covering marine fuels applies only to the HGB nonattainment area counties of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller.

#### Proposed Action

We are proposing approval of these revisions to the TXLED rule as submitted May 15, 2006, June 11, 2007, and June 13, 2007. The revisions being proposed for approval maintain the potential for the projected NO<sub>x</sub> reductions to be achieved. As a result, and in accordance with section 110(l) of the Act, 42 U.S.C. section 7410(l), these revisions will not interfere with attainment, reasonable further progress or any other applicable requirement of the Clean Air Act.

#### Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this proposed action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 action proposes to approve 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 proposed 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 proposed 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 proposes to approve 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 proposed 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), 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. This proposed 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.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: January 23, 2008.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

[FR Doc. E8–2556 Filed 2–11–08; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[WC Docket No. 07–245; FCC 07–187]

#### Implementation of Section 224 of the Act; Amendment of the Commission’s Rules and Policies Governing Pole Attachments; Correction

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; correction.

**SUMMARY:** This document corrects the reply comment date for a proposed rule published in the **Federal Register** of February 6, 2008. The corrected reply comment date is April 7, 2008.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Reel, 202–418–0637.

#### Correction

In proposed rule FR Doc. E8–2177, beginning on page 6879 in the issue of February 6, 2008, make the following corrections:

1. On page 6879, in the Dates section, in the 2nd column, “Reply Comments are due March 24, 2008” is corrected to read “Reply Comments are due April 7, 2008”.
2. On page 6879, in the Supplementary Information section, in the 2nd column, change “Reply Comments on or before March 24, 2008” is corrected to read “Reply Comments on or before April 7, 2008”.
3. On page 6883, in the Initial Regulatory Flexibility Analysis section, in paragraph 19, in the 2nd column, “Reply Comments are due on March 24, 2008” is corrected to read “Reply Comments are due on April 7, 2008”.
4. On page 6883, in the Initial Regulatory Flexibility Analysis section, in paragraph 21, in the 2nd column, “Reply Comments are due March 24, 2008” is corrected to read “Reply Comments are due April 7, 2008”.

Federal Communications Commission.

**Ruth A. Dancey,**

*Associate Secretary.*

[FR Doc. E8–2564 Filed 2–11–08; 8:45 am]

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