

**10. Musculoskeletal System**

- a. Evaluation of selected patients with known or suspected primary bone tumors.
- b. Evaluation of patients with suspected recurrence of bone tumors.
- c. Evaluation of patients with suspected but indefinite signs of skeletal metastases when conventional studies fail to clarify.
- d. Evaluation of joint abnormalities difficult to detect by conventional methods.
- e. Evaluation of patients with soft tissue tumors, either known or suspected to confirm presence and determine extent.

f. Guidance for biopsy.

**11. Foreign Body Localization**

- a. Foreign body localization anywhere in the body when other conventional techniques have failed to resolve the problem (e.g., foreign body in the chest, abdomen, orbit, globe of eye, intracranial or extremity).

**12. Therapy Planning and Follow-up**

- a. Definition of cross-sectional anatomy and attenuation coefficients of bone and soft tissue in tumor bearing areas for the purpose of planning radiation therapy.
- b. Provision of baseline prior to radiation therapy and chemotherapy from which effectiveness of these treatment modalities can be judged.
- c. Conformance as part of an established and acceptable follow-up protocol.
- d. Evaluation of signs and symptoms suggesting progression, recurrence, or failure of therapy.

O. J. Williford,  
 Director, Correspondence and Directives,  
 Washington Headquarters Services,  
 Department of Defense.

March 17, 1980.  
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**Department of the Air Force**

**32 CFR Part 885**

**Appointment of Officers in the Regular Air Force**

**AGENCY:** Department of the Air Force, Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Air Force amendments reflect changes to the basic rule on appointment of officers in the Regular Air Force. The amendments increase the time dentists and physicians on extended active duty must serve on current tours prior to applying for Regular Air Force appointments; updates terminology;

adds an exception to the active duty service commitment; and adds a new section on application procedures for promotion list transfers.

**EFFECTIVE DATE:** January 21, 1980.

**FOR FURTHER INFORMATION CONTACT:** M. Sgt. Mumpower, AFMPC/MPCAJB2, Randolph AFB, Texas 78148, telephone (512) 652-2975.

**SUPPLEMENTARY INFORMATION:** The provisions of this part are issued under authority of 10 U.S.C. 8012 and E. O. 9397, November 22, 1973.

The amendments will read as follows:

- 1. Section 885.3 is amended to revise paragraph (a)(4) to read as follows:

**§ 885.3 Terms explained.**

\* \* \* \* \*

- (4) The Commander, 1947 Administrative Support Group (HQ USAF).

- 2. Section 885.7 is amended to revise paragraph (d) to read as follows:

**§ 885.7 Other appointments.**

\* \* \* \* \*

- (d) Physicians and dentists on EAD who have served at least 12 months on their current tours may apply for RegAF appointments. Each individual sends a letter requesting appointment to the servicing CBPO. If not selected, the officer may reapply 1 year after being notified of the nonselection.

- 3. Section 885.14 is amended by adding the following at the end of this section.

**§ 885.14 Active duty service commitment.**

\* \* \* \* \*

**Exception:** Line of the Air Force (LAF) officers selected for Regular appointment by the CY 1979 5- and 7-Year Regular Appointment Board, which convened April 23, 1979 or by a later board, will not incur an ADSC when they accept a Regular appointment. Officers, other than LAF, who accept a Regular appointment on or after October 1, 1979, will not incur an ADSC.

- 4. Section 885.17a is added to read as follows:

**§ 885.17a Application procedures for promotion list transfers.**

A Regular officer may request a promotion list transfer by submitting a letter to HQ AFMPC/MPCAJB1C. This request will include the promotion category which the officer desires to enter and the reasons for the transfer. Additional supporting documents, such as diplomas, transcripts of special college work or any other documents, may also be attached to this request.

- (a) On receipt of the application, HQ AFMPC/MPCAJB1C will coordinate the application between the losing and

gaining functional managers (FM) for their comments and recommendations. After coordination with FM, the application is sent to HQ AFMPC/MPCA for final approval or disapproval.

- (b) If application is approved, the gaining and losing FM will establish an effective date. HQ AFMPC/MPCAJB1C will notify the individual and transfer the officer to the new promotion list, unless the officer is required to be reappointed. In these cases, HQ AFMPC/MPCAJB1C will take the actions required in § 885.17, before transferring the officer to the new promotion list.

- (c) Disapprovals will be returned by HQ AFMPC/MPCAJB1C through command channels to the individual.

- 5. Section 885.20 is amended to revise lines A, B, and C, as follows:

**§ 885.20 Basic eligibility for physicians and dentists.**

In line A, delete "or medical intern"; in line B, delete "or dental intern"; and in line C, change "6" months to "12" months.

Carol M. Rose,  
 Air Force Federal Register, Liaison Officer.  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[FRL 1443-1]

**Approval and Promulgation of Implementation Plans; Texas Plan for Nonattainment Areas**

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

**ACTION:** Final rule.

**SUMMARY:** Under this notice, EPA today announces its approval of portions of the State Implementation Plan (SIP) revisions for Texas which were submitted by the Governor on April 13, 1979 pursuant to the requirements of Part D of Title I of the Clean Air Act, as amended in 1977, with regard to nonattainment areas. EPA is also taking final action to conditionally approve certain elements of Texas' plan. In addition the Agency is taking no action on the following portions of the Texas SIP: the plans for those areas which EPA proposed approval of redesignation of attainment status (October 12, 1979, 44 FR 58922); Subchapters 131.07.52, .53, and .54 of Regulation V for the ozone nonattainment counties of Harris, Galveston, Brazoria, Bexar, Dallas, and

Tarrant, and; the TSP plan for the Houston 1 nonattainment area.

In this notice, issues resulting in SIP approval, conditional approval and no action are discussed, and EPA's responses to relevant comments received on its notice of availability (published in the Federal Register on May 21, 1979) and proposal are included. It should be noted that only the requirements with respect to Part D of the Act are addressed under this notice.

**EFFECTIVE DATE:** Effective on March 25, 1980.

**FOR FURTHER INFORMATION CONTACT:**

Jerry M. Stubberfield, Chief, Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, Dallas, Texas 75270, (214) 767-2742.

**SUPPLEMENTARY INFORMATION:**

**Introduction**

On August 1, 1979 (44 FR 45204), EPA published a notice of proposed rulemaking on the revisions to the Texas State Implementation Plan (SIP) which had been submitted by the Governor on April 13, 1979 for the purpose of fulfilling the requirements of Part D of Title I of the Clean Air Act, as amended in 1977 (the Act), with regard to nonattainment areas. Under that notice and in its companion report, "EPA Review of Texas State Implementation Plan Revision" (June 1979), the Agency described the nature of the SIP revision, discussed certain provisions which in EPA's judgment did not comply with the requirements of Part D of the Act and the General Preamble, which was published in the April 4, 1979 Federal Register (44 FR 20372), and solicited public comment on EPA's proposed actions and deadlines.

EPA has reviewed the Part D revision and the comments in light of the Clean Air Act, EPA regulations and additional guidance. The criteria used in this review were detailed in the general preamble published in the April 4, 1979 Federal Register (44 FR 20372), supplemented on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

In response to that notice, the State submitted administrative revisions to the proposed SIP on August 9, 1979, and comments on EPA's proposed actions on August 14, 30 and September 14, 1979, which included clarification or committed to corrective actions on the previously outlined deficiencies. Numerous comments were also received from the general public.

The remainder of today's notice briefly summarizes the actions proposed in the August 1, 1979 notice, discusses the corrective action either taken or committed to by the State, and EPA's resulting action on the SIP. In addition, this notice includes EPA's response to all public comments received during the public comment period and under EPA's notice of availability. Where possible, the format of this notice follows that of the notice of proposed rulemaking, and reference is made to indicate such.

A discussion of conditional approval and its practical effect appears in two supplements to the General Preamble, 44 FR 38583 (July 2, 1979) and 44 FR 67182 (November 23, 1979). The conditional approval requires the State to submit additional materials by the deadlines proposed elsewhere in today's Federal Register. EPA will follow the procedures described below when determining if the State has satisfied the conditions.

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the Federal Register announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the State's submission to determine if the condition is fully met. After review is complete, a Federal Register notice will be published proposing or taking final action either to find the condition has been met and approve the plan, or to find the condition has not been met, withdraw the conditional approval and disapprove the plan. If the plan is disapproved the Section 110(a)(2)(I) restrictions on construction will be in effect. Certain funds may also be withheld, conditioned or restricted if the plan is disapproved. See CAA § 316(b), § 176.

3. If the State fails to timely submit the required materials needed to meet a condition, EPA will publish a Federal Register notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and Section 110(a)(2)(I) restrictions on growth are in effect. Certain funds may also be withheld, conditioned or restricted if the plan is disapproved. See CAA § 316(b), § 176.

Elsewhere in today's Federal Register, deadlines by which conditions must be met are being proposed. Although public comment is solicited on the deadlines, and the deadlines may be changed in light of comment, the State remains bound by its commitment to meet the proposed deadlines, unless they are changed.

**Ozone**

In the August 1, 1979 Federal Register notice, the section entitled "Ozone" specified the areas to which the plan revisions pertained. At the time the SIP was submitted, fifteen counties had been designated as not attaining the ozone standard. On April 6, 1979 the State submitted a revision to EPA, requesting redesignation of McLennan and Travis Counties to attainment, on the basis of changes to the ozone standard promulgated on February 8, 1979 (at 44 FR 8212). EPA proposed approval of the redesignation of these areas in the October 12, 1979 Federal Register (at 44 FR 58922). Therefore, EPA has chosen to take no action in these areas at this time. The State is not relieved of the requirement to submit a SIP for these areas until the redesignations are approved by EPA.

For the urban ozone nonattainment counties of Bexar, Dallas, El Paso, Nueces, and Tarrant, the State's control strategy predicted that attainment would be achieved by December 31, 1982 through the Federal Motor Vehicle Control Program (FMVCP) and the application of reasonably available control technology (RACT) to major stationary sources covered by the Control Technique Guidelines (CTGs) published by EPA prior to January 1, 1978. For Harris County, however, the State demonstrated that despite the implementation of all reasonably available control measures, attainment could not be achieved by December 31, 1982, and an extension until December 31, 1987 was requested. In the August 1, 1979 notice, EPA discussed seven additional measures which must be taken in conjunction with request for an extension, the manner in which the State addressed each of these additional measures, and any deficiencies in the State's approach (see 44 FR 45205 col. 2 through 44 FR 45207 col. 1). In regard to these points, the State has submitted clarification or committed to corrective action as follows:

1. In the August 1, 1979 notice, EPA proposed approval of the State's approach to the analysis of alternatives required under Section 172(b)(11)(A) of the Act on the condition that the Texas Air Control Board (TACB) revise its permit application form and that the TACB operate the program in such a manner as to assure that the required analyses would be performed. The TACB has submitted the language it intends to use in its revised permit application form, and has provided a written commitment to inform applicants who do not perform the required analyses that a permit meeting

federal requirements cannot be issued. EPA has been assured by officials of the TACB that the State will implement these changes in the permitting process for any permits issued after publication of this final rulemaking. EPA's final approval of the Texas SIP is premised on this understanding.

2. In the August 1, 1979 notice, EPA proposed conditional approval of that portion of the SIP that dealt with the establishment of an inspection/maintenance (I/M) program. On August 9, 1979, under signature of the Governor, the State submitted revisions to the SIP, portions of which, addressed and satisfied the conditions listed in the August 1, 1979 notice. EPA promulgated approval of this portion of the SIP on December 18, 1979, at 44 FR 74830. It should be noted that all public comments received relative to the I/M issue are discussed under that notice.

3. In the August 1, 1979 notice, EPA noted that the plan did not contain a formal commitment to public transportation improvement in Harris County, and the Agency proposed approval on the condition that such a commitment be submitted as part of the SIP by October 29, 1979. In response to this, the State submitted revisions to the proposed SIP on August 9, 1979, which included the text of the Metropolitan Transit Authority (MTA) Board Order 78-3, certifying the election in Harris County which created the MTA, and levied a one cent sales tax to implement the MTA's programs. EPA considers this submittal as a commitment to use local funds for such programs, thereby satisfying the condition for approval. Therefore, EPA is today approving this portion of the SIP.

4. In the August 1, 1979 notice, EPA specified that the SIP did not identify or include any commitment to implement currently planned transportation control measures (TCMs) having beneficial air quality impacts, and that the State must do so within 90 days of the notice. The TACB stated to EPA that the information could not be provided by the October 29, 1979 deadline. EPA agreed to extend the deadline to December 31, 1979. The TACB provided this material to EPA on December 28, 1979. Since this material has not previously been subjected to notice and comment, EPA is conditionally approving this portion of the plan today. EPA is currently reviewing the adequacy of the submittal and notes that the conditional approval will remain in effect until EPA takes final action on this portion of the SIP.

As noted in the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment

Areas, 44 FR 20376 (April 4, 1979), the minimum acceptable level of stationary source control for ozone SIPs, such as Texas, includes RACT requirements for VOC sources covered by CTGs the EPA issued by January 1978 and schedules to adopt and submit by each future January additional RACT requirements for sources covered by CTGs issued by the previous January. The submittal date for the first set of additional RACT regulations was revised from January 1, 1980 to July 1, 1980 by Federal Register notice of August 28, 1979 (44 FR 50371). Today's approval of the ozone portion of the Texas plan is contingent on the submittal of the additional RACT regulations which are due July 1, 1980 (for CTGs published between January 1978 and January 1979). In addition, by each subsequent January beginning January 1, 1981, RACT requirements for sources covered by CTGs published by the preceding January must be adopted and submitted to EPA. The above requirements are set forth in the "Approval Status" section of the final rule. If RACT requirements are not adopted and submitted to EPA according to the time frame set forth in the rule, EPA will promptly take appropriate remedial action.

In the August 1, 1979 notice, under the section which discussed Regulation V, "Control of Air Pollution from Volatile Organic Compounds," EPA identified ten issues (see 44 FR 45207) for which the State's regulation either was not supported by the information in the Control Techniques Guidelines (CTGs) or was not consistent with EPA's past policy concerning SIP revisions in general. In regard to these deficiencies, the State has submitted further clarification or committed to corrective action, as follows.

1. In regard to those control measures specified in Subchapter 131.07.51 which EPA determined to be inconsistent with RACT, the State, in its correspondence of August 14, 1979, has specified that it was not their intent to encourage or allow top cutoff and retrofit with external single seal floating roofs as a means of compliance with this subsection, and would require double seal external floating roofs in order to be equivalent to covered roof tanks equipped with internal floating roofs with single seals. Therefore, this subchapter is acceptable.

2. In regard to Subchapter 131.07.54, which pertains to the control of VOC emissions from the filling of gasoline storage vessels for motor vehicle dispensing facilities, EPA proposed disapproval of this subchapter for those nonattainment counties which are

covered under the federal promulgation published in the July 21, 1977 Federal Register (at 42 FR 37376). In light of discussions with the State and the State's willingness to work toward developing a State regulation consistent with EPA guidance, the Agency has chosen to take no action on this portion of Regulation V at this time. The federally promulgated regulations will remain in effect.

It should be noted that while EPA did not propose disapproval of two related subchapters (i.e., 131.07.52 and 53) which deal with the control of VOC emissions from bulk gasoline plants and terminals, since the requirements of these subchapters are equivalent to RACT, the Agency clearly specified that the federal promulgation, which covers these source categories, would remain in effect in the designated nonattainment areas. This was done for the purpose of requiring sources presently in compliance with the federal promulgation to remain so and not attempt to delay compliance to the later dates specified in the State's regulation. Therefore, the Agency has chosen to take no action on these two subchapters at this time.

3. In their correspondence of August 14, 1979, the State specified that the exemption under Subchapter 131.07.55.105 for wastewater separators used exclusively in conjunction with the production of crude oil or condensate was intended to apply to field operations other than petroleum refineries and that the CTG document pertains only to the latter source category. EPA concurs with the State and finds the exemption acceptable. In addition, the State has committed to submit a demonstration in accordance with EPA's five percent rule for the exemption of those separators specified under Subchapter 131.07.55.103 located at refineries, receiving less than 200 gallons per day of VOC.

4. In regard to Subchapter 131.07.56, the State has committed to submit a demonstration that the exemption for vacuum producing systems emitting less than 100 pounds per day will be in accordance with EPA's five percent rule.

5. The State has committed, in their correspondence of August 14, 1979, to revise Subchapter 131.07.59.101, which pertains to the control of VOC emissions from the use of cutback asphalt in such a manner as to be consistent with the RACT requirements for this source category. In addition, the regulation will be revised to include all nonattainment counties in which the use of cutback asphalt constitutes 100 tons per year or more of VOC emissions on a countywide basis.

6. In regard to Subchapters 131.07.59.102-104, the State has committed to revise the regulation so as to require Control System B for facilities with emissions greater than or equal to 18 tons per year in Harris County, and in all other nonattainment counties, for facilities which have degreasing operations emitting in excess of 100 tons per year. In addition, the State has committed to submit a demonstration that the exemption, as provided, for Harris County will be consistent with EPA's five percent rule.

7. In their correspondence of August 30, 1979, the State has specified that, under Subchapter 131.07.60.102, the extension of the final compliance date to December 31, 1985 was intended to apply to those can coating sources which could provide evidence of extreme hardship, and has committed to submit all such compliance schedules requesting an extension beyond December 31, 1982, along with full justification for the extension, to EPA for approval. The CAA requires that requests for extensions beyond final attainment dates meet the requirements of Sections 110 and 172.

8. The State has committed to include test procedures for determining compliance with the surface coating and gasoline terminal regulations in the Compliance Sampling Manual. The State does not intend to submit the Compliance Sampling Manual as part of the SIP. However, EPA finds this approach acceptable on the basis that 40 CFR 52.12 specifies applicable test methods. 40 CFR 52.12 applies to plan provisions which do not specify a test procedure and states that for purposes of federal enforcement, sources subject to such a SIP will be tested by means of the appropriate procedures and methods prescribed in Part 60.

9. In regard to those sources which were previously exempt from the requirements of Regulation V and which are now required to comply, as specified under Subchapter 131.07.62, the State has committed, in their correspondence of August 30, 1979, to submit compliance schedules for all affected sources in accordance with 40 CFR 51.15.

10. Subchapter 131.07.62.101 includes a provision which exempts methyl chloroform (1,1,1 trichloroethane). This VOC, while not appreciably affecting ambient ozone levels, is potentially harmful. Methyl chloroform has been identified as mutagenic in bacterial and mammalian cell test systems, a circumstance which raises the possibility of human mutagenicity and/or carcinogenicity.

Furthermore, methyl chloroform is considered one of the slower reacting

VOCs which eventually migrates to the stratosphere where it is suspected of contributing to the depletion of the ozone layer. Since stratospheric ozone is the principal absorber of ultraviolet light (UV), the depletion could lead to an increase of UV penetration resulting in a worldwide increase in skin cancer.

With the exemption of this compound, some sources, particularly existing degreasers, will be encouraged to utilize methyl chloroform in place of other more photochemically reactive degreasing solvents. Such substitution has already resulted in the use of methyl chloroform in amounts far exceeding that of other solvents. Endorsing the use of methyl chloroform by exempting it in the SIP can only further aggravate the problem by increasing the emissions produced by existing primary degreasers and other sources.

The Agency is concerned that the State has chosen this course of action without full consideration of the total environmental and health implications. The Agency does not intend to disapprove the State SIP submittal if, after due consideration, the State chooses to maintain this exemption. However, we are concerned that this policy not be interpreted as encouraging the increased use of this compound nor compliance by substitution. The Agency does not endorse such approaches. Furthermore, State officials and sources should be advised that there is a strong possibility of future regulatory action to control this compound. Sources which choose to comply by substitution may well be required to install control systems as a consequence of these future regulatory actions.

EPA concurs with the State's findings and actions on each of these issues, and has determined that such action will be sufficient for the removal of the noted deficiencies. Therefore, EPA conditionally approves the revisions to Regulation V (with the exception of that portion for which EPA will take no action, at this time) provided that the State meets the following schedule.

1. All demonstrations needed to indicate compliance with EPA's five percent rule be submitted by December 31, 1979.

2. All required compliance schedules be submitted to EPA by March 30, 1980.

3. Adopt and submit to EPA, the necessary revisions to Regulation V by August 1, 1980. A notice soliciting public comment on the acceptability of this date appears elsewhere in today's Federal Register. The material required by December 31, 1979 has been received. EPA is reviewing the submission and the conditional approval remains in effect

until EPA takes final action on this portion of the SIP.

#### Carbon Monoxide

In the August 1, 1979 notice of proposed rulemaking, the Agency identified the area designated as nonattainment for carbon monoxide (CO), and discussed the proposed control strategy in regard to its adequacy to achieve attainment. No deficiencies were identified and the plan was found to be adequate to demonstrate attainment. Therefore, EPA is approving this portion of the Texas SIP.

#### Particulate Matter

As noted in the August 1, 1979 notice, the State requested redesignation of eleven of the 25 areas originally designated as not attaining the National Ambient Air Quality Standards (NAAQS), for total suspended particulate (TSP), to either attainment or unclassified. These areas are as follows: Eagle Pass, Progresso, McAllen, Texas City, San Antonio, two areas in Harris County, three areas in Fort Worth, and one area in El Paso. A notice proposing approval of these redesignations was published by EPA in the October 12, 1979 Federal Register (at 44 FR 58922). Therefore, EPA has chosen to take no action on these eleven areas at this time. In addition, on November 26, 1979, the State requested redesignation of an additional area in El Paso from nonattainment to attainment. Since EPA will be proposing action on this redesignation in a separate Federal Register notice, soon to be published, the Agency will also take no action on this area at this time.

Under the above reference notice, EPA stated that for eight of the remaining nonattainment areas (now seven, due to the November 26, 1979 request for redesignation) the control strategy was inappropriate, since the Agency had reviewed the monitor sites and found them to be acceptable, in contrast to the State's contention that they were improperly sited. Therefore, EPA proposed to require that complete and relevant control strategies be developed for these areas, including as a minimum, emission inventories, design values, required percentages of reduction, and demonstrations of reasonable further progress (RFP) and attainment. In regard to this deficiency, the State committed to submit a draft SIP revision by August 13, 1979 which would include a schedule indicating the phases in which the control strategies would be developed and completed. However, in their correspondence of August 30, 1979, the State requested that

the schedule be renegotiated. The correspondence also included a clarification of the nonattainment areas which would be covered in this submittal and EPA has determined that the areas are commensurate with the areas that the Agency considers to be deficient.

EPA stated in the August 1, 1979 notice, that conditional approval could be granted provided that the draft SIP revision contained:

(1) An analysis of the impact of stationary sources on each of the nonattainment areas in question and a reasonable schedule to adopt controls if the analysis indicated the need for such, and

(2) An analysis of the impact of non-traditional sources on the nonattainment areas in question and a reasonable schedule to conduct studies to control the non-traditional sources.

On December 13, 1979, the State submitted a workplan for the development of the control strategies for these areas which would indicate attainment of the primary standards by December 1982 and the secondary standards by December 1987, and committed to a schedule for the completion of the major steps in their development.

Therefore, EPA is conditionally approving the TSP plans for San Benito, Brownsville, Corpus Christi 1,<sup>1</sup> Corpus Christi 2, Dallas 1, Dallas 3, and El Paso 4, based upon the State meeting the following schedule:

March 3, 1980—Draft SIP revision supplement submitted to EPA.

May 5, 1980—Public hearing completed.

August 1, 1980—Adopt revision, revised Regulation I as it pertains to control of nontraditional sources, if necessary, and submit to EPA.

Elsewhere in today's Federal Register, EPA is soliciting public comment on the acceptability of this schedule. While the State is developing these revisions, Regulation I as being acted on today, will apply to these areas.

For the remaining six areas for which the State developed control strategies (i.e., Aldine, Houston 1, Dallas 2, Fort Worth 1, El Paso 1, and El Paso 2), the August 1, 1979 notice identified several problems in the demonstrations of attainment.

First, EPA noted that the State had developed an emissions/air quality relationship that was not consistent with any EPA guideline for air quality

estimates, and that the State must submit a demonstration indicating that their method would result in at least as stringent reductions as the linear rollback method, and that the nonattainment areas for which this method was used showed no significant industrial influence. In response to this condition, the State submitted information showing the derivation of their method which verified that it resulted in reductions at least as stringent as the linear rollback method. Therefore, EPA accepts the State's method for determining the required percentages of reduction as being equivalent to EPA's accepted method.

Secondly, EPA noted that an error had been made in the calculation of emissions from unpaved parking lots which affected the demonstrations of attainment for all but one of these six nonattainment areas. The State has revised their calculation of this factor in accordance with the method discussed in EPA's detailed report on the Texas SIP.

Thirdly, EPA identified a number of errors in the individual control strategies for several of the nonattainment areas. In their correspondence of November 21, 1979, the State submitted revised control strategies for these areas which corrected these errors.

In the August 1, 1979 notice, EPA specified that for certain of these TSP nonattainment areas showing significant industrial influence, dispersion modelling must be used rather than linear rollback in the attainment demonstrations. The State indicated, in their correspondence of September 14, 1979, difficulty in complying with this requirement, since dispersion models have limited application in areas that are predominantly influenced by fugitive dust sources due to such problems as characterization of such sources into traditional classifications, etc. In addition, the State has certified that Regulation I is equivalent to RACT, and is therefore precluded from developing further stationary source controls, since all reasonable controls are presently required. Therefore, in the State's judgment, the requirement for modelling appears to be unreasonable, since the nonattainment problem in these areas is of a localized nature and predominantly due to fugitive dust source.

EPA acknowledges the difficulties associated with the use of dispersion modelling in areas primarily influenced by fugitive dust sources. Therefore, since the state has certified that Regulation I is equivalent to RACT, and has committed to control fugitive dust sources to the extent needed to

demonstrate RFP and attainment through Regulation I, as it is being approved today, EPA is eliminating the requirement for dispersion modelling in those TSP nonattainment areas identified as requiring such in the August 1, 1979 notice.

EPA concurs with the State's findings and actions on these nonattainment areas and the corrective action taken in regard to Regulation I. EPA is, hereby, approving the Texas plan for the TSP nonattainment areas of Aldine, Dallas 2, Fort Worth 1, El Paso 1, and El Paso 2.

For the Houston 1 TSP nonattainment area, EPA requires further assurance that RACT is in place for certain industrial categories. Therefore, EPA is taking no action on the control strategy for the Houston 1 area until the Agency is assured that RACT is in place for these categories.

#### New Source Review

In the proposed rulemaking, EPA reviewed the provisions of Regulation VI, "Control of Air Pollution by Permit for New Construction or Modification," which was revised by the State so as to incorporate the requirements of Section 173 of the Act into its permit system. In that notice (see 44 FR 45209 Column 3 through 44210 Column 1) EPA noted three issues on which the State's regulation deviated from the provisions of Section 173 of the Act. In their correspondence of August 30, 1979, and through negotiation, the State has committed to the following corrective actions, to be taken by August 1, 1980 except as noted:

1. Regarding Subchapter 131.08.00.003(a)(13) the State has committed to revise the rule to provide for application of offsets in all nonattainment areas, designated as such after March 3, 1978.

The offsets provision can remain in effect for no longer than nine months from the date of the area's nonattainment designation while the state develops and submits a nonattainment plan. If the state submits a plan within the nine month period, the offset policy can continue for an additional six months from the plan due date or until EPA takes action to approve or disapprove the plan, whichever comes first. However, if the state fails to submit a plan before the nine month period expires, the offset policy will expire when EPA acts to impose the construction moratorium specified in Section 110(a)(2)(E) of the Clean Air Act.

2. Regarding Subchapters 131.01.001. (29) and (30) of the general rules, the State has agreed to revise the definitions of "major source" and "major

<sup>1</sup>This notation was used in the Texas SIP to differentiate among the non-attainment areas within one city. For example, the two nonattainment areas in Corpus Christi are Corpus Christi 1 and Corpus Christi 2.

modification" to be equivalent to EPA definitions, except that the date of this submission may be revised as a result of the ruling of the U.S. Court of Appeals for the District of Columbia Circuit in the case of *Alabama Power Company et al v. Douglas Costle*.

3. Regarding Subchapter 131.08.00.003(a)(14) the State has committed that the use of "significance levels" will apply only to areas which can be demonstrated to be clean areas and the interpretative ruling is applicable to all areas where NAAQS are being violated.

EPA considers these corrective actions, committed to by the State, to be sufficient for the removal of the noted deficiencies. Therefore, EPA is conditionally approving the revisions to Regulation VI provided that the State adopt and submit the regulation to EPA, revised in the manner committed to by the State, by August 1, 1980. Elsewhere in today's Federal Register, EPA is requesting public comment on the acceptability of the August 1, 1980 deadline.

#### Public Comments

Numerous comments were received from individuals representing private industry, environmental groups, private citizens, and state and local governments, covering a variety of issues addressed in the August 1, 1979 notice of proposed rulemaking on the Texas SIP.

Of these, a large number, either in part or in their entirety, took exception to EPA's proposed action on that portion of the Texas SIP which deals with the requirement for an analysis of alternatives for Harris County as specified under Section 172(b)(11)(A) of the Act. In general, these comments alleged a lack of any definitive means of requiring an applicant for a new or modified source to perform the analysis of alternatives.

According to Section 172(b)(11)(A), for areas which cannot attain the ozone standard by December 31, 1982, states are required to establish a program which requires, prior to issuance of any permit for construction or modification of major emitting facilities, an analysis of alternative sites, sizes, production processes, and control techniques which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification. Since the Agency has not issued definitive guidance on the nature of the program, states are free to develop programs which best fit the individual needs of their permitting operations. As specified

elsewhere in this notice, the State has submitted the language it intends to use in its revised permit application form, and has provided a written commitment to inform applicants who do not perform the required analyses that a permit meeting federal requirements cannot be issued. Insofar as the State has committed to the operation of the program in a manner that is consistent with the intent of Section 172(b)(11)(A), EPA is approving this portion of the Texas SIP.

One commentator objected to EPA's redesignating a portion of Nueces County from "cannot be classified or better than national standards" to "nonattainment" for ozone in the September 11, 1978 Federal Register (at 43 FR 40433) which amended certain of the original designations made on March 3, 1978 (at 43 FR 8962). In the latter notice, EPA stated that the entire county was being redesignated as nonattainment since a review of the information used to support the original designation indicated that a partial county designation could not be supported with geographical or emission densities arguments. Since EPA policy on this issue has not changed, the Agency contends that the redesignation is justifiable.

Another commentator stated that in their judgment, the additional measures, identified by the State and listed at 44 FR 45206 (August 1, 1979), as potential measures for possible implementation in Harris County, are unrealistic and will not result in the predicted amount of VOC reductions.

It is EPA's intention to require states that cannot demonstrate attainment of the ozone standard in a given area by 1982, to submit revisions to the state plans in 1982 which will demonstrate attainment by 1987. The current requirement for states to identify potential measures which may be used in the 1982 revision comes from Section 172 of the Act and EPA policy, and is intended to initiate analysis of these measures, and allow for integration into the current plan. EPA agrees that the current estimates for these measures can be improved, and the Agency anticipates that this process will result in more accurate estimates to serve as the basis for the 1982 SIP revision. Neither EPA nor the State regards the identified measures or the estimated reductions as specific commitments. However, the 1982 revision must contain these or other legally enforceable measures which will result in sufficient VOC reductions to achieve attainment of the ozone standards in Harris County by 1987.

Two commentators objected to EPA's determination on Subsection 131.08.00.003(a)(13) under Regulation VI, which stated that it was in conflict with the Agency's Interpretative Ruling. Their objection was based on the fact that, requiring offsets in newly designated rural ozone nonattainment areas was unreasonable and inequitable since rural areas designated as such at this time are not subject to the offset requirement.

EPA does not agree that it is unreasonable or inequitable to apply the Interpretative Ruling concerning emission offsets to new sources that apply for permits during the period in which a rural area is newly designated as nonattainment for ozone, and a revised SIP is being prepared. In this period it is clear that the existing SIP provisions are inadequate to achieve attainment, and the comprehensive requirements of Part D of the Act have not yet been established in a revised SIP. Application of the Interpretative Ruling in this interim period works to limit the compounding of air quality control problems, and the continued deterioration of air quality past the standard. The commentator implies that emission offset is equivalent to the requirement for reasonable further progress (RFP) in a revised SIP for an urban non-attainment area, and because the RFP demonstration is not required for rural areas, emissions offset should not apply to rural areas. EPA's policy of not requiring RFP demonstrations for rural areas in the SIP does not imply that actual progress need not occur in the area. EPA allows the deletion of this requirement in the rural SIP because the demonstration of RFP in related urban areas and the other requirements on stationary sources contained in Part D would indicate that RFP will occur in the rural area as well.

One of the commentators felt that the General Preamble should have been subjected to the notice/hearing requirements of the Administrative Procedure Act (APA). Furthermore, the commentator noted that in referencing the requirements of EPA's Interpretative Ruling, the General Preamble failed to mention that the substance of the Interpretative rule was being litigated.

The General Preamble was issued to supplement EPA's proposal on each Part D SIP revision, including Texas. It identified major considerations guiding EPA's evaluation of the submittals and was to assist the public in commenting on the approvability of them. Therefore, the public had full opportunity to comment on the General Preamble with each Part D revision proposal. The

provisions of the Interpretative Ruling apply whether or not they are referenced in the General Preamble. Although the Interpretative Ruling may be under judicial review, its provisions remain in force until struck down or otherwise revised.

Another commentator addressed EPA's proposed approval of Regulation V, on the condition that affected sources (i.e., those sources previously exempt under Rule 507) submit compliance schedules to the State by the end of 1979 and to EPA by March 31, 1980. Such duplicative filing would in the commentator's opinion, result in unnecessary delays.

It was not EPA's intent to require duplicative filing of compliance schedules, but, rather to require the TACB to submit to the Agency the applicable compliance schedules.

Two commentators stated that the Texas SIP was deficient in that it failed to provide for citizen suits in pollution/violation matters. The commentators also alleged that the SIP did not provide for public participation in the enforcement process of the state program, citing *Citizens for a Better Environment vs. Environmental Protection Agency* 596 F.2d 720, (7th Cir. 1979).

EPA's response to these commentators is threefold. First, the Clean Air Act does not require that SIPs provide for citizen suits. Secondly, citizens may seek enforcement of SIP provisions under Section 304 of the federal Statute (42 U.S.C. 7604). Thirdly, *Citizens for a Better Environment, id.*, is inapplicable for the reason that that case deals with specific provisions of the Clean Water Act (33 U.S.C. 1251 *et seq.*) which are not found in the Clean Air Act.

The League of Women Voters of Texas submitted a number of comments on the proposed Revisions to the Texas SIP for nonattainment areas. These comments, outlined below, were generally favorable to the EPA position.

The League agreed with the reclassification of nonattainment areas based on the revision of the ozone standard, but urged careful monitoring in these areas to assess the impact of future population growth on air quality. The League concurred with ozone control strategies for the nonattainment areas, and the EPA position that no demonstration of RFP need be made in rural nonattainment areas. They urged, however, that the TACB make a stronger commitment to VOC emissions control by adopting RACT regulations for sources covered by further CTGs, demonstrating RFP in areas projected to attain the standard in 1982, and adopting RACT regulation for a variety of VOC sources. EPA notes that while the TACB states that they will consider

further CTGs, they are required to adopt RACT regulations for CTG sources, either using the CTG controls as the "presumptive norm" for RACT, or demonstrating that other regulations are equivalent to RACT. EPA has addressed this issue elsewhere in this notice. The League suggested that TACB provide assurances that there were no VOC sources which could not be regulated under the SIP. EPA notes that its present guidelines do not require RACT control of all sources for nonattainment areas projected to attain the standard by 1982, but EPA does require RACT for all CTG sources, and such additional control of VOC sources as may be necessary for RFP.

In further comments on the ozone control strategy, the League of Women voters urged that the 5.1% reduction in the projected increase in vehicle miles travelled (VMT) be carefully monitored and verified, but concluded that this VMT reduction and the I/M program would provide sufficient reduction in mobile source emissions to result in RFP. However the League criticized the TACB for providing only the minimum necessary programs instead of strongly committing to attainment of the ozone standard.

The League offered comments urging stronger plans to improve Houston transit facilities, and suggested that HGAC could assume primary responsibility for improved public transportation planning. EPA notes that transportation planning is of necessity divided between the MTA, and HGAC and the TACB, but that the HGAC must approve and adopt all measures which are to be implemented.

The League made a number of comments directed at the TACB revisions to Regulation V concerning RACT controls for sources of VOC emissions. They recommended that EPA not approve the TACB regulations concerning loading and unloading facilities for VOCs, gasoline bulk plants and filling gasoline storage vessels because of the exemptions allowed. They also recommended disapproval of regulations relating to asphalt controls, degreasing, can coating, surface coating and gasoline terminals until it is demonstrated that RACT is being applied.

EPA's response to these issues, in addition to the State's commitment to corrective action on certain of these deficiencies, can be found in this notice under the Section entitled "Ozone."

The League particularly noted its concern that the TACB regulations exempted methyl chloroform and/or methylene chloride, which are not photochemically reactive in the lower

atmosphere, but which may have an impact on public health. Although the League urged disapproval of these regulations by EPA, it is EPA's position that until more is known about these compounds, EPA cannot disapprove a SIP for attainment of the ozone standard which exempts these non-reactive compounds.

The League comments included its agreement that the FMVCP would be adequate to attain the CO standard in the El Paso area, but they urged that the TACB track both VMT and emission reductions to assure RFP. The League also concurred with the designations of particulate nonattainment areas reported in the proposed rulemaking, and supported EPA's requirement that control strategies for particulate nonattainment areas include measures beyond those submitted by the State. The League pointed out their support for the particulate controls measures specified in Regulation I.

In its final comments, the League noted that the revised SIP would require cancellation of previously granted exemptions for certain VOC categories, and subsequent reapplication for exemption by the source to TACB. The League requested that TACB prepare a report to the public listing all applications resulting from this cancellation, and a report of exemptions allowed by the Board. In response to this comment, EPA notes that the TACB has committed to submit these exemptions to EPA for approval, and their availability would be established through EPA's information policies.

The Sierra Club, Lone Star Chapter, submitted a number of comments concerning the Texas proposal for control strategies in nonattainment areas. These comments and EPA's response are outlined in the following paragraphs.

The Sierra Club supported EPA's conditional approval of the Texas SIP on the basis of the deficiencies noted in the proposed rulemaking, and urged that EPA should expect timely compliance with all deadlines. Based on the State's request, elsewhere in today's Federal Register, EPA is proposing new deadlines. Although public comment is solicited, and the deadlines may be changed in light of comment, the State remains bound by its commitment to meet the proposed deadlines, unless they are changed.

The Sierra Club commented that the TACB did not provide adequate notice and public hearings, in that the November round of hearings did not address the revised ozone standard or the I/M program. In EPA's view the TACB hearings were not inadequate in

that, at the time, the TACB had not been delegated legal authority for I/M from the Texas legislature, and with the revision of the ozone standard, the more extensive I/M programs mentioned by Texas were scaled down to address the one nonattainment area for which an extension of the 1982 attainment-deadline was requested. The Sierra Club also expressed concern that the agreement between the TACB and the HGAC would prevent citizen participation in the I/M planning process. It is EPA's understanding that this agreement does not preclude public involvement, and EPA supports and encourages such participation.

The Sierra Club supported EPA's conditional approval of the transportation planning portion of the SIP, but asked whether the commitment to public transportation improvement would come from local governments in Harris County, and further questioned whether it would be possible to get a commitment to implement currently planned TCMs by October 29, 1979. It is EPA's position that official commitment to public transportation improvement which is to be submitted to EPA in response to the conditional approval, must be adopted first by the HGAC, then approved by the TACB, and then submitted as a SIP revision. The TACB has stated to EPA that the October 29, 1979 deadline for a commitment to the implementation of currently planned TCMs could not be met, and EPA has agreed to extend this deadline to December 31, 1979.

The Sierra Club supported EPA's conditional approval of the proposed particulate control strategy, but questioned the effectiveness of the FMVCP for attaining the carbon monoxide standard in EL Paso. At this time EPA does not have information that would indicate that the demonstration of attainment based on the FMVCP is not valid, and so cannot require TCMs in the State's plan.

The Sierra Club, Lone Star Chapter, also submitted under separate cover, comments on the TACB's rules and regulations. A number of the comments addressed portions of the regulations which are not pertinent to the requirements of Part D. EPA will reserve response to these and address them under a separate Federal Register notice dealing with non-Part D requirements, to be published at a later date.

The Sierra Club commented that with respect to Regulation I, Subchapters 131.03.04.001-.005 should apply statewide and not just to the TSP nonattainment areas. The Sierra Club also expressed concern that prior to their revision, these subchapters had

applied to all areas, and their removal would actually result in a relaxation of the controls for TSP.

EPA has historically supported the concept of applying controls statewide, but cannot require such a provision. In addition, prior to this revision, Subchapters 131.03.04.001-.005 applied only to those Standard Metropolitan Statistical Areas (SMSAs) where the standards for TSP were exceeded. According to the April 4, 1979 General Preamble, (at 44 FR 20373), existing requirements may not ordinarily be relaxed or revoked, even when new requirements are being added to the SIP. EPA will review this change in the application of these subchapters from SMSAs to nonattainment areas, and should it result in the cancellation of this portion of Regulation I in previously controlled areas, the Agency will address this issue in a separate Federal Register notice dealing with non-Part D requirements, to be published at a later date.

The Sierra Club objected to that portion of Regulation I which exempts agricultural processes from certain subchapters of the regulation.

In regard to TSP control strategies, EPA policy has been that only the degree of control necessary to demonstrate attainment will be required. If the State can demonstrate attainment in the TSP nonattainment areas without imposing control on agricultural processes, they may do so.

The Sierra Club objected to Subchapter 131.07.52.101(3) Regulation V, because it did not specify that gasoline tank trucks must be vapor-tight at all times.

The measures specified by the Sierra Club, Control of VOC Leaks from Tank Trucks and Vapor Collection Systems, are Set II CTG controls. As such, the State is not required to adopt regulations to impose such controls until July 1980.

The Sierra Club supported EPA's proposed disapproval of subchapter 131.07.54, Regulation V. EPA's rationale for taking no action on this Subchapter of the regulation can be found in this notice under the section entitled "Ozone."

The Sierra Club commented that, in regard to the State's exemption of methyl chloroform, they would oppose the unnecessary use of any mutagen/carcinogen.

EPA's position on the State's exemption of this VOC has been addressed in a previous comment.

The Exxon Company submitted comments concerning EPA's federally promulgated regulations for Stage I vapor recovery (40 CFR 52.2285 and

52.2286, July 1978) applicable to certain Texas counties. The commentor noted that the State's regulation required a vapor balance system which would meet the specified emission limitation if, in part, the only atmospheric emission during transfer into the storage container is through a storage container vent line, and the delivery vessel is kept vapor-tight at all times (except for gauging) until the captured vapors are discharged to a loading facility with vapor recovery equipment. In contrast, the federal regulations require that the delivery vessel be kept vapor-tight at all times. The commentor objected that this condition is too restrictive in that emergency vapor venting is prohibited, possibly leading to a hazardous situation, and visual verification of the contents of the delivery vessel compartments is not allowed. The commentor recommended that these two procedures be specifically exempted in the federal regulations. The commentor also submitted extensive discussions and calculations which indicated that a *de minimus* emission of VOC would occur as a result of exempting these procedures.

EPA has reviewed the State's regulation and, as noted in the August 1, 1979 notice, approved this provision of Regulation V, thereby indicating its equivalency with RACT, for those ozone nonattainment counties not covered by the federal regulations.

For those counties covered by the federal regulations, EPA has chosen to take no action, and the Agency's rationale for doing so is stated in this notice under the Section entitled "Ozone." At such time as EPA does take action, this comment will be taken into consideration and EPA's response will be included in a future Federal Register notice.

Several comments on the revisions to the Texas SIP were received from a group of citizens from Galveston, Texas, who were involved in proceedings before the TACB, relating to construction of facilities by the Pelican Terminal Corporation. As a result of contesting the application for construction, the group offered comment concerning the adequacy of the TACB's revisions to the SIP. First, they questioned whether Texas' use of Regulation VI, which did not include emissions from vessels, was consistent with EPA's regulations for SIPs, 40 CFR 51.18. Second, the group expressed the view that the revisions were not in compliance with Section 173(1)(A) of the act which requires a demonstration of RFP before permits for new sources can be issued. The group also questioned the

adequacy of the Texas provisions for the application of EPA's Interpretative Ruling for emissions offset. Concerning the compliance of the revised SIP with 40 CFR 51.18, EPA has not yet resolved the issue of 40 CFR 51.18, applicability to offshore vessel emissions. In the absence of definitive policy with regard to offshore vessel emissions, EPA is currently approving this portion of Texas' Regulation VI since it fully complies with all applicable regulations. Furthermore, EPA is advising the public that, pending EPA's final determination on this issue, Texas must revise Regulation VI, if necessary, to be consistent with EPA policy.

With regard to the group's second point, it is EPA's view that the Texas revised regulations conform to the provisions of 173(1)(A) as they require the TACB to make a determination concerning RFP before a permit can be issued. Also the Texas regulations are consistent with EPA's guidance that RFP need not be demonstrated in rural nonattainment areas.

Comments were received from Mr. W. Thomas Buckle who expressed concern about deficiencies in the revisions to the SIP relating to attainment of the ozone standard and to new source review requirements.

Mr. Buckle first pointed out that the Texas SIP does not demonstrate attainment or reasonable further progress (RFP) for rural nonattainment areas. In Mr. Buckle's view, EPA's guidance that such a demonstration is not necessary is inconsistent with the requirements of the Act or EPA's existing SIP regulations, and is not supported by data or analysis.

Air quality in rural areas is strongly influenced by emissions from urban areas. Because of the dominance of transported ozone and hydrocarbon precursors from urban area sources in determining rural ozone levels, EPA believes that RFP and attainment in urban nonattainment areas along with RACT requirements on major stationary sources in rural nonattainment areas will result in RFP and attainment in rural nonattainment areas where there are relatively few emission sources.

Mr. Buckle also commented that the SIP does not identify the quantity of emissions which will be allowed from new sources in ozone nonattainment areas, as is required by Section 172(b)(3) and (5) of the Act.

In EPA's view, the Texas SIP revision meets these requirements of the Act. The SIP identified the required percentages of reduction and the actual percentages of reduction achieved for each of the urban nonattainment areas. Therefore, where the actual percentage

of reduction was greater than the required, a growth allowance was provided. This information is shown in the August 1, 1979 notice at (44 FR 45205) in Table 1. Since the percentages of reduction were based on 1977 emissions, this growth allowance is easily quantified.

Another comment offered by Mr. Buckle is that the revised SIP does not require offsets for new sources in rural nonattainment areas, and therefore TACB cannot demonstrate RFP which is a requirement for granting permits for such sources under Section 173 of the Act. As noted previously, it is EPA's belief that nonattainment in rural areas is largely the result of transport of ozone and hydrocarbons from urban areas. EPA further believes that reductions of emissions in urban areas will result in air quality improvement in rural areas consistent with RFP, with an additional allowance for permitting new sources. Such new sources in rural areas are required to meet the other requirements of Part D, including LAER controls. This comment is primarily addressed to EPA's General Preamble which identifies the major consideration that would guide EPA's evaluation of SIP submittals.

Another comment made by Mr. Buckle is that the revised SIP does not comply with the requirements of Section 110(a)(4), which requires that permits for sources subject to NSPS emissions standards must have a demonstration that the source will not prevent attainment or maintenance of the NAAQS. This a comment which is directed to portions of the SIP other than those specifically relating to Part D of the Act. EPA will respond to non-Part D comments in a later Federal Register notice.

Mr. Buckle's final comment was that the proposed SIP revisions would allow increases in hydrocarbon emissions between the present and December 31, 1982 in nonattainment areas. He points out that the Texas definition for RFP does not require straight line reductions or application of RACM and that reductions of hydrocarbon emissions from Regulation V would not occur until December 1981. Further, the only incremental reductions that would occur are those attributable to the FMVCP. In response, EPA does not require straight line reduction in emission as a condition for demonstrating RFP, and RACM need not be applied to all sources, except CTG sources, where RFP can be established with less than RACM. EPA does not agree that absolute increases in emission are allowed, as Texas regulations require a determination by

TACB that emissions will continue to follow RFP before permits for new sources can be issued. The Texas regulations do require RACT to the extent necessary, and LAER for new sources; and these regulations will be effective when promulgated, although final compliance is not required until December 31, 1981.

The Shell Oil Company submitted comments concerning EPA's requirement that the TACB must agree to adopt regulations for source categories covered by CTGs published in 1979 by January 1980, and furthermore to adopt by January 1981, regulations for sources covered by future CTGs which will be issued in 1980. The commentor stated that it appeared that this was required because the Texas SIP did not provide for RFP, and that the Agency was equating RACT with the CTGs. This, in the commentor's opinion was improper since the Agency is requiring compliance with standards that have not been adopted using the procedural safeguards of notice and comment.

EPA's policy on the need for RACT in the General Preamble is that, for ozone nonattainment areas where photochemical dispersion modeling is not used, RACT must be applied to all CTG source categories. A delay in the adoption of RACT has been provided to the states so that the Agency can provide guidance to the states in the form of the CTGs. Therefore, EPA does not contend that the CTGs represent RACT, but rather, represent the "presumptive norm" which does not take into account the unique circumstances within each state and allows for variation. The States are allowed to develop case-by-case determinations of RACT as specified in the September 17, 1979 Federal Register at (44 FR 53761).

The commentor also objected to the Agency expressing concern over the State's exemption for methyl chloroform, since, in the commentor's opinion, it was improper to encourage states to take action when EPA had the prime responsibility to address this issue, and had not yet done so.

The purpose of EPA's statement in the August 1, 1979 notice was to notify the states that, although regulatory control of certain VOCs was not required at this time, such control may be required in the future, and to inform the public of the potential health risks associated with these compounds.

The Texas State Department of Highways and Public Transportation (TSDHPT) submitted comments in reference to Subchapter 131.07.59.101 of Regulation V, which addresses the control of VOC emissions from cutback

asphalt usage. The TSDHPT noted that the August 1, 1979 notice incorrectly identifies the subchapter as 131.08.59.101 rather than 131.07.59.101, and EPA acknowledges that this subchapter was incorrectly identified in that notice.

The TSDHPT also requested that reconsideration be given to the application of this subchapter to only those counties which cannot show attainment of the ozone standard by December 31, 1982, since the commentator believed this to be a rather severe restriction.

As the commentator noted, the application of cutback asphalts does not occur all at once at one particular point, but generally in small amounts at spatial locations. Therefore, to apply a 100 ton per year cutoff would, essentially, exempt the majority of cutback asphalt applications. EPA guidance has specified that this source category be treated as an area source, thereby eliminating the possibility of no control measures being applied in certain areas.

The TSDHPT then discussed the situations for which the use of emulsified asphalt are not appropriate, such as sealing or surface treatment in cold weather. The commentator stated that emulsified asphalts were being used to the extent possible and indicated that the use of cutback asphalt had been significantly reduced since 1969.

EPA acknowledges that emulsified asphalts are not appropriate for all applications and has allowed for states to specify in the regulations, and justify, those emulsions and/or applications where addition of solvent is necessary. It is the Agency's understanding that the State of Texas intends to revise Subchapter 131.07.59.101 in order to allow for those exemptions.

The Texas Air Control Board (TACB) submitted extensive comments on August 14, and 30, 1979, and September 14, 1979 which reviewed negotiated agreements on Regulation V, submitted comments on EPA's August 1, 1979 notice of proposed action on the Texas SIP, and submitted additional comments on EPA's companion report to the Federal Register notice, respectively. Each letter contained numerous comments which will be addressed issue by issue.

The August 14, 1979 correspondence contained a summary of the agreements made between EPA and the TACB in regard to the deficiencies in Regulation V, as delineated in the August 1, 1979 notice. The majority of these comments contained either clarifications or commitments to corrective action, to certain of the deficient portions of Regulation V. EPA has discussed these

comments in detail, under this notice, in the section entitled "Ozone."

As previously noted the TACB letter of August 30, 1979 contained extensive comments on EPA's notice of proposed rulemaking and also contained commitments to take corrective action on certain deficiencies noted in the August 1, 1979 notice. The commitments are discussed under the pertinent sections of this notice. The remaining comments will be addressed point by point.

**Comment:** The TACB commented on EPA's statement requiring the State to provide documentation to justify the use of the 5.1 percent reduction in the projected increases in vehicle miles travelled (VMT), claimed for all urban areas. The TACB indicated that since the report, from which this figure was drawn, was EPA-sanctioned, that its use would be appropriate for making such estimates.

**Response:** In the August 1, 1979 notice, EPA specified that the assumed reduction in VMT be justified, not on the basis that the estimate itself was unreliable, but rather from the viewpoint of its applicability to the urban areas in Texas. The report was intended to be area specific, and, as such, developed the estimated reduction from such factors as driving conditions specific to a certain locality. Therefore, the State was requested to submit additional documentation justifying the use of this estimated reduction in terms of similarities between the transportation modes used, conditions in the report, and the transportation modes in the urban areas of Texas.

**Comment:** The TACB objected to EPA's statement proposing conditional approval provided that the State identify and commit to expeditious implementation of currently planned transportation control measures (TCMs). Their objection was based on the fact that specific measures, having a beneficial impact on air quality, could not be committed to, until an in-depth study and analysis of the measures listed in Section 108(f) of the Act had been completed. The TACB also stated that the inclusion of any TCM prior to the completion of its analysis would be premature and would appear to contravene the intent of Congress set forth in Section 174 of the Act which allows for local planning and public participation in the selection of reasonably available options.

**Response:** In order for a TCM to be placed in the Transportation Improvement Program (TIP), it must be subjected to review for consistency with the SIP. If the TCM is found to be consistent with the SIP, this implies that

the measure would have a beneficial air quality impact. Therefore, EPA does not agree that the State is required to conduct in-depth studies of the currently planned TCM's, prior to their inclusion in the SIP.

**Comment:** The TCB stated that EPA's statement at (44 FR 45207) concerning the State's exemption for methylene chloride is in error, since Regulation V does not exempt this VOC. In addition, they stated that the TACB's Medical Resources Advisory Panel (MRAP) had reviewed the issue of exempting methyl chloroform, and concluded that additional studies are needed to better define the health risk, if any, associated with the emissions of this VOC.

**Response:** EPA contends that the statement in the August 1, 1979 notice is not in error since it refers to the exemption of either methylene chloride or methyl chloroform, or both. The language in that notice on this issue, is included for the purpose of stating EPA's position on the matter. Since the State has provided rationale for not regulating this compound at this time, no action is required. However, EPA is obligated to notify the public of the potential health risk associated with this VOC.

**Comment:** In regard to EPA's statement on the total suspended particulate (TSP) plan (see 44 FR 45208), the TACB submitted the following comments. They committed to develop control strategies for six of the eight TSP nonattainment areas identified by EPA as having inadequate control strategies. In addition, they committed to develop and negotiate a schedule for the two remaining TSP nonattainment areas in this group. However, they wished to point out that, while they had agreed to demonstrate attainment by 1982 or 1987 (as appropriate) at each of the monitors in question, they did not necessarily agree that these monitors were properly sited. The TACB also stated that, in their judgment, use of the 85 percent control effectiveness is justifiable since Regulation I requires such measures as are needed to attain the standards by the prescribed date. Therefore, if watering, oiling, etc., do not provide the necessary reductions, more stringent methods such as paving will be required. In addition, the TACB indicated that the use of the term "as necessary" in Regulation I points this out in a clear and unambiguous manner.

**Response:** In regard to the TACB's clarification concerning effectiveness of Regulation I in achieving 85 percent reduction, EPA accepts the 85 percent figure as reasonable in light of the fact that control to the extent necessary will be required in order to achieve attainment in the TSP nonattainment

areas. The remainder of the State's comments concerning the TSP portion of their plan are discussed in this notice under the section entitled "Particulate Matter."

**Comment:** The State objected to EPA's statement proposing approval of Regulation VI on the condition that the State revise Subchapter 131.08.00.003(a)(14) to reflect that the use of significance levels in allowing exemptions from certain portions of the Interpretative Ruling is applicable only in clean areas. The State based their views on the following excerpt from the Interpretative Ruling of January 16, 1979: "It will be assumed as the starting point in reviewing a permit application that every locality in a designated nonattainment area will exceed the NAAQS (as of the new source start-up date) and that any major source locating in the area will significantly contribute to the violation. However, if the applicant or any other participant presents a substantial and relevant argument (including any necessary analysis or other demonstration) why that assumption is incorrect, then the applicability of this ruling would be determined by the specific facts in the case."

**Response:** In EPA's judgment, the State has incorrectly assumed that this assumption can be disproved by the applicant demonstrating that the proposed source will not significantly contribute to a violation of the NAAQS. The intent of this statement was that both conditions of the assumption be disproved; that is, that every location is exceeding the NAAQS, and that the source will contribute significantly to the exceedance. If the applicant can show that the proposed source will be locating in an area that would not exceed the NAAQS (within a designated nonattainment area), this would constitute a showing that the location is a "clean" area.

**Comment:** The State requested further negotiation on the proposed deadlines specified in the August 1, 1979 notice.

**Response:** EPA has renegotiated these deadlines, and the time frames for submitting corrective action as specified in this notice, have been agreed to by the State. Elsewhere in today's Federal Register, EPA is soliciting public comment on these deadlines.

As previously noted, the September 14, 1979 correspondence contained extensive comments on EPA's companion report to the August 1, 1979 notice and reiterated certain agreements reached on Regulation V. Each of the relevant points raised by the TACB and EPA's response follows.

**Comment:** The State noted that the Evaluation Report called for a demonstration that the ozone standard is being attained as expeditiously as practicable, whereas such a requirement did not appear in the August 1, 1979 notice, and, therefore no action was required by the State.

**Response:** The requirement for demonstrating attainment as expeditiously as practicable is mandated under Section 172 of the Act, and was discussed as a condition for approval of the SIPs in the April 4, 1979 General Preamble. The August 1, 1979 notice referenced the General Preamble and stated that these requirements would not be reiterated in that notice. Regardless of whether or not such a statement appeared in the notice, the State is bound to comply with this statutory requirement.

**Comment:** The State noted that the report called for a demonstration of RFP in TSP, CO, and ozone nonattainment areas (other than Harris County), whereas the notice called for RFP demonstrations only for certain TSP nonattainment areas. Therefore, the State assumes no further action is required except for the TSP areas specified.

**Response:** Again, the requirement for demonstrating RFP is mandated under Section 172 of the Act. Therefore, EPA's response to the previous comment is also applicable to the demonstration of RFP.

**Comment:** The State noted that the report stated that provisions of Regulation V concerning counties not subject to Part D requirements would be evaluated at a later date. In the State's opinion, such action is unnecessary and inappropriate since those portions of Regulation V not specifically required under Part D are not to be considered as part of the federally approved SIP.

**Response:** In January of 1972, along with several supplemental submittals, the State of Texas submitted its original plan and in May of 1972 the Administrator approved this plan, in part, thereby creating a federally approved SIP, pursuant to Section 110 of the Act. The 1977 Amendments established, among other things, new requirements which were to be implemented in conjunction with, and not to replace, the provisions of the existing SIP. Insofar as EPA has approved the original SIP and certain subsequent revisions, regardless of the fact that such provisions may apply to areas designated as attainment under Section 107 of the Act, these provisions will remain in the federally approved SIP. In addition, under Section 110(a)(2)(A) and 110(a)(3), the

Administrator is precluded from approving a SIP revision unless it provides for the attainment and maintenance of the standards. No provision of the applicable SIP may be relaxed or revoked unless it conforms to one or more of the conditions specified in the April 4, 1979 General Preamble (at 44 FR 20373), and the State can demonstrate that the standards will be attained and maintained.

**Comment:** The State noted that for ozone and CO, the Evaluation Report calls for the State to maintain an accounting of all factors influencing VMT, whereas this requirement is not specified in the notice. In addition, the State commented that VMT estimates are provided by the TDHPT, and such duplication of effort was not justified. Therefore, the State would take no further action on this item.

**Response:** EPA stated in the notice (at 44 FR 45205) that the State would be required "to track changes in VMT as a portion of their RFP reporting requirements." This requirement was specified under the discussion on the ozone portion of the SIP. Since the State relied heavily on the emission reductions predicted to occur through the FMVCP, and the Act requires annual updates indicating whether or not the State is complying with the RFP requirement, the State will be required to track changes in VMT in conjunction with the RFP reporting requirements.

**Comment:** The State noted that the report stated that formal redesignation of Travis and McLennan Counties would be necessary prior to relieving the State of the requirement to submit a SIP for these areas. Since EPA must proceed with the promulgation, no further action was planned by the State.

**Response:** EPA concurs with the State's conclusion that no further action on their part is necessary at this time.

**Comment:** The State noted that the Evaluation Report calls for the TACB to submit updated emission inventories for all urban ozone nonattainment areas and the CO nonattainment on an annual basis, so that compliance with RFP can be verified. The State contends that since this requirement is not discussed in the notice, the SIP is not deficient in this respect.

**Response:** The requirement to revise and resubmit emission inventories "as frequently as may be necessary" to assure that the requirements of RFP are being met is required under Section 172(b)(4). Since the SIP contained a current emission inventory, it is not, at this time, deficient. However, should the State fail to submit updates on an annual basis, it would be deficient.

Comment: The State noted that the Evaluation Report reviewed Subchapters 131.07.52, .53, and .54 of Regulation V as compared to the Federally promulgated regulations (40 CFR 52.2285 and 52.2286). The State also commented that while the notice specified that the Federal regulation would remain in effect in certain ozone nonattainment areas, it only referred to disapproval of subchapter 131.07.54. The State also noted that the report stated that for certain other ozone nonattainment areas the State's Stage I rules were approvable. The State objected to this on the basis that, in their judgment, any requirement not specifically required by Federal law or regulation is not part of the SIP and not subject to Federal promulgation.

Response: In regard to the State's comments concerning Subchapters 131.07.52, .53, and .54, EPA has addressed this issue under this notice in the section entitled "Ozone." In regard to their comment concerning their Stage I rules, EPA has addressed this issue in a previous response.

In addition to these comments, this correspondence contained several issues of concern which the State wished to bring to EPA's attention. The majority of these issues were in regard to EPA's requirements for the TSP portion of the SIP, as specified in the August 1, 1979 notice and subsequent negotiation meetings. These issues and EPA's response are addressed under this notice in the section entitled "Pariculate Matter."

The State also noted in the September 14, 1979 correspondence that guidance had, only recently, been provided on the manner in which the State was to determine compliance with EPA's five percent rule. Therefore, they would need additional time to prepare the required demonstrations, and could not comply with the proposed time frame specified in the August 1, 1979 notice.

EPA acknowledges that this guidance was supplied to the State only recently, and under this notice is specifying a submittal date of December 31, 1979 which the State has agreed to.

In addition to these comments, specific to the Texas SIP, one commentator submitted extensive comments which he requested be considered part of the record for each State plan. Each of the points raised by the commentator and EPA's response follow. Although some of the issues raised are not relevant to provisions in Texas' submission, EPA is notifying the public of its response to these comments at this time.

1. The Commentor asked that comments it has previously submitted

on the Emission Offset Interpretative Ruling as revised on January 16, 1979 (44 FR 3274), be incorporated by reference as part of their comments on each State plan. EPA will respond to those comments in its response to comments on the Offset Ruling.

2. The commentator objected to general policy guidance issued by EPA, on grounds that EPA's guidance is more stringent than required by the Act. Such a general comment concerning EPA's guidance is not relevant to EPA's decision to approve or disapprove a SIP revision since that decision rests on whether the revision satisfies the requirements of Section 110(a)(2). However, EPA has considered the comment and concluded that its guidance conforms to the statutory requirements.

3. The commentator noted that the recent court decision on EPA's regulations for prevention of significant deterioration (PSD) of air quality affects EPA's new source review (NSR) requirements for Part D plans as well. (The decision is *Alabama Power Co. v. Costle*, 13 ERC 1225 (D.C. Cir., June 18, 1979). In the commentator's view, the court's rulings on the definition of "source," "modification," and "potential to emit" should apply to Part D as well as PSD programs. In addition, the commentator believes that the court decision precludes EPA from requiring Part D review of sources located in designated clean areas.

The preamble to the Emission Offset Interpretative Ruling, as revised January 16, 1979, explains that the interpretations in the Ruling of the terms "source," "major modification," and "potential to emit," and the areas in which NSR applies, govern State plans under Part D. (44 FR 3275 col. 3 through 3276 col. 1, January 16, 1979.) In proposed rules published in the Federal Register on September 5, 1979, (44 FR 51924), EPA explained its views on how the *Alabama Power* decision affects NSR requirements for State Part D plans. The September 5, 1979 proposal addressed some of the issues raised by the commentator. To the extent necessary, EPA will respond in greater detail to the commentator's concerns in its response to comments on the September 5, 1979, proposal and/or its response to comments on the Offset Ruling.

As part of the September 5, 1979 proposal, EPA proposed regulations for Part D plans in section 40 CFR 51.18 (j). EPA also proposed, for now, to approve a SIP revision if it satisfied either existing EPA requirements, or the proposed regulations. Prior to promulgation of final regulations, EPA proposed to approve State-submitted

relaxations of previously-submitted SIPs, so long as the revised SIP meets all proposed EPA requirements. To the extent EPA's final regulations are more stringent than the existing or proposed requirements, States will have nine months, as provided in Section 408(d) of the Act, to submit revisions after EPA promulgates the final regulations.

In some instances, EPA's approval of a State's NSR provisions, are revised to be consistent with EPA's proposed or final regulations, may create the need for the State to revise its growth projections and provide for additional emission reductions. States will be allowed additional time for such revisions after the new NSR provisions are approved by EPA.

4. The commentator questioned EPA's alternative emission reduction options policy (the "bubble" policy). As the commentator noted, EPA has set forth its proposed bubble policy in a separate Federal Register publication. 44 FR 3720 (January 18, 1979). EPA has responded to the comments on the "bubble" approach in the final "bubble" policy statement. 44 FR 71780 (December 11, 1979).

5. The commentator questioned EPA's requirement for a demonstration that application of all reasonably available control measures (RACM) would not result in attainment any faster than application of less than all RACM. In EPA's view, the statutory deadline is that date by which attainment can be achieved as expeditiously as practicable. If application of all RACM results in attainment more expeditiously than application of less than all RACM, the statutory deadline is the earlier date. While there is no requirement to apply more RACM than is necessary for attainment, there is a requirement to apply controls which will ensure attainment as soon as possible. Consequently, the State must select the mix of control measures that will achieve the standards most expeditiously, as well as assure reasonable further progress.

The commentator also suggested that all RACM may not be "practicable." By definition, RACM are only those measures which are reasonable. If a measure is impracticable, it would not constitute a reasonably available control measure.

6. The commentator found the discussion in the General Preamble of RACT for VOC sources covered by Control Technique Guidelines (CTGs) to be confusing in that it appeared to equate RACT with the guidance in the CTGs. EPA did not intend to equate RACT with the CTGs. The CTGs provide recommendations to the States

for determining RACT, and serve as a "presumptive norm" for RACT, but are not intended to define RACT. Although EPA believes its earlier guidance was clear on this point, the Agency has issued a supplement to the General Preamble clarifying the role of the CTGs in plan development. See 44 FR 53761 (September 17, 1979).

7. The commentor suggested that the revision of the ozone standard justified an extension of the schedule for submission of Part D plans. This issue has been addressed in the General Preamble, 44 FR 20377 (April 4, 1979).

8. The commentor questioned EPA's authority to require States to consider transfers of technology from one source type to another as part of LAER determinations. EPA's response to this comment will be included in its response to comments on the revised Emission Offset Interpretative Ruling.

9. The commentor suggested that if a State fails to submit a Part D plan, or the submitted plan is disapproved, EPA must promulgate a plan under Section 110(c), which may include restrictions on construction as provided in Section 110(a)(2)(I). In the commentor's view, the Section 110(a)(2)(I) restrictions cannot be imposed without such a federal promulgation. EPA has promulgated regulations which impose restrictions on construction on any nonattainment area for which a State fails to submit an approvable Part D plan. See 44 FR 38583 (July 2, 1979). Section 110(a)(2)(I) does not require a complete federally-promulgated SIP before the restrictions may go into effect.

*Comment:* Another commentor, a national environmental group, stated that the requirements for an adequate permit fee system (Section 110(a)(2)(K) of the Act), and proper composition of State boards (Sections 110(a)(2)(F)(vi) and 128 of the Act) must be satisfied to assure that permit programs for nonattainment areas are implemented successfully. Therefore, while expressing support for the concept of conditional approval, the commentors argued that EPA must secure a State commitment to satisfy the permit fee and State board requirements before conditionally approving a plan under Part D. In those States that fail to correct the omission within the required time, the commentors urged that restrictions on construction under Section 110(a)(2)(I) of the Act must apply.

*Response:* To be fully approved under Section 110(a)(2) of the Act, a State plan must satisfy the requirements for State boards and permit fees for all areas, including nonattainment areas. Several States have adopted provisions satisfying these requirements, and EPA

is working with other States to assist them in developing the required programs. However, EPA does not believe these programs are needed to satisfy the requirements of Part D. Congress placed neither the permit fee nor the State board provision in Part D. While legislative history states that these provisions should apply in nonattainment areas, there is no legislative history indicating that they should be treated as Part D requirements. Therefore, EPA does not believe that failure to satisfy these requirements is grounds for conditional approval under Part D, or for application of the construction restriction under Section 110(a)(2)(I) of the Act.

Comments were also received from the Asphalt Emulsion Manufacturers Association (AEMA) concerning the availability of emulsified asphalts with low solvent content for all applications in all regions of the country. Although some of the issues raised are not relevant to the Texas plan, EPA is notifying the public of its response to these comments at this time. AEMA's main point is that no general rule for regarding solvent content of emulsified asphalt for the nation is possible because of varying conditions. AEMA urges that EPA accept each State's emulsion specifications as RACT. AEMA also incorrectly concludes that EPA has been using a figure of 5 percent as nationwide RACT for maximum solvent content in emulsified asphalt.

EPA recognizes that varying conditions may require different solvent content asphalts. RACT for asphalt should be determined on a case basis in order to take varying conditions into account. Therefore, EPA has not set a nationwide standard for the solvent content of emulsified asphalt. However, EPA has accepted a 5 percent maximum solvent content regulation where a state has chosen to submit an across-the-board regulation for emulsified asphalt, rather than develop case-by-case RACT. The intent of EPA guidance has been for states to specify in the regulations, and justify, those emulsions and/or applications where addition of solvent is necessary. Since RACT can be determined on a case-by-case basis, states are free to specify necessary solvent contents on the basis of application or asphalt grade. Where a state demonstrates that these are RACT, EPA will approve the regulations. The following maximum solvent contents for specific emulsified asphalt applications have appeared in EPA guidance and are based on ASTM, AASHTO, and state specifications and on information

recently received from the Asphalt Institute.

Use	Maximum solvent content (percent)
Seal coats in early spring or late fall	3
Chop seals when dusty or dirty aggregate is used	3
Mixing w/open graded aggregate that is not well washed	8
Mixing w/dense graded aggregate	12

**Attainment Dates**

The 1978 edition of 40 CFR Part 52 lists in the subpart for Texas the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on Texas' attainment date chart in 40 CFR Part 52. The earlier attainment dates under Section 110(a)(2)(A) will be referenced in a footnote to the chart. Sources subject to plan requirements, and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements as well as with the new Section 172 plan requirements.

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under part D.

(123 Cong. Rec. H 11958, daily ed. November 1, 1977).

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.<sup>1</sup>

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements only if a Section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

EPA finds that good cause exists for making this action immediately effective. EPA has a responsibility to take final action on these revisions as soon as possible in order to lift growth sanctions in those areas for which the State has submitted adequate plans in accordance with Part D requirements.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of final rulemaking is issued under the authority of Sections 110 and 172 of the Clean Air Act, as amended.

Dated: March 17, 1980.

Barbara Blum,  
Deputy Administrator.  
Douglas M. Costle,  
Administrator.

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

#### Subpart SS—Texas

1. In § 52.2270, paragraph (c) is amended by changing the number of paragraph (16), promulgated on September 24, 1979, at 44 FR 55005, to number (17), and adding new paragraphs (20), (21), (22), and (23) as follows:

<sup>1</sup>See General Preamble for Proposed Rulemaking, 44 FR 20373-4 (April 4, 1979).

#### § 52.2270 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(20) Revisions to the plan for attainment of standards for particulate matter, carbon monoxide, and ozone (Part D requirements) were submitted by the Governor on April 13, 1979.

(21) Administrative revisions to the transportation control portion of the plan were submitted by the Governor on August 9, 1979 (non-regulatory).

(22) No action is being taken on Subchapters 131.07.52, .53, and .54 of Regulation V, submitted by the Governor April 13, 1979 for the ozone nonattainment counties of Harris, Galveston, Brazoria, Bexar, Dallas, and Tarrant.

(23) No action is being taken on the control strategy for the TSP nonattainment area of Houston 1, submitted by the Governor on April 13, 1979.

2. Section 52.2271 is amended by changing the heading "photochemical oxidants (hydrocarbon)" to "ozone".

3. Section 52.2272 is revised by adding a new paragraph (b) to read as follows:

#### § 52.2272 Extensions.

\* \* \* \* \*

(b) The Administrator hereby extends to December 31, 1987, the attainment date for ozone in Harris County.

4. Section 52.2273 is revised to read as follows:

#### § 52.2273 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Texas' plan for the attainment and maintenance of the national standards under Section 110 of the Clean Air Act. Furthermore, the Administrator finds that the plan satisfies all requirements of Part D, Title 1, of the Clean Air Act as amended in 1977, except as noted below. In addition, continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements by July 1, 1980 for the sources covered by CTGs issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.

5. In Subpart SS, § 52.2275 is revised by changing the title of § 52.2275, revoking paragraphs (a), and (b), adding a new paragraph (a), and renumbering paragraphs (c), (d), and (e) to (b), (c) and (d). As revised § 52.2275 reads as follows:

#### § 52.2275 Control strategy and regulations: Ozone.

(a) *Part D Conditional Approval.* The Texas plan is conditionally approved until the following conditions are satisfied:

(1) With respect to Subchapter 131.07.55.103, the State submit by December 31, 1979, a demonstration that the specified exemption affects 5 percent or less of the emissions remaining after the application of controls specified in the applicable Control Technique Guideline.

(2) With respect to Subchapter 131.07.56, the State submit by December 31, 1979, a demonstration that the specified exemption affects 5 percent or less of the emissions remaining after the application of controls specified in the applicable Control Technique Guideline.

(3) Revise Subchapter 131.08.59.101 in such a manner as to be consistent with the RACT requirements for this source category, and extend the application of this subchapter to include all nonattainment areas in which the use of cutback asphalt constitutes 100 tons per year or more of volatile organic compounds on a countywide basis, and submit the revision to EPA.

(4) With respect to Subchapters 131.07.59.102 through 104, the State revise these subchapters in the following manner:

(i) Submit a demonstration to EPA by December 31, 1979, indicating that the specified exemption for Harris County affects 5 percent or less of the emissions remaining after the application of controls specified in the Control Technique Guideline and EPA guidance.

(ii) Revise these subchapters so as to require Control System B for facilities in Harris County, with emissions greater than or equal to the specified exemption, and in all other ozone nonattainment areas, for facilities which have degreasing operations emitting in excess of 100 tons per year, and submit these revisions to EPA.

(5) The State submit compliance schedules by March 30, 1980, for all can coating sources which request an extension beyond December 31, 1982, along with full justification for the extension, to EPA for approval.

(6) The State submit compliance schedules by March 30, 1980, for those sources previously exempt from Regulation V and now required to comply, as specified under Subchapter 131.07.62.

6. In Subpart SS, a new § 52.2276 is added and reads as follows:

**§ 52.2276 Control strategy and regulations: Particulate matter.**

(a) *Part D Conditional Approval.* The Texas plan for total suspended particulate (TSP) for the nonattainment areas of San Benito, Brownsville, Corpus Christi 1, Corpus Christi 2, Dallas 1, Dallas 3, and El Paso 4 is conditionally approved until the State satisfactorily completes the following items:

- (1) Draft SIP revision supplement submitted to EPA.
- (2) Public hearing completed.

(3) Adopt revision and revised Regulation I as it pertains to control of nontraditional sources, if necessary, and submit to EPA.

7. Section 52.2279 is revised to read as follows:

**§ 52.2279 Attainment dates for national standards.**

The table below presents the latest dates by which the national standards are to be attained. The dates reflect the information presented in Texas' plan, except where noted.

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
Abilene-Wichita Falls intrastate	b	b	b	b	a	a	a
Amarillo-Lubbock intrastate	b	b	b	b	a	a	a
Austin-Waco intrastate	b	b	a	a	a	a	May 31, 1977
Brownsville-Laredo intrastate (except Cameron County)	b	b	a	a	a	a	a
Brownsville-Laredo intrastate (Cameron County only)	<sup>1</sup> c	<sup>1</sup> d	a	a	a	a	a
Corpus Christi-Victoria intrastate (except Nueces and Victoria Counties)	<sup>1</sup> b	<sup>1</sup> b	b	b	a	a	May 31, 1977
Corpus Christi-Victoria intrastate (Nueces County only)	<sup>1</sup> c	<sup>1</sup> d	b	b	a	a	c
Corpus Christi-Victoria intrastate (Victoria County only)	b	b	b	b	a	a	c
Midland-Odessa-San Angelo intrastate (except Ector County)	b	b	b	b	a	a	a
Midland-Odessa-San Angelo intrastate (Ector County only)	b	b	b	b	a	a	c
Metropolitan Houston-Galveston intrastate (except Brazoria, Harris and Galveston Counties)	b	b	b	b	a	a	May 31, 1977
Metropolitan Houston-Galveston intrastate (Brazoria and Galveston Counties only)	b	b	b	b	a	a	c
Metropolitan Houston-Galveston intrastate (Harris County only)	<sup>1</sup> c	<sup>1</sup> d	b	b	a	a	d
Metropolitan Dallas-Fort Worth intrastate (except Dallas and Tarrant Counties)	b	b	a	a	a	a	d
Metropolitan Dallas-Fort Worth intrastate (Dallas and Tarrant Counties only)	<sup>1</sup> c	<sup>1</sup> d	a	a	a	a	c
Metropolitan San Antonio intrastate (except Bexar County)	b	b	a	a	a	a	c
Metropolitan San Antonio intrastate (Bexar County only)	b	b	a	a	a	a	e
Southern Louisiana-Southeast Texas Interstate (except Jefferson and Orange Counties)	b	b	b	b	a	a	c
Southern Louisiana-Southeast Texas Interstate (Jefferson and Orange Counties only)	b	b	b	b	a	a	e
El Paso-Las Cruces-Alamogordo Interstate (except El Paso County)	b	b	b	b	a	b	May 31, 1977
El Paso-Las Cruces-Alamogordo Interstate (El Paso County only)	<sup>1</sup> c	<sup>1</sup> d	b	b	a	<sup>1</sup> c	e
Shreveport-Tezakana-Tyler Interstate (except Gregg County)	b	b	a	a	a	a	a
Shreveport-Tezakana-Tyler Interstate (Gregg County only)	b	b	a	a	a	a	e

NOTE.—Dates or footnotes which are italicized are prescribed by the Administrator because the plan does not provide a specific date.

- (a) Air quality levels presently below secondary standards.
- (b) July 1975.
- (c) December 31, 1982.
- (d) December 31, 1987.

NOTE.—Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.2279 (1978).

<sup>1</sup>Portions of the county or counties.

**§ 52.2284 [Revoked and Reserved]**

8. Section 52.2284 is revoked and reserved.

**§ 52.2287 [Revoked and Reserved]**

9. Section 52.2287 is revoked and reserved.

**§ 52.2288 [Revoked and Reserved]**

10. Section 52.2288 is revoked and reserved.

11. In Subpart SS, a new § 52.2291 is added and reads as follows:

**§ 52.2291 Transportation requirements.**

(a) *Part D Conditional Approval.* The Texas plan for Harris County is conditionally approved until the following condition is satisfied:

(1) The State submit a list of currently planned transportation projects for Harris County to EPA by December 31, 1979.

12. Section 52.2299 is revised by revoking paragraphs (a) and (b), and adding a new paragraph (a). As revised, § 52.2299 reads as follows:

**§ 52.2299 Review of new sources and modifications.**

(a) *Part D Conditional Approval.* Regulation VI is conditionally approved until the following conditions are satisfied:

- (1) Revise Subchapter 131.08.00.003 (a)(13) to provide for the application of offsets in all nonattainment areas, designated as such after March 3, 1978.
- (2) Revise the definitions of "major source" and "major modification" to be equivalent to EPA's definitions.

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BILLING CODE 6560-01-M

**40 CFR Part 413**

[FRL 1444-6]

**Effluent Guidelines and Standards, Electroplating Point Source Category, Pretreatment Standards for Existing Sources; Correction**

AGENCY: U.S. Environmental Protection Agency.

ACTION: Correction.

**SUMMARY:** The following corrections are to be made in the Agency's Electroplating pretreatment final regulation that appeared in the Federal Register on Friday, September 7, 1979 (44 FR 52590), and was later corrected on October 1, 1979 (44 FR 56330).

**DATE:** These corrections are effective March 25, 1980.

**FOR FURTHER INFORMATION CONTACT:** Richard Kinch, Effluent Guidelines Division, (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 426-4617.