

In the Final Rules Section of this **Federal Register**, the EPA is approving LAC 33:III.1405.B of the State General Conformity rule as a direct final rulemaking without prior proposal because the EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in providing comments on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing, postmarked by April 8, 1998.

ADDRESSES: Comments should be mailed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PDL) at the address below. Copies of the State's General Conformity SIP and other relevant information are available for 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 24 hours before the visiting day.

Air Planning Section (6PDL), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Telephone: (214) 665-7214.

Air Quality Division, Louisiana Department of Environmental Quality, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810, Telephone: (504) 765-0219.

FOR FURTHER INFORMATION CONTACT: Mr. J. Behnam, P. E.; Air Planning Section (6PDL), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Telephone (214) 665-7247.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final rule which is located in the Rules Section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds.

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

Dated: February 9, 1998.

Lynda F. Carroll,

Acting Regional Administrator, Region 6.

[FR Doc. 98-5984 Filed 3-6-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[T50-1-6800; FRL-5975-7]

Approval and Promulgation of Air Quality State Implementation Plans (SIP); Texas: Disapproval of the Reasonable-Further-Progress Plan for the 1996-1999 Period and the Contingency Plan for the Houston/Galveston (HGA) Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed disapproval.

SUMMARY: The EPA is proposing to disapprove the SIP revisions submitted by the State of Texas to meet the Rate-of-Progress (ROP) requirements under the Clean Air Act (the Act). Under these requirements, States must demonstrate a 3 percent reduction of volatile organic compounds (VOCs) per year for a three year period between November 15, 1996 and November 15, 1999. The EPA is proposing disapproval of the ROP plan submitted by Texas for the Houston/Galveston area (HGA) primarily because the plan projects excessive emissions reductions for the EPA's Compliance Assurance Monitoring (CAM) Rules. The EPA is also proposing disapproval of the Contingency Plan associated with this ROP plan. This rulemaking action is being taken under sections 110 and Part D of the Act.

DATES: Comments must be received on or before May 8, 1998.

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:

Introduction—Clean Air Act Requirements

Reasonable Further Progress Requirements

Section 182(c)(2) of the Act generally requires each state having one or more ozone nonattainment areas classified as serious or worse to develop a plan (for each subject area) that provides for actual VOC reductions of at least 3 percent per year averaged over each consecutive 3-year period, beginning six years after enactment of the Act, until such time as these areas have attained the National Ambient Air Quality Standard (NAAQS) for ozone. These plans are referred to hereafter as post-1996 Rate-of-Progress Plans (or post-96 ROP plans). These plans were due to be submitted to EPA as a SIP revision by November 15, 1994.

Section 182(b)(1) of the Act mandates a 15 percent VOC emission reduction, net of growth, between 1990 and 1996 for each State having one or more ozone nonattainment areas classified as moderate or worse. That SIP revision was due to EPA by November 15, 1993. The plan for these reductions occurring between 1990-1996 is hereafter referred to as the 15% Rate-of-Progress Plan.

Sections 182(b)(1)(C), 182(b)(1)(D) and 182(c)(2)(B) of the Act limit the creditability of certain control measures toward the ROP requirements. Specifically, states cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures (e.g., new car emissions standards) promulgated prior to 1990, or for reductions stemming from regulations promulgated prior to 1990 to lower the volatility (i.e., Reid Vapor Pressure) of gasoline. Furthermore, the Act does not allow credit toward ROP requirements for post-1990 corrections to existing motor vehicle Inspection and Maintenance (I/M) Programs or corrections to Reasonably Available Control Technology (RACT) rules, since these programs were required to be in place prior to 1990.

Additionally, sections 172(c)(9) and 182(c)(9) of the Act require contingency measures to be included in the ROP and attainment plans. These measures are required to be implemented immediately if reasonable further progress has not been achieved, or if the NAAQS is not met by the deadline set forth in the Act.

Attainment Demonstration Requirement

Under section 182(c)(2)(A) of the Act, States required to submit post-1996 ROP plan SIPs, by November 15, 1994 for serious or worse ozone nonattainment areas, must also submit for those areas an attainment demonstration to provide for achievement of the ozone NAAQS by the statutory deadline. This demonstration is to be based on photochemical grid modeling, such as the Urban Airshed Model, or an equivalent analytical method. In a March 2, 1995, memorandum from Mary Nichols, Assistant Administrator for EPA's Office of Air and Radiation, EPA set forth an approach to satisfy the attainment demonstration requirements under section 182(c)(2)(A) of the Act. Under this approach, Texas was required to submit a Rate of Progress Plan to cover the first three year period as part of their Phase I submittal by December 31, 1995. Pursuant to the December 23, 1997 memorandum from Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, an attainment plan is due April, 1998 showing how Houston will attain by 2007.

Background of State Submittal

In a letter from the Governor dated November 9, 1994, Texas submitted a Post-96 ROP plan to reduce emissions in the Houston area by an additional 9 percent by November 15, 1999. In January of 1995, the Texas Legislature moved to suspend the motor vehicle tailpipe I/M program. The Post-96 ROP Plan depended in part on reductions from the I/M program.

In a letter dated August 9, 1996, Texas submitted a revision to the Post-96 ROP Plan as part of a larger SIP submittal which included revisions to the 1990 Base Year Inventories, the 15% Rate-of-Progress Plans for the Texas ozone nonattainment areas, the HGA Employee Trip Reduction Program, and section 179B Attainment Demonstration for El Paso. Today's proposed action addresses only the HGA Post-96 ROP Plan. The other portions of the submittal will be addressed in separate **Federal Register** actions. On July 11, 1997, the EPA proposed conditional interim approval of the Texas 15% Rate-of-Progress plans for the Houston/Galveston, Dallas/Fort Worth and El Paso areas and proposed to fully approve the base year emissions inventory revisions and the associated contingency plans for the three areas (62 FR 37175).

Analysis of the SIP Revision

Base Year Emission Inventory

Under Section 182(b)(1)(B), the baseline from which States determine the required reductions for ROP planning is the 1990 base year emission inventory. The inventory is broken down into several emissions source sectors: stationary, area, on-road mobile, and off-road mobile sources. The EPA originally approved the Texas 1990 base year inventories for the Dallas/Fort Worth, Houston/Galveston, Beaumont/Port Arthur and El Paso ozone nonattainment areas on November 8, 1994 (59 FR 55586). In the August 9, 1996, SIP revision, Texas submitted revisions to its 1990 Base Year Inventories. The EPA proposed approval of these revisions on July 11, 1997 (62 FR 37175). The Post-96 ROP plan relies on the revised 1990 emission inventory for the Houston area. The EPA will not take final action on the Post-96 ROP plan until the revised 1990 emission inventory rulemaking is finalized.

Growth in Emissions Between 1996 and 1999

States need to provide for sufficient control measures in their ROP Plans to offset any emissions growth projected to occur after 1996. Therefore, to meet the ROP requirement, a State must provide for sufficient emissions reductions to offset projected growth in emissions, in addition to a 3 percent annual average reduction of VOC emissions. Thus, an estimate of emissions growth from 1996 to 1999 is necessary. The EPA believes that Texas' estimates of growth for the time period from 1996-1999 are acceptable.

Calculation of Target Level Emissions

A target level of emissions represents the maximum level of emissions allowed in each post-1996 milestone year which will provide the 3 percent per year ROP requirement mandated by the Act. The EPA's guidance document entitled "Guidance on the Post-1996 ROP Plan and the Attainment Demonstration" (EPA 452-93-015), dated January 1995, outlines the approach States must take to calculate the 1999 target level needed to satisfy the Act's post-1996 plan requirement. Table 1 documents this calculation for the HGA area.

As described previously, revisions to the 15% ROP plan and the Post-96 ROP plan were both included in the August 9, 1996 submittal. There is a slight discrepancy, however, between the 1996 target level used in the 15% ROP plan and the 1996 target level in the Post-96 ROP plan. The EPA is proposing not to

accept the target level used in the State's Post-96 ROP calculations because the same target level for 1996 should be used in both the 15% ROP plan and the Post-96 ROP plan. The EPA believes the 1996 target level in the 15% ROP was calculated correctly and proposed approval of this target level on July 11, 1997 (62 FR 37175). Therefore, the data used by the EPA in Table 1 is consistent with the State's 15% ROP plan. The choice of target level is important because it affects the size of the emission reductions shortfall identified later in this **Federal Register**. In this case, the amount of the shortfall identified is made slightly smaller by using the target level identified in the 15% ROP Plan. In future submittals, Texas must use a target level that is consistent with the State's 15% ROP plan.

TABLE 1.—CALCULATION OF REQUIRED REDUCTIONS
[Tons/day]

	Houston/ Galveston
1990 Emission Inventory	1063.72
1990 Adjusted Relative to 1996	975.39
1990 Adjusted Relative to 1999	963.65
RVP and Fleet Turnover	11.74
9% of adjusted	86.73
1996 Target level	812.77
1999 Target level	714.30
1999 Projection	1029.18
Total Reductions required by	
1999	314.88
Reductions required by 15%	213.27
Additional Reductions required	101.61

Measures Achieving the Projected Reductions

The EPA agrees with the emission reductions for the following control measures. The amount of emission reductions projected for these measures are tabulated in table 2. A more detailed analysis of these measures and associated emission reductions is included in the Technical Support Document for this action.

Hazardous Organic National Emission Standards for Hazardous Air Pollutants (HON)

In the 15% ROP plan, Texas developed rules to tighten controls on fugitive emissions at refineries and petrochemical plants. The HON also requires tighter controls on fugitive emissions (40 CFR 63.160). The HON applies to additional source categories (styrene butadiene rubber production and polybutadiene production, chlorine production, pesticide production, chlorinated hydrocarbon use, pharmaceutical production and

miscellaneous butadiene use) not covered in the Texas rule. The EPA is proposing to accept the projected emissions reductions associated with the HON controls on these source categories not covered by the State rules for fugitive emissions.

Aircraft Engines

The Airport Noise and Capacity Act of 1990 (ANCA) reduces VOC emissions in addition to noise. The ANCA will prevent aircraft with Stage II engines from operating at most airports. Newer Stage III engines will be required. Stage III engines are quieter and generally, although not exclusively, emit smaller amounts of pollutants. Texas has estimated that emissions will be 40 percent lower than otherwise because of the incorporation of the Stage III engines. The EPA is proposing to accept this estimate.

Pulp and Paper MACT

Texas has projected emission reductions for the implementation of the Pulp and Paper Maximum Available Control Technology (MACT) standard. Air emissions from the pulp and paper industry will be regulated in three phases. The MACT I regulates non-combustion sources at mills engaged in the production of pulp by chemically pulping wood. The MACT II will regulate chemical recovery area combustion sources at kraft, sulfite and soda mills. The MACT III will regulate emissions from nonchemical pulp and paper mills and paper machines. The rules for MACT I were signed on November 14, 1997 but have not yet been published. Texas examined facilities in the HGA nonattainment area subject to the MACT I rules to estimate the expected emission reductions. The EPA is proposing to accept this estimate.

Recreational Marine

Texas has projected VOC emission reductions from the Federal rules to control emissions from Outboard Marine Engines and Personal Watercraft (October 4, 1996, 61 FR 52087). It is the EPA's proposed position that the State calculated the emission reductions consistent with EPA guidance (November 28, 1994 memorandum "Future Nonroad Emission Reduction Credits for Court-Ordered Nonroad Standards") and that the projected emission reductions are acceptable.

Utility Engines

Texas has projected emission reductions based on Federal rules to control emissions from lawn and garden equipment (July 3, 1995, 60 FR 34581).

It is the EPA's proposed position the State calculated these emission reductions consistent with EPA guidance (November 28, 1994, memorandum "Future Nonroad Emission Reduction Credits for Court-Ordered nonroad Standards") and the projected emission reductions are acceptable.

Underground Storage Tank Remediation

Texas estimated that emissions from leaking underground storage tank remediations resulted in about 2.05 tons/day of emissions in the HGA area in 1990. By 1998, the program for remediation of leaking underground storage tanks should be complete in Texas. After 1998, storage tanks are required to be upgraded with leak detection systems under the Resource Recovery and Conservation Act, 42 U.S.C. 6991 *et seq.* Therefore, the EPA is proposing to accept that emissions from the remediation of leaking underground storage tanks should be largely eliminated and the projected emission reductions are acceptable.

Transportation Control Measures

Texas has projected a small amount of emission reductions due to the implementation of measures to reduce vehicle emissions, such as signal light improvements and high occupancy vehicle lanes. The EPA is proposing to accept the projected emissions reductions.

Tier I, I/M and Reformulated Gasoline

Texas has projected reductions in vehicle emissions due to these three motor vehicle programs. Tier I emission reductions refer to emission reductions occurring due to the implementation of FMVCP standards that went into effect starting with the 1994 model year. Inspection and Maintenance (I/M) refers to the tail pipe testing and repair program instituted in the HGA area. Also, starting 1995, reformulated gasoline is being used in the HGA area as required by the Act, section 211(k)(10)(D).

The I/M and Reformulated Gasoline emission reductions were part of the 15% ROP Plan so they cannot be relied upon in the Post-96 ROP plan. They are listed here because emission reductions from these three programs are calculated together by the EPA's MOBILE model for estimating on-road emissions. Emission reductions from reformulated gasoline and I/M are not credited to the Post-96 plan so no double counting results. The EPA is proposing to accept the projected emission reductions.

Municipal Solid Waste Landfills

Texas has projected emission reductions for controls on emissions from solid waste landfills. During the decomposition of solid waste, large amounts of methane and significant amounts of VOCs are generated. These emissions can be captured and controlled. The EPA has promulgated a New Source Performance Standard for new landfills. In the same **Federal Register** action, the EPA has also issued emission guidelines under section 111(d) of the Act which require States to adopt controls on existing landfills (March 12, 1995, 61 FR 9905). The State has projected emission reductions from the rules they are required to adopt in response to the 111(d) requirement. The EPA proposes to accept these projected emission reductions.

Reformulated Gasoline in Storage Tanks

Reformulated Gasoline is required to have a lower volatility than conventional gasoline. Reformulated gasoline is required to have an average Reid vapor pressure of 7.2 pounds/square inch absolute (psia), whereas conventional gasoline was required to have a Reid vapor pressure of 7.8 psia. This reduced volatility lessens emissions from storage tanks. The EPA is proposing to accept the amount of emission reductions projected.

Reformulated Gasoline Loading Racks

As with storage tanks, emissions from gasoline loading racks are lowered by the use of reformulated gasoline. The EPA is proposing to accept the amount of emission reductions projected at loading racks due to the use of reformulated gasoline.

Rule Effectiveness Floating Roof Tanks

The EPA contracted, in cooperation with the Texas Natural Resource Conservation Commission, a study to establish the rule effectiveness for controls on floating roof tanks. The study concluded that the rule effectiveness measures controlling these tanks was 87 percent, which was factored into the original HGA 1990 inventory. Subsequent to that study, Texas instituted rule changes under the RACT fix-up requirements of the Clean Air Act (Section 182(a)(2)(A)) designed to improve the effectiveness and enforceability of the VOC rules including additional seal inspection requirements. Texas provided additional information based on more recent inspections of seal gaps and compliance rates to show that rule effectiveness had improved for floating roof tanks. In addition, Texas has further upgraded its rules to require

facilities to use actual seal gap measurements to determine actual excess emissions and for facilities to have these records on hand for their annual State inspections. Texas has projected, and the EPA is proposing to accept, that an improved rule effectiveness of up to 95 percent for nonpermitted and 98 percent for permitted sources is now warranted.

Measures Not Achieving the Projected Reductions

Enhanced Monitoring

The EPA published on October 26, 1997 (62 FR 54901), rules to implement the enhanced monitoring requirements of the Act. These rules are referred to as the CAM rules. The approach taken in the final CAM rules is significantly different than the approach taken in the enhanced monitoring rules that were first proposed. Based on the initially proposed enhanced monitoring rules, Texas projected emissions due to rule effectiveness improvements that could be expected. Specifically, Texas referred to draft EPA guidance entitled "Rule Effectiveness Improvements Protocol" indicating that the proposed enhanced monitoring rules would result in a 10 percent rule effectiveness improvement for sources covered by the enhanced monitoring rules without any confirmatory study. This guidance was later finalized in December, 1994 to say that sources subject to enhanced monitoring can be allowed a 90 percent rule effectiveness versus a 10 percent improvement in rule effectiveness. The 90 percent rule effectiveness, thus, represents a maximum that can be allowed without a confirmatory study. Under the Texas approach, a facility with a baseline rule effectiveness of 85 percent would be projected to improve to 95 percent, exceeding the 90 percent cap outlined in EPA guidance.

Even though the final CAM rules are significantly different and potentially less stringent than the originally proposed enhanced monitoring rules, EPA believes that the CAM rules will still result in improvements in the effectiveness of rules up to 90% rule effectiveness. Greater increases in effectiveness, must be justified through the commitment to perform a confirmatory study. If Texas believes that additional rule effectiveness improvements will occur, they must commit to perform a confirmatory study to show the reductions have occurred.

The EPA has two additional concerns with the way Texas projected emissions reductions due to the CAM rule. First, the CAM rule now only applies to emission units that rely on a control device to reduce emissions. Control devices are defined as equipment that is used to destroy or remove air pollutants prior to discharge to the atmosphere. Texas has projected emissions reductions from several source categories that do not utilize control devices such as fugitive emission controls, and coating source categories. It is the EPA's proposed position that Texas should not project any reductions for emission units that do not have a control device. Second, the CAM rule will be implemented through the issuance of title V permits. Texas has projected that 40 percent of affected sources will be covered by title V permits in the 1996–1999 time period. While it is possible that 40 percent of emissions Statewide may be covered by Title V permits, it is not clear that the facilities scheduled to receive permits in the 1996–1999 time frame represent 40% of the emissions in the HGA area. The EPA believes that Texas should look specifically at the sources in the HGA area that will be issued permits between the issuance of the CAM rule and November 15, 1999, and identify any rule effectiveness improvements associated with these sources.

Therefore, due to the above concerns, EPA is proposing not to accept the reductions projected due to compliance assurance monitoring.

Texas Alternative Fuels Fleets

In July 1994, Texas submitted the State's opt-out from the Federal Clean Fuel Fleet (C.F.) program in a SIP revision to EPA and adopted rules to implement the Texas Alternative Fuel Fleet (TAFF) program. The program included low emitting vehicle purchase and fleet composition requirements which exceeded the Federal program by substantial margins. In 1995, the Texas Legislature modified the TAFF program through passage of Senate Bill (SB) 200. In response to SB 200, Texas adopted regulations to implement the modified program and submitted a revised SIP on August 6, 1996. On June 20, 1997, the Governor of Texas signed into law Senate Bill 681 that modified the supporting legislation on which the August 6, 1996, plan was based. On October 17, 1997, EPA proposed

disapproval of the Texas C.F. Program based on the finding that changes to the supporting legislation have altered the August 6, 1996, submitted SIP revision. The specific legislative authority for the August 6, 1996, submittal is no longer in effect. In addition to the above issue, EPA raised concern that Texas' technical and equivalency method had not adequately identified and quantified the covered fleets in the Federal and State covered areas. These concerns, plus the broad exemptions allowed in the Texas program, lead EPA to conclude that the State has not made a convincing and compelling demonstration of equivalency with the **Federal Register** (62 FR 53997) for more details on EPA's proposed disapproval. Therefore, the EPA is proposing that projected emission reductions from the TAFF program cannot be credited toward the Post-96 ROP Plan.

Excess Emission Reductions From the 15% Plan

In its 15% ROP Plan, Texas projected emissions reductions in excess of that required to meet the 15 percent target level of emissions. Under section 182(c)(2)(B), these excess emission reductions can be carried over into the Post-96 ROP Plan. As explained in the Technical Support Document to the 15% ROP Plan, however, the emission reductions projected from the gas cap check in the Texas Motorist Choice (I/M) program were excessive. The EPA believes the excess reductions for the gas cap check are approximately 0.5 tons/day. It was explained in the 15% ROP Plan proposed approval that even with the excessive emission reductions projected for the gas cap check since Texas had other emission reductions available, the 15% ROP Plan was still approvable (July 11, 1997, 62 FR 37175). Essentially the excess emission reductions to cover the gas cap check shortfall were borrowed from the Post-96 ROP Plan. We explained that the excess emission reductions from the gas cap check should be addressed in the Post-96 ROP Plan. Therefore, it is proposed that 0.5 ton/day of excess emissions carried over from the 15% ROP Plan cannot be credited toward the Post-96 ROP plan.

Summary of Emission Reductions

Table 2 summarizes the emission reductions in the plan.

TABLE 2.—SUMMARY OF APPROVED AND DISAPPROVED EMISSION REDUCTIONS HOUSTON/GALVESTON
(Tons/day)

Required Reduction	101.61
Creditable Reductions	
HON	0.47
Aircraft Engines	0.97
Pulp and Paper MACT	8.26
Recreational Marine	0.06
Utility Engine 1997–1999	6.31
UST remediation	2.05
TCMs	0.5
Tier I, I/M, RFG	4.37
MSW landfills NSPS & E	4.06
RFG—Tanks	2.45
RFG—Loading Racks	3.76
RE Floating Roof Tanks	26.86
Excess emissions from the 15% plan	28.53
Total	88.65
Reductions not Approved	
Enhanced Monitoring	31.00
Texas Alternative Fuel Fleets	0.08
Excess emissions Gas Cap check	0.5
Total not approved	31.08
Shortfall	13.77

Contingency Measures

Pursuant to sections 172(c)(9) and 182(c)(9) of the Act, States must include contingency measures in their ROP Plan submittals for ozone nonattainment areas classified as moderate or above. Contingency measures are measures which are to be immediately implemented if reasonable further progress is not achieved in a timely manner, or if the areas do not attain the NAAQS by the applicable date mandated by the Act. The EPA's interpretation of this Act requirement is set forth in the *Preamble to the Implementation of Title I of the Clean Air Act Amendments of 1990* (April 16, 1992, 57 FR 13498), which states that the contingency measures should, at a minimum, ensure that emissions reductions continue to be made if reasonable progress (or attainment) is not achieved in a timely manner. Contingency measures must be fully adopted rules or measures but do not need to be implemented until they are triggered by either a failure to meet a milestone or failure to attain the NAAQS by the appropriate date.

States must show that their contingency measures can be implemented with minimal further action on their part, and with no additional rulemaking action (e.g., public hearings, legislative review, etc.). A capsule description of each of the measures follows:

Recreational Marine Vessels: As discussed in the Technical Support

Document to this action, Texas has taken credit for reductions that will occur due to additional turnover of boats in the year of 2000. The EPA is proposing to approve these projected reductions for this plan.

Enhanced Monitoring: Texas has projected additional emission reductions from implementation of the CAM rules as additional title V permits are issued. As discussed above, the EPA does not believe these projected emissions reductions are approvable.

Texas Alternative Fuel Fleets: Texas has projected emission reductions as additional fleets are brought into compliance with this rule. As discussed above however, the EPA does not believe these projected reductions are approvable.

Naphtha Dry Cleaners: This rule calls for control of dry cleaners that use petroleum naphtha for cleaning. While this is not as common as perchloroethylene, surveys by Texas indicated significant emissions. The EPA first proposed approval of this contingency measure when it was submitted with the 15% ROP Plan. Since Texas has not implemented the measure because it was not needed after 1996, the EPA believes it continues to be acceptable as a contingency measure for the Post-96 ROP Plan.

Offset Lithography: These rules regulate emissions from offset printing operations. These operations produce a wide variety of products such as magazines, newspapers and books. The EPA first proposed approval of this

contingency measure when it was submitted with the 15% ROP Plan. An analysis of the rule is contained in the Technical Support Document to the 15% ROP plan. Since Texas has not implemented the measure because it was not needed after 1996, the EPA believes it continues to be acceptable as a contingency measure for the Post-96 ROP Plan.

Utility Engines 1999–2000: Texas has projected the additional emission reductions that would be available from new, cleaner burning lawn equipment during the year 2000 when contingency measures should be implemented. The EPA is proposing to accept these emission reductions as contingency measures.

Excess Emission Reductions from the 9 Percent ROP plan: Texas had 10.69 tons/day of emission reductions projected in excess of the 9% ROP requirement. These reductions are not available as contingency measures because EPA believes that Texas has projected excessive emission reductions in the Post-96 ROP Plan. The plan, in reality, has a shortfall in required reductions, not excess emission reductions.

Summary of Contingency Measures

Table 3 summarizes the contingency measures in the plan.

TABLE 3.—SUMMARY OF APPROVED AND DISAPPROVED CONTINGENCY MEASURES HOUSTON/GALVESTON
[Tons/day]

Required Contingency	28.95
Creditable Reductions:	
Recreation Marine (2000)	0.31
Offset Printing	2.34
Naphtha Dry Cleaning	1.97
Utility Engine	1.51
Total	6.31
Reductions not Approved:	
Enhanced Monitoring	15.50
Texas Alternative Fuel Fleet	0.17
Excess from 9% plan	10.69
Total not approved	26.36
Shortfall	22.64

Proposed Rulemaking Action

The EPA has evaluated this submittal for consistency with the Act, applicable EPA regulations, and EPA policy. Texas' Post-96 ROP Plan for the HGA nonattainment area will not meet the ROP requirements of section 182(c)(2)(B) of the Act to achieve a reduction of emissions by 9 percent between 1996 and 1999, including a projection of growth. In addition, the contingency measures provided by Texas do not provide sufficient emission reductions to achieve an additional 3 percent reduction if the HGA misses a rate-of-progress milestone.

In light of the above deficiencies, EPA is proposing to disapprove the Post-96 Rate-of-Progress portion of the SIP revision and the associated contingency plan, which were submitted November 9, 1994, and revised August 9, 1996, under sections 110(k)(3), 301(a), and Part D of the Act. The submittal does not fully satisfy the requirements of section 182(c)(2)(B) of the Act regarding the post-1996 ROP Plan, nor the requirement of section 172(c)(9) of the Act regarding contingency measures.

On July 11, 1997, EPA granted conditional interim approval of the Texas I/M program (62 FR 37138). The interim conditional approval was granted under the provisions of the Clean Air Act and the National Highway Systems Designation Act of 1995. For the HGA area, the approval was granted using EPA's low enhanced performance standard. The low enhanced performance standard was developed and allowed for areas that were required to implement enhanced I/M programs, but desired to focus control strategies on other programs. The low enhanced standard (September 18, 1995, 60 FR 48035) was allowed for areas that had an approved plan to achieve Reasonable

Further Progress (RFP) through 1996 (15% Plan) and did not have a disapproved plan for RFP after 1996 (e.g., 9% Plan), or a disapproved attainment plan. Thus, finalization of this disapproval would remove the area's eligibility for using the low enhanced performance standard in meeting the requirements of the Act and Federal I/M rule. Finalization of this action would result in the area being required to meet the high enhanced performance standard of the Federal I/M rule. The EPA proposes that the State be required to submit a revised I/M SIP which meets EPA high enhanced performance standard for the HGA area within 12 months of the effective date of final Post-96 ROP Plan disapproval.

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

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future

request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

Executive Order (E.O.) 12866

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

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.

The EPA's disapproval of the State request under section 110 and subchapter I, part D of the Act does not affect any existing requirements applicable to small entities. Any preexisting Federal requirements remain in place after this disapproval. Federal disapproval of the State submittal does not affect its State-enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. 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 and impose any new Federal requirements.

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 proposed action 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and Recordkeeping requirements.

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

Dated: February 24, 1998.

Lynda Carroll,

Acting Regional Administrator, Region 6.
[FR Doc. 98-5982 Filed 3-6-98; 8:45 am]

BILLING CODE 6560-50-P

LEGAL SERVICES CORPORATION

45 CFR Part 1602

Procedures for Disclosure of Information Under the Freedom of Information Act

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule substantially revises the current rule. The rule is restructured for clarity, titles are revised to better identify the purpose of the sections, and revisions are made to incorporate procedures for Office of Inspector General records and to implement 1996 amendments to the Freedom of Information Act regarding electronic records, time limits, and

standards for processing requests for records.

DATES: Comments should be received on or before April 8, 1998.

ADDRESSES: Comments should be submitted to the Office of the General Counsel, Legal Services Corporation, 750 First St. NE., 11th Floor, Washington, DC 20002-4250.

FOR FURTHER INFORMATION CONTACT: Suzanne Glasow, Office of the General Counsel, 202-336-8817.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation (LSC) revised and published its Freedom of Information Act (FOIA) rule as final in 1993, principally to include the Office of Inspector General (OIG) in the FOIA process. However, the rule was withdrawn before it became effective. In 1996, Congress amended the FOIA. See "Electronic Freedom of Information Act Amendments of 1996." Public Law 104-231. The Office of Information and Privacy of the Department of Justice issued a proposed rule and guidances on the 1996 amendments, which LSC relied on for many of this proposed rule's revisions. See 62 FR 45184 (Aug. 26, 1997). Generally, the 1996 amendments deal with electronic records, but changes were also made to time limits and to procedures and standards for processing requests. On February 6, 1998, the Corporation's Operations and Regulations Committee (Committee) of the Corporation's Board of Directors (Board) met to consider a draft proposed rule to revise 45 CFR Part 1602, which sets out the Corporation's procedures for the disclosure of information under the FOIA. After making changes to the draft rule, the Committee adopted this proposed rule for publication for public comment. A section-by-section analysis follows.

Section-by-Section Analysis

Section 1602.1 Purpose

The purpose of this part is to set out the rules and procedures the Corporation follows to make information available to the public under the FOIA. The proposed language is revised to reflect the addition of a new section on records published in the **Federal Register**.

Section 1602.2 Definitions

Several definitions in the current rule have been deleted in this proposed rule. The definitions of "clerical," "management," "professional staff," and "professional support," which are used in the current rule in the section on fees, are deleted because they are no longer consistent with the Corporation's

personnel system. The definition of "direct costs" is also proposed to be deleted. It is used in the current rule only in § 1602.4 to clarify the cost of duplication of the index. This proposed rule applies the same standard duplication charges to the index that apply to other Corporation records.

Requirement to Use OMB Definitions

FOIA requires that agencies promulgate rules specifying a schedule of fees based on guidance published by the Director of the Office of Management and Budget (OMB). See 52 FR 10012 (March 27, 1987). The terms defined in this section that are used in the section on fees, § 1602.13, were promulgated in 1988 and are based, as required, on the OMB guidance. See 53 FR 6151-6154 (March 1, 1988).

Commercial use request: The definition of this term is based on the OMB guidance, and the term is based on a standard for determining fees in the FOIA. The proposed definition eliminates a reference to looking at the identity of the requester to help determine whether the request is for commercial use. OMB included the references to the requester's identity in its proposed guidance, but deleted it in the final guidance.

Duplication: The definition of this term is based on the OMB guidance, and the term is included in the section on fees (§ 1602.13) which permits charging of fees for certain duplication of records.

Educational institution, non-commercial scientific institution, representative of the news media: The definitions of these terms are based on the OMB guidance and are used in the section on fees, § 1602.13. Minor technical revisions have been made.

Office of Inspector General records: The definition of this term distinguishes OIG records from Corporation records. This definition and other OIG provisions in this rule are proposed to provide regulatory authority to the OIG to process and to grant or deny FOIA requests for OIG records.

Records: The definition of records is revised to clarify that the term includes electronic records.

Review: This term is used in the section on fees (§ 1602.13) and is based on the OMB guidance. Proposed revisions are technical. The current definition includes reference to commercial use requests, because review fees are charged only for such requests. The section on fees which uses this term, however, makes it clear that review fees are charged only for commercial use requests, so it is redundant to include reference to commercial use requests in the