

may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

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

Dated: June 27, 1997.

Felicia Marcus,

Regional Administrator.

[FR Doc. 97-18252 Filed 7-10-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX80-1-7329; FRL-5856-4]

Approval and Promulgation of Air Quality State Implementation Plans (SIP); Texas: 1990 Base Year Emissions Inventories, 15 Percent Rate of Progress Plans and Contingency Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed conditional interim rule.

SUMMARY: The EPA is proposing a conditional interim approval of the 15 Percent Rate of Progress Plans and associated Motor Vehicle Emissions Budgets (MVEB) for the Dallas/Fort Worth, El Paso and Houston ozone nonattainment areas. In addition, the EPA is proposing to fully approve

revisions to the 1990 base year emissions inventory and contingency plans for these three areas.

On January 29, 1996, the EPA published a proposed limited approval/limited disapproval of the 15 Percent Plans and contingency measures in the **Federal Register**. Also, on January 29, 1997, the EPA published a limited approval of the control measures contained in the 15 Percent Plans. Today's proposed action replaces the January 29, 1996, proposed limited approval/limited disapproval of the 15 Percent Plans and contingency measures. The proposed limited approval of the control measures is not affected by this proposal.

DATES: Comments must be received on or before August 11, 1997.

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.

Environmental Protection Agency,
Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700,
Dallas, Texas 75202-2733.
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), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7242.

SUPPLEMENTARY INFORMATION:

I. Background

A. Clean Air Act Requirements

Section 182(b)(1) of the Clean Air Act (the Act), as amended in 1990, requires ozone nonattainment areas with classifications of moderate and above to develop plans to reduce area-wide Volatile Organic Compound (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 by 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 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 Act 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 (moderate¹), Dallas/Fort Worth (moderate), El Paso (serious), and the Houston/Galveston (severe) areas.

B. Previous 15 Percent Rate of Progress SIP Revisions

Texas first 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 by the Phase I measures. The combination of the Phase I and Phase II measures was ruled complete by the EPA on May 12, 1994.

The EPA analyzed the November 13, 1993, and May 9, 1994, submittal and determined that the measures included in the plan did not achieve the required amount of reductions. Among other reasons, there was a shortfall in reductions because the I/M program relied on in the plans had been repealed by the State. On January 29, 1996, the EPA published a proposed limited approval/limited disapproval of the 15 Percent Plans included in the November 13, 1993, and May 9, 1994, submittals (61 FR 2751). The EPA also proposed a limited approval of the measures that were included with the plans because they resulted in a strengthening of the SIP. For a complete discussion of the deficiencies in the State's plans, please see the January 29, 1996 **Federal Register** document.

¹ Previously classified Serious, on April 2, 1996, the EPA corrected the classification of Beaumont/Port Arthur to moderate (61 FR 14496).

C. Current 15 Percent SIP Revision

The Governor of Texas submitted in a letter dated August 9, 1996, revisions to the 15 Percent Rate of Progress Plans for Beaumont/Port Arthur, Dallas/Fort Worth, El Paso and Houston Areas. The SIP revision also included revisions to the 1990 Base Year Inventory, El Paso Section 818 analysis, the Post 96 Rate of Progress Plan for Houston and the Employee Commute Options SIP. In this **Federal Register**, the EPA is taking action on only the Emissions Inventories, 15 Percent Rate of Progress Plans and Contingency measures for the Dallas/Fort Worth, El Paso and Houston areas. The EPA is taking no action on the other portions of the August 9, 1996, submittal including the Beaumont/Port Arthur 15 Percent Rate of Progress Plan. The other portions of the SIP submittal will be acted on in separate **Federal Register** documents.

II. The EPA's Analysis of Texas's Submittal

A. General

Texas has made the following changes to address the shortfalls that were identified in the January 29, 1996, limited approval/limited disapproval. First, Texas made several revisions to its emissions estimates. These revisions were based on more recent information or source surveys. From these studies, Texas concluded that, in some instances, better estimates of emissions were available based on locally derived emission factors rather than defaults based on national data. Second, these same studies resulted, in some instances, in lower projections of emissions in 1996 resulting in less growth to be offset. Third, by better segregating the emission points that were subject to specific rules, Texas identified additional emission reductions from measures in the original 15 Percent Plan. Finally, Texas introduced a new tail pipe I/M program called Texas Motorist Choice to replace the previous vehicle I/M Program. The EPA is proposing that the combination of the Texas Motorist Choice Program and the revisions to the Emission Inventory and Growth Projections eliminate the shortfall identified in the January 29, 1996, limited disapproval/limited approval.

B. Emission Inventory Revisions

The EPA approved the Texas 1990 base year inventory on November 8, 1994 (59 FR 55586). In the August 23, 1996, SIP revision, Texas included revisions to the approved VOC inventory. The revisions have been made based on more recently available

information from source surveys and other methods. Much of the information was developed as part of bottom up surveys of area source categories performed as part of the 1993 intensive ozone study in the Houston and Beaumont areas. This study, called the Coastal Oxidant Assessment for Southeast Texas (COAST), included a study of area source emissions. Traditional emission inventory techniques use national or state level statistics for the level of activity of a source category. For example, gallons of gasoline sold statewide might be used to determine emissions from Gasoline Stations. These emissions would be apportioned geographically using a surrogate such as population. In the bottom-up approach, surveys of actual facilities are used to determine emission levels. In addition to the data collected from bottom up surveys, other improvements were made to the 1990 inventory. A brief discussion of the changes made to the inventory follows.

Other Product Coatings, High Performance Maintenance and Other Special Purpose Coatings

These categories are all surface coating categories that were estimated for the 1990 inventory using per capita emission factors provided by the EPA. The per capita factors were developed from national level estimates of usage of a product divided by the 1989 population. The documentation of the coatings and emissions covered by these categories was not initially available. The Texas Natural Resource Conservation Commission (TNRCC), with EPA approval, removed these categories from the 1993 periodic emissions inventory. After further study, documentation of the specific categories and coatings was identified and the 1990 inventory has been adjusted appropriately. Once the categories had been accurately identified, overlap with the point source inventory could be accounted for and an improved area source estimate was obtained.

Marine Vessel Loading Losses

Area source emissions in this category were based on estimates of the total amount of VOCs loaded at Texas ports. Texas determined that individual point sources had under reported emissions from this category. When the revised point source emissions are considered, it was determined that all of the emissions from this category in the Houston area and the bulk of the emissions in the Beaumont area were covered in the point source emission

inventory. Therefore, the area source estimate could be reduced in both areas.

Surface Cleaning

A contractor performed a bottom up survey of this category. This survey was later expanded by TNRCC staff. The results of the survey indicated that the national default estimate of emissions for this category should be revised for the nonattainment areas in Texas.

Architectural Coatings

Texas revised emissions estimate by using more recent information from the National Paint and Coatings Association combined with data from surveys on thinner usage.

Automobile Refinishing

Texas used more recent information from the National Paint and Coatings Association and source surveys to revise the emission estimates for this category. In addition, using data from the Department of Commerce on paint shipments, Texas projected a substantial decrease in emissions between 1990 and 1994.

Sheet, Strip and Coil

This category was estimated for the 1990 emission factor of 1.5 tons/employee. The number of employees related to this industry was obtained from the County Business Patterns for Standard Industrial Classification (SIC) 3479. This SIC code includes many businesses not engaged in coil coating operations. A list of companies involved in coil coating operations was obtained from the national coil coaters association. It was determined that all of the companies involved in these operations were outside the nonattainment areas or were reporting their emissions in the point source inventory. Therefore, including their emissions in the area source emissions would be double counting. Therefore, the area source emissions were removed from the inventory.

Vessels With Outboards

A telephone survey of pleasure craft owners in the Houston Galveston and Beaumont Port Arthur areas was conducted. The survey showed that 62 percent of boat usage occurs on weekends rather than on weekdays. Previous emission estimates had allocated pleasure craft emissions equally to each day of the week. It is important to know when emissions occur in developing control strategies. In this case, according to the EPA guidance, emissions are to be reduced from their 1990 summer time weekday levels. Therefore, Texas reduced the

expected weekday emissions based on the results of the survey. Correspondingly, the weekend emissions were increased. A similar adjustment had previously been made to the Dallas/Fort Worth inventory.

Commercial Vessels

This category of emission results from fuel combustion by ocean going vessels, harbor vessels and the fishing fleet. Emissions were originally estimated by using information from the Army Corps of Engineers on freight traffic at harbors and allocating national fuel usage to Texas. These emissions were revised based on a more recent study performed by an EPA funded contractor in 1992. The revised emission levels are based on estimates of activity levels for specific categories of vessels.

Generators <50 Horsepower

As part of the COAST project, local area-specific construction and recreational area information, and more current information about horsepower distributions and equipment/populations, were utilized to obtain a

more refined estimate of emissions in this category.

Residential Lawnmowers

Similar to the survey performed of recreational boat users, a survey of homeowners was performed to determine when they actually cut their lawns. Of those survey respondents whose lawns are cut by the resident, friend or neighbor, fifty-nine percent of the surveyed respondents reported that they cut their lawns on the weekends. Texas reallocated the emissions based on the results of the survey. No adjustment was made to the emissions from commercial lawncare services.

Military Aircraft

This change reflects a change in the 1990 base year inventory for the Dallas/Fort Worth area based on a 1992 Environmental Impact Statement (EIS) for Carswell Air Force Base. This EIS more accurately reflected the actual aircraft used at the base when compared to the original emission estimate. This change resulted in a substantial increase in the 1990 emissions estimate. The

base has undergone a substantial realignment since 1990 resulting in a significant decrease in emissions projected for 1996.

1994 Quality Assurance Efforts

During 1994, the TNRCC completed a thorough evaluation of the 1990 point source inventory and discovered that emissions from facilities in several SIC codes were misplaced under the wrong emissions category. This effort resulted in significant changes to some emissions categories. The realignment of emissions did not affect the total emissions. The realignment of emissions did have the effect of increasing the amount of reductions that were expected for certain control measures and decreasing the amount of emission reductions expected from other control measures.

The EPA is proposing to approve these revisions to the 1990 Base Year VOC inventory. The originally approved biogenic emissions are unchanged. A summary of the Revised 1990 emissions inventory for the three areas is included in Table 1.

TABLE 1.—1990 BASE YEAR EMISSIONS INVENTORY

	Point	Area	On-road	Non-road	Total
Dallas/Fort Worth	65.27	174.02	306.60	105.19	651.08
El Paso	9.45	24.94	38.27	10.99	83.65
Houston	481.95	200.07	251.72	129.98	1063.72

C. Calculation of the 1996 Target Level of Emissions

Texas subtracted the noncreditable reductions from the FMVCP and Reid Vapor Pressure program from the 1990 emissions inventory. This subtraction

results in the 1990 adjusted inventory. The total required emission reduction required to meet the 15 Percent Plan requirement 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 2 summarizes the calculations for the Dallas/Fort Worth, El Paso and Houston areas.

TABLE 2.—CALCULATION OF REQUIRED REDUCTIONS (TONS/DAY)

	Dallas/Fort Worth	El Paso	Houston/Galveston
1990 Emission Inventory	651.08	83.65	1063.72
1990 Adjusted	548.83	69.40	975.39
15% of adjusted	82.32	10.41	146.31
RACT and I/M Corr99	1.57	16.31
1996 Target	465.52	57.42	812.77
1996 ¹ Projection	583.07	73.61	1026.27
Required Reduction	117.55	16.19	213.27

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

D. Projections of Growth

As can be seen from the calculations in Table 2, an important component of calculating the required emission reductions is to project the amount of growth in emissions that is expected between 1990 and 1996. Since the 1996 emissions are related to the 1990

emissions, the changes in the 1990 emission inventory resulted in changes to the 1996 projections. In addition, as discussed previously, Texas has projected reductions in the emissions from surface cleaning, auto refinishing and military aircraft emissions from 1990 levels.

E. Deficiencies Identified in the January 29, 1996, Federal Register

In the January 29, 1996, **Federal Register**, the EPA identified several areas where it was believed that Texas had projected too much emission reduction for particular control measures. The EPA has reviewed the

State's August 9, 1996, SIP revision and believes that it addresses the EPA's previously identified concerns. A brief discussion of the previously identified concerns and how they have been addressed follows:

El Paso Stage II

In the previous submittal, the EPA believed that for the El Paso area, too much emission benefit was projected for this control measure. Texas, in the August 23, 1996, SIP revision, corrects this problem by adjusting the projected control efficiency from 98 percent to 95 percent.

Architectural and Industrial Maintenance Rules

Texas projected emission reductions for this category based on past EPA guidance. The guidance, however, was changed in a memorandum dated March 22, 1995, (Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule). In the August 9, 1996, SIP revision, the emission reduction estimate is revised based on the more recent guidance.

Emission reductions from the AIM rule are based on the rule proposed by the EPA on June 25, 1995, which expected compliance by April 1997. Subsequently, the issuance of the rule has been delayed. The EPA has negotiated a compliance date of no earlier than January 1, 1998. The previous guidance allowed States to take emission reduction credit for the AIM rule even though the reductions were not expected to occur until April 1997. The EPA believes that even though the compliance date has been pushed back to January 1, 1998, the emission reduction from the national AIM rule is creditable in State 15 Percent Plans.

Industrial Wastewater

In the January 29, 1996, **Federal Register**, the EPA proposed that Texas had projected too high a control efficiency for this control measure. The EPA continues to believe that the control efficiency projected by Texas for this measure is too high. Texas, however, believes that the rule effectiveness originally used for this control measure was too low. The EPA agrees that this is likely the case. The combination of rule effectiveness and control efficiency determine the overall reductions. Therefore, the EPA believes that the overall reductions should be accurate. Texas has committed to study emissions from this category to determine actual control efficiency and rule effectiveness for the category. In

light of the above, the EPA believes that it is appropriate to propose approval of these projected emission reductions. The EPA will work with Texas to further study the emissions from this source category as part of determining whether RACT has been instituted for this category of emissions.

Employee Commute Options (ECO)

In the Houston area, Texas previously relied on this program to provide emission reductions. The EPA approved the State ECO program on March 7, 1995 (60 FR 12442). Public Law 104-70, which was passed by Congress in December 1995, gave flexibility to the states in meeting the requirements of the ECO program. Specifically, the legislation allowed states, that prior to its enactment were required to implement ECO programs, to "remove such provisions from the State Implementation Plan, or withdraw its submission, if the state notifies the Administrator, in writing, that the state has undertaken, or will undertake, one or more alternative methods that will achieve emission reductions equivalent to those to be achieved by the removed or withdrawn provisions." The State of Texas has removed the ECO emissions reduction credit from the Houston 15 Percent Plan and does not rely on the emission reduction of 1.81 ton/day which was projected under the ECO program. In addition, the Governor of Texas has notified EPA and requested removal of the Texas ECO rule from the SIP. For the purposes of the 15 Percent SIP, the State has satisfied the provisions of the 1995 legislation. The EPA will act on the Governor's request under a separate **Federal Register** action to address the specific requirements of the ECO program and its removal from the SIP.

Marine Vessel Loading

In the January 29, 1996 **Federal Register**, the EPA noted that Texas had projected reductions from their Marine Vessel Loading Rule for area sources (sources with less than 25 tons/year emissions) in this category. The rule, however, only covered facilities with emissions greater than 100 tons/year. Therefore, the emission reductions for area sources could not be credited. As discussed previously, in subsequent studies, Texas has learned that there are no area source emissions in this category in the Houston area. Therefore, Texas has revised its emission reduction estimates to remove the area source emission reductions.

Acetone Substitution

Texas had projected emission reductions for the rules to regulate the cultured (synthetic) marble and fiber reinforced plastic operations. The EPA, however, has added acetone to the list of non-reactive substances. Texas, in the August 9, 1996, submittal, has removed emission reduction credit for these rules.

Vehicle Inspection and Maintenance (I/M)

The January 29, 1996 proposed limited approval/limited disapproval did not agree with the emission reductions projected for Vehicle I/M because Texas had discontinued the program after submittal of the 15 Percent Plan. On June 27, 1996, the Region received the State's revised I/M plan. The plan contained provisions for the implementation of a decentralized two-speed idle testing program. Testing is required annually in the counties of Harris, Dallas, Tarrant, and El Paso. The plan was submitted under the provisions of the National Highway Systems Designations Act of 1995 (NHSDA). The plan also allows for, but does not require, loaded mode testing in which case the test would be biennial. There are no loaded mode testing commitments or credits contained in the I/M or 15% plan SIPs.

In the Houston area, this is largely a new program. In the El Paso and Dallas/Fort Worth areas the existing program is strengthened by provisions for remote sensing, a real time data link of test stations, auditing and enforcement, repair effectiveness support, performance monitoring and evaluation and gas cap pressure testing. The plan start dates were July 1, 1996, for Dallas/Fort Worth and January 1, 1997, for Houston and El Paso.

On October 3, 1996, the Region proposed conditional interim approval of the revised I/M plan (61 FR 51651). The proposal was conditional because the State needed additional legal authority to implement portions of its plan including, test on resale provisions, enforcement of remote sensing, and authority for re-registration denial. The approval was interim because under the provisions of the NHSDA the State's estimates regarding network type were to be based on good faith estimates with the credits to be evaluated at the end of an 18 month interim approval period.

The EPA has reviewed the modeling of the projected emission reductions for the revised I/M program provided by Texas. With the exception of the gas cap check, Texas has projected emissions

reductions that are consistent with EPA guidance.

However, it is the EPA's position that Texas projected more emission reductions than the EPA feels is appropriate for their gas cap check. The EPA has performed modeling to assess the amount of over estimation. For the Houston, Dallas/Fort Worth and El Paso areas, the amount of over estimation is estimated to be 0.5 tons/day, 0.8 tons/day, and 0.2 tons/day respectively. In each of these areas there are excess emission reductions that are sufficient to cover this over estimation.

The I/M Program was challenged in state court. The Court recently ruled that the two Senate Bills (19 and 178) challenged were an unconstitutional "taking" and an unconstitutional interference with contract, *Texas Testing Technologies I, et al. v. The State of Texas*, No. 95-1462 (126th Dist. Court, Travis County, Texas) (April 21, 1997). The suit is essentially a contract dispute with the State and is hence irrelevant to today's proposal to accept the State's projected emission reductions in the 15% SIP. The State has adequate legal authority without the two Senate Bills' language to implement and enforce an I/M program (except for the conditions noted in the October 1996 **Federal Register** proposal). Therefore, EPA is proposing to accept the State's projected emissions reductions with the exception of the projected emissions from the gas cap check.

F. Impact of Vehicle I/M Start Dates

Section 182(b)(1) of the Act requires that States containing ozone nonattainment areas classified as Moderate or above prepare SIPs that provide for a 15 percent VOC emissions reduction by November 15, 1996. Most of the 15 percent SIPs originally submitted to the EPA contained enhanced I/M programs because this program achieves more VOC emission reductions than most, if not all other, control strategies. However, because most States experienced substantial difficulties with these enhanced I/M programs, only a few States are currently actually testing cars using their original enhanced I/M protocols.

In September, 1995, EPA finalized revisions to its enhanced I/M rule allowing states significant flexibility in designing I/M programs appropriate for their needs (60 FR 48029).

Subsequently, Congress enacted the NHSDA, which provides States with more flexibility in determining the design of enhanced I/M programs. The substantial amount of time needed by States to re-design enhanced I/M programs in accordance with the guidance contained within the NHSDA, secure state legislative approval when necessary, and set up the infrastructure to perform the testing program precluded States that revise their I/M programs from obtaining emission reductions from such revised programs by November 15, 1996.

Given the heavy reliance by many States upon enhanced I/M programs to help achieve the 15 Percent VOC emissions reduction required under section 182(b)(1) of the Act, and the recent NHSDA and regulatory changes regarding enhanced I/M programs, the EPA recognized that it was no longer possible for many states to achieve the portion of the 15 percent reductions that is attributed to I/M by November 15, 1996. Under these circumstances, disapproval of the 15 percent SIPs would serve no purpose. Consequently, under certain circumstances, the EPA will propose to allow States that pursue redesign of enhanced I/M programs to receive emission reduction credit from these programs within their 15 Percent Plans, even though the emissions reductions from the I/M program will occur after November 15, 1996.

Specifically, the EPA will propose approval of 15 percent SIPs if the emissions reductions from the revised, enhanced I/M programs, as well as from the other 15 Percent Plan measures, will achieve the 15 Percent target level as soon after November 15, 1996, as practicable. To make this "as soon as practicable" determination, the EPA must determine that the 15 Percent SIP contains all VOC control strategies that are practicable for the nonattainment area in question and that meaningfully accelerate the date by which the 15% level is achieved. EPA does not believe

that measures meaningfully accelerate the 15 Percent date if they provide only an insignificant amount of reductions.

G. Acceptability of Texas 15 Percent Plans

In the case of the Dallas/Fort Worth, El Paso and Houston areas, Texas has submitted 15 Percent SIP revisions that demonstrate they achieve the necessary 15 Percent reductions from I/M by the end of 1997. The Texas I/M program is an annual program which began in Dallas/Fort Worth on July 1, 1996, and in El Paso and Houston on January 1, 1997. Texas submitted 15 Percent SIPs for Dallas/Fort Worth, El Paso, and Houston that included creditable control measures. Emission reductions resulting from the implementation of the state adopted control measures in the 15 Percent Plans have already occurred. Texas has relied on reductions from the AIM rule. The AIM reductions are expected to occur by January 1, 1998. Therefore, the EPA believes that these plans will achieve the required reductions by January 1, 1998. The EPA believes that these SIPs contain measures, including I/M, that achieve the required reductions as soon as practicable for these nonattainment areas.

The EPA has examined other potentially available SIP measures to determine if they are practicable for the Dallas/Fort Worth, El Paso and Houston Areas and if they would meaningfully accelerate the date by which these areas reach the 15 Percent level of reductions. EPA proposes to determine that the SIPs for the Dallas/Fort Worth, El Paso and Houston Areas contain the appropriate measures. For the Dallas/Fort Worth, El Paso and Houston area no additional measures were identified that could be implemented to meaningfully accelerate the date by which the 15 Percent target level could be attained. For a complete discussion of the control measures considered, please see the Technical Support Document for this action.

Tables 3 through 5 summarize the control measures and the associated emission reductions used to achieve the 15 Percent targets.

TABLE 3.—SUMMARY OF EMISSION REDUCTIONS: DALLAS/FORT WORTH (TONS/DAY)

Required Reduction	117.55
Creditable Reductions:	
RACT Catch-up	4.03
Stage II	18.19
Aircraft Stage III	0.60
Other VOC storage, transport	0.05
I/M, FMVCP Tier I, Reformulated Gas	69.46
Bakeries	0.12
Municipal Landfills	3.49

TABLE 3.—SUMMARY OF EMISSION REDUCTIONS: DALLAS/FORT WORTH (TONS/DAY)—Continued

Carswell Fire Training Pit Closure	1.20
RE Improvements	4.86
Gas Utility Engines	7.76
Reform Off Road	4.23
TCMs	6.94
Consumer/Commercial Products	4.09
Gasoline Terminals	2.17
Fugitives	0.07
Wood Furniture	1.35
AIM	4.77
Traffic Markings	0.56
High Performance Maintenance	0.96
Other Special Purpose Coatings	1.18
Total	136.07

TABLE 4.—SUMMARY EMISSION REDUCTIONS: EL PASO (TONS/DAY)

Required Reduction	16.19
Creditable Reductions:	
RACT Catch-up	0.71
Stage II	1.87
Aircraft Stage III	0.02
FMVCP Tier I, I/M, Low RVP	7.37
Offset Printing	0.56
Vessel Loading	0.32
Fugitives	1.13
RE Improvements	1.63
Gas Utility Engines	0.88
TCMs	0.35
Architectural Coatings	0.80
Consumer/Commercial Products	0.70
Municipal Landfills	0.21
Industrial Wastewater	0.27
Bulk Gasoline Terminals	0.77
Outdoor Burning	0.40
Wood Furniture	0.04
RVP (off-road)	0.09
Traffic Markings	0.09
High Performance Maintenance	0.12
Total	18.32

TABLE 5.—SUMMARY EMISSION REDUCTIONS: HOUSTON/GALVESTON (TONS/DAY)

Required Reduction	213.27
Creditable Reductions:	
RACT Catch-up	27.81
TSDF	13.48
Stage II	16.89
General Vent Gas	13.97
Reform Gas, I/M, Tier I FMVCP	40.41
Reform (Off Road)	5.30
Vessel Cleaning/Degassing	3.01
Stage I	6.26
SOCMI Rct. & Dist.	1.68
Fugitive Controls	46.03
RE Improvements	12.82
Gas Utility Engines	8.47
TCMs	0.36
Consumer/Commercial Products	4.44
Marine Vessel loading	15.73
Gasoline Terminals	3.36
Wood Coating	0.37
Bakeries	0.22
Architectural Coatings	5.03
Industrial Wastewater	8.56
Traffic Markings	0.56
Other Special Purpose	1.24
High Performance Maintenance	0.99

TABLE 5.—SUMMARY EMISSION REDUCTIONS: HOUSTON/GALVESTON (TONS/DAY)—Continued

Total	237
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III. Motor Vehicle Emissions Budgets

The Clean Air Act, section 176(c), and the transportation conformity rule require the states to establish motor vehicle emissions budgets (MVEB) in any control strategy SIP that is submitted for attainment and maintenance of the National Ambient Air Quality Standards. These budgets will be used to determine if future transportation plans conform with State air quality plans. The budget for each area has been calculated by projecting the 1996 Motor Vehicle emissions and subtracting the emission reductions from planned emission control programs. The State of Texas has established a MVEB for VOC for Dallas/Fort Worth, El Paso, and Houston. The EPA is proposing to give conditional interim approval of the following MVEB:

TABLE 6.—1996 VOC MOTOR VEHICLE EMISSIONS BUDGETS

Area	VOC (Tons per Day)
Dallas/Fort Worth	165.49
El Paso	21.63
Houston	152.12

IV. Contingency Measures

Ozone areas classified as moderate or above must include in their submittals, under section 172(c)(9) of the Act, 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 Act 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

This measure was adopted as part of the 15 Percent Plans for the Houston area. It was also adopted as a contingency measure 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.

Dry Cleaning Naphtha

This measure 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 measure and believes that it will achieve the projected reductions in the event it must be implemented.

Offset Printing

Regulation of emissions from offset printing was adopted as a 15 Percent Plan 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.

Commercial Bakeries

Texas adopted control measures for major source bakeries in Dallas/Fort

Worth and Houston as part of the 15 Percent Plans. Texas also adopted for Dallas 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.

Transportation Control Measures (TCM)

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. TCMs are measures such as High Occupancy Vehicle lanes that reduce emissions by modifying the transportation system. The EPA believes the projected emission reductions have been quantified appropriately.

Gas Utility Engines

In all three areas, Texas has projected emission reductions that will occur from the small engine rule in the year following the required milestone demonstration or 1997. The EPA believes that these reductions have been quantified appropriately.

Vehicle Inspection and Maintenance and Tier I

All of the contingency plans rely to some extent on reductions from the inspection and maintenance program. As discussed previously, the planned I/M reductions are not expected to occur until the end of 1997. Additional reductions from I/M cannot be expected to occur in the time frame envisioned for contingency measures. Therefore, these reductions cannot be credited toward the contingency measures.

However, reductions in excess of the 15 percent plans and requirements achieved from measures enumerated above are sufficient to ensure that the contingency measure target of three percent is met. If Texas has to implement these measures for contingency purposes or for future plans then the State will have one year to backfill the contingency plan.

TABLE 7.—SUMMARY OF ACCEPTABLE CONTINGENCY MEASURES: DALLAS/FORT WORTH (TONS/DAY)

Required Contingency	16.46
Creditable Contingency Reductions:	
Vessel Cleaning	0.18
Dry Cleaning Naphtha	2.22
Offset Printing	0.85
Commercial Bakeries	0.15

TABLE 7.—SUMMARY OF ACCEPTABLE CONTINGENCY MEASURES: DALLAS/FORT WORTH (TONS/DAY)—Continued

TCMs	2.03
Gas Utility Engines 1997	0.73
Excess reductions from 15 Percent measures	18.52
Total	24.68

TABLE 8.—SUMMARY OF CONTINGENCY MEASURE REDUCTIONS: EL PASO (TONS/DAY)

Required Contingency	2.08
Creditable Contingency Reductions:	
Vessel Cleaning	0.09
Dry Cleaning Naphtha	0.30
Commercial Bakeries	0.05
TCMs	0.53
Gas Utility Engines 1997	0.08
Excess reductions from 15 percent measures	2.13
Total	1.74

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

Required Contingency	29.26
Creditable Contingency Reductions:	
Municipal Landfills	3.99
Dry Cleaning-Naphtha	1.88
Offset Printing	2.20
Gas Utility Engines 1997	0.76
Excess Reductions from 15% measures	23.73
Total	32.56

V. Rulemaking Action

The EPA has evaluated the Emissions Inventory, 15 Percent Plans and contingency measures submitted as part of the August 23, 1996 SIP revision for Texas. The EPA has also reviewed the MVEB associated with these 15% plans. The EPA proposes to give full approval of the revisions to the 1990 base year inventory for Dallas/Fort Worth, El Paso and Houston/Galveston Areas. The EPA proposes to give Conditional Interim approval of the 15 Percent Plans and associated MVEB for the three areas. Finally, the EPA proposes to give full approval of the contingency plans for these three areas.

The 15 Percent Plans for the three areas can only receive a conditional interim approval because the plans all rely in part on emission reductions from the revised I/M program. The EPA proposed conditional interim approval of the I/M program for the three areas on October 3, 1996. Therefore, the 15 Percent Plans can only receive conditional interim approval.

Interim Approval

The NHSDA allows States to make a "good faith" estimate of the reductions that will be achieved by the I/M program. The I/M program can be given interim approval during an 18 month period during which the program is

evaluated to validate the "good faith" estimate. At the end of the 18-month interim period, the interim approval status for the I/M program will automatically lapse pursuant to the NHSDA. It is expected that the State will, at that time, be able to make a demonstration of the program's effectiveness using an appropriate evaluation criteria. If the State fails to provide a demonstration of the program's effectiveness to EPA within 18 months of the final interim I/M rulemaking, the interim approval will lapse, and EPA will be forced to disapprove the State's permanent I/M SIP revision. An I/M disapproval will result in a 15 Percent Plan disapproval unless substitute emission reductions are submitted. Information from the I/M program evaluation showing the program achieves a lesser amount of reductions than originally projected will be used in the final action on the 15 Percent Plans. Further discussion of the requirements for final approval of the I/M program are discussed in the October 3, 1996, **Federal Register** (61 FR 51651).

Conditional Approval

The EPA is proposing a conditional approval of the 15 Percent Plans contingent upon the State meeting the conditions outlined in the proposed I/M

conditional approval. These include the State obtaining the appropriate legislative authority as needed to implement the program outlined in the Governor's Executive Order. The EPA proposes that if the State fails to obtain the needed additional legal authority within 12 months of final conditional interim approval of the 15 Percent Plans, the 15 Percent Plan approval will convert to a disapproval after a letter is sent notifying the State of the conversion to disapproval.

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

VI. Administrative Requirements

A. Executive Order (E.O.) 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and

Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. See 5 U.S.C. 603 and 604. Alternatively, 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.

Conditional approvals of SIP submittals under section 110 and subchapter I, part D of the 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 Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. See *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing State requirements applicable to small entities. Federal disapproval of the State submittal does not affect its State-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this 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 substitute a new Federal requirement.

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205,

EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the conditional approval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: July 1, 1997.

Jerry Clifford,

Acting Regional Administrator.

[FR Doc. 97-18244 Filed 7-10-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, and 273

[SWH-FRL-5856-6]

Hazardous Waste Management System; Modification of the Hazardous Waste Program; Mercury-Containing Lamps

AGENCY: Environmental Protection Agency.

ACTION: Notice of data availability.

SUMMARY: The Environmental Protection Agency (EPA) is making available to the public a study containing information relating to its Proposed Rule addressing the management of mercury-containing lamps under the Resource Conservation and Recovery Act Subtitle C hazardous waste management system published in the **Federal Register** on July 27, 1994, 59 FR 39288. The study consists of an electronic model and report that provides an assessment of mercury emissions from the management of mercury-containing lamps under different approaches, including two that were discussed in the Proposed Rule: A

conditional exclusion from hazardous waste regulations and adding lamps to Universal Waste regulations (May 11, 1995, 60 FR 25542). Readers should note that only comments about the study discussed in this Notice of Data Availability will be considered by the Agency during this comment period. The Agency is not reopening the comment period for the July 27, 1994 proposed rule through this Notice of Data Availability.

DATES: Comments on the study will be accepted through August 25, 1997.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F-97-FLEA-FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW., Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address listed below. Comments may also be submitted electronically by sending electronic mail through the Internet to: rcra-docket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F-97-FLEA-FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. If comments are not submitted electronically, EPA is asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (TEXT) format or a common word processing format that can be converted to ASCII (TEXT). It is essential to specify on the disk label the word processing software and version/edition as well as the commenter's name. This will allow EPA to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to physically protect the submitted diskettes. EPA emphasizes that submission of comments on diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW., Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor,