

the COTP Guam or a designated representative.

(2) A vessel in the RNA established under paragraph (a) of this section operating within 500 yards of an escorted vessel must proceed at a minimum speed necessary to maintain a safe course, unless required to maintain speed by the navigation rules.

(3) When an escorted vessel in the RNA approaches within 100 yards of a vessel that is moored, or anchored in a designated anchorage area, the stationary vessel must stay moored or anchored while it remains within the escorted vessel's security zone unless it is either ordered by, or given permission from the COTP Guam or a designated representative to do otherwise.

(4) The COTP will inform the public of the existence or status of the security zones around escorted vessels in the RNA periodically by Broadcast Notice to Mariners.

(5) Persons or vessels that must enter a security zone or exceed speed limits established in this section may contact the COTP at command center telephone number (671) 339-6100 or on VHF channel 16 (156.8 Mhz) to request permission.

(6) All persons and vessels within 500 yards of an escorted vessel in the RNA must comply with the orders of the COTP Guam or his designated representatives.

(e) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: September 12, 2002.

G.A. Wiltshire,

*Acting Captain, U.S. Coast Guard,
Commander, Fourteenth Coast Guard District.*
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX-144-1-7574; FRL-7383-6]

Proposed Approval and Promulgation of Implementation Plans; Texas; Environmental Speed Limit Revision; and Voluntary Mobile Emission Reduction Program Commitment for the Houston/Galveston (HG) Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve revisions to the Texas State Implementation Plan (SIP). This

proposal covers two separate actions. We are proposing approval, through parallel processing, of: a revision to the SIP that would retain the 55 miles per hour (mph) speed limit for vehicles weighing greater than or equal to 10,000 pounds gross vehicle weight rating and would postpone implementation of speed limit reductions for vehicles weighing less than 10,000 pounds until May 01, 2005 (Dual Speed Limit Option). In the alternative, we are requesting comment on a revision to the SIP which would suspend the 55 mph speed limit for all vehicles until May 1, 2005 and in the interim implement an increase in the current environmental speed limit (ESL) of 55 mph to a 5 mph reduction from the speed limits posted before May 1, 2002. Both of these options would be applicable in the counties of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller; and clarification of a State enforceable commitment to remedy any shortfalls in the emission reductions attributed to the Voluntary Mobile Emission Reduction Program (VMEP) in the Houston/Galveston (HG) nonattainment area so as to achieve all necessary reductions by the attainment date.

These new rules are consistent with attainment of the National Ambient Air Quality Standard (NAAQS) for ozone in the HG area. The EPA is proposing approval of these revisions to the Texas SIP to regulate emissions of nitrogen oxides (NO_x) and volatile organic compounds (VOC) in accordance with the requirements of the Federal Clean Air Act (the Act).

DATES: Written comments must be received on or before October 28, 2002.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD-L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Dallas, Texas 75202-2733. Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

FOR FURTHER INFORMATION CONTACT:

Peggy Wade, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7247, e-mail address: *Wade.Peggy@epa.gov*.

SUPPLEMENTARY INFORMATION:

Throughout this document "we," "us," and "our" refers to EPA. This document concerns control of Air Pollution of NO_x and VOCs from mobile sources in the HG area for attainment demonstration purposes.

What Action Are We Taking Today?

On July 16, 2002, the Chairman of the Texas Commission on Environmental Quality (TCEQ) submitted to EPA for parallel processing two proposed rule revisions to the SIP. These rule revisions concern the delayed implementation of the 55 mph speed limit for vehicles weighing less than 10,000 pounds; and, clarification of a rule to commit the state to remedy any shortfalls in the emission reductions attributed to the VMEP so as to achieve all necessary reductions by the attainment date.

On September 16, 2002, the Executive Director of the TCEQ submitted to EPA an additional option to the environmental speed limit which is under consideration by the TCEQ, in response to comments received on the Dual Speed Limit option. This proposed option would suspend the 55 mph speed limit for all vehicles until May 1, 2005, and, in the interim, would increase the current environmental speed limit of 55 mph to 5 mph below the original posted speed limit. EPA is taking comment on this option.

These revisions are consistent with attainment of the ozone standard in the HG area. The EPA is proposing to approve these revisions to the Texas SIP to regulate emissions of NO_x and VOCs in accordance with the requirements of the Federal Clean Air Act (the Act). For more information on the SIP revision, please refer to the State's June 26, 2002 proposed SIP revision and the September 16, 2002 supplemental information.

These revisions to the HG SIP that we are proposing approval of today are being parallel processed. Parallel processing means that EPA proposes action on a portion of the state revision before the revision becomes final under state law. Under parallel processing, EPA takes final action on its proposal if the final, adopted state submission is substantially unchanged from the submission on which the proposed rulemaking was based, or if significant changes in the final submission are anticipated and adequately described in EPA's proposed rulemaking or result from corrections determined by the State to be necessary through review of issues described in EPA's proposed rulemaking. As described above, the Executive Director of TCEQ is

considering a second option of speed limit implementation in the HG area. We are taking comment on this option.

EPA is proposing action on only these two aspects (modification of the 55 mph speed limit and clarification of the State's enforceable commitment to remedy shortfalls in emission reductions attributable to VMEP) of the submitted SIP revision. A separate notice will be published in the **Federal Register** at a later date to address other components of the June 26, 2002 proposed SIP revision.

Why Are We Proposing a Revision to the June 26, 2002, Texas SIP for the Postponement of the 55 mph Speed Limit for Vehicles Weighing Less Than 10,000 Pounds?

The purpose of this revision is to delay the implementation of the speed limit reduction to 55 mph for light vehicles to May 01, 2005. The December 2000 SIP revision included a speed limit reduction for the 8-county Houston/Galveston nonattainment area. This revision reduced the speed limit to 55 mph on all roadways with posted speeds above 55 mph, with compliance to be achieved by May 01, 2002. Emission reductions attributed to reduced speed limits were initially estimated to be 12.33 tons per day (tpd) of NO_x and 1.76 tpd of VOCs in 2007. (The HG SIP 2007 attainment demonstration budget for on-road mobile source NO_x emissions is 156.6 tpd.) These calculations were performed by the Texas Transportation Institute (TTI) using MOBILE5a, an emissions factor model developed by EPA.

On January 29, 2002, EPA released a new version of the MOBILE model, MOBILE6, representing current best understanding of mobile source emissions estimates. In a preliminary analysis conducted by the Texas Transportation Institute using MOBILE6, results indicate that the majority of emission reductions achieved through the speed limit reduction can be attributed to heavy-duty trucks. New data from MOBILE6 show a decrease in the 2007 ESL NO_x emission reductions from 12.33 tpd (as determined with MOBILE5a) to 5.8 tpd. Additionally, 4.2 of the 5.8 tpd is attributed to heavy-duty vehicles weighing over 10,000 pounds. Passenger vehicles and light-duty trucks contribute only 1.6 tpd in NO_x emission reductions when modeled at 55 mph with MOBILE6. Based on this new information, the TCEQ is proposing to retain the 55 mph speed limit for vehicles weighing greater than or equal to 10,000 pounds gross vehicle weight rating and to postpone speed limit

reductions for vehicles less than 10,000 pounds until May 01, 2005.

Because this SIP revision is a delay in implementation only, EPA concludes that the same amount of emission reductions would be achieved by the attainment date and thus, the attainment plan would be unaffected by this change. Prior to May 01, 2005, the TCEQ will conduct a more thorough review of the emissions benefits of speed limit reductions for passenger and light-duty trucks. If the TCEQ determines that such a speed limit reduction strategy is not needed to demonstrate attainment, the Commission may revise the SIP to remove the speed limit reduction altogether. However, if the TCEQ determines that more emission reductions are necessary despite this speed limit reduction strategy, the Commission will need to revise the SIP in order to provide additional control measures. Should a SIP revision be submitted incorporating the removal or modification of the speed limit reduction strategy, EPA may publish a revision to this rule.

Texas acknowledges that the emission reductions attributed to the speed limit reduction are lower as preliminarily calculated with MOBILE6 than they were as calculated with MOBILE5a. Texas intends to do a complete new analysis of all emissions with MOBILE6 during midcourse review. At that time, Texas will determine whether the emission reductions from all controls continue to provide the emission reductions necessary for attainment as established in the attainment demonstration. Should overall emission reductions as calculated with the MOBILE6 model not prove sufficient, Texas will develop additional controls as necessary to ensure sufficient reductions are available to support the attainment demonstration.

The affected area would include the following counties within the HG nonattainment area: Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller. This control strategy is a necessary measure to consider for contributing to a successful attainment demonstration with the NAAQS for ozone.

Why Are We Considering the Alternative Speed Limit Proposal to the Texas SIP, Which Suspends the 55 mph Speed Limit Until May 1, 2005 and Reinstates the Speed Limit to a Level 5 mph Below the Previously Posted Speed Limits?

As discussed previously, TCEQ has received comments on their proposed Dual Speed Limit strategy. In response to these comments, EPA is taking

comment on whether a second option, if adopted by TCEQ, could be approved. Under this option, the TCEQ would suspend the 55 mph speed limit until May 1, 2005. In the interim, the 55 mph speed limit would be increased to a level 5 mph below the previously posted speed limits.

Emission reductions can be achieved by implementing a 5 mph speed limit reduction from the previously posted speeds of 70 and 65 mph, applicable to all roadways in the 8-county area. Upon EPA approval of this proposal, speed limits on roadways having a previously posted speed limit of 70 mph will be increased from the current environmental speed limit of 55 mph to 65 mph. Speed limits on roadways with previously posted speeds of 65 mph will be increased from the current environmental limit of 55 mph to 60 mph. According to an analysis performed by the Texas Department of Transportation using EPA's MOBILE6 emissions modeling program, this speed limit will result in NO_x emission reductions of 2.3 tpd when compared to the NO_x emissions estimated with MOBILE6 from the previously posted higher speed limits.

Prior to May 01, 2005, the date upon which the suspension of the 55 mph speed limit terminates, the TCEQ will conduct a more thorough review of the emissions benefits of this incremental speed limit reduction. If the TCEQ determines that such a speed limit reduction strategy is not needed to demonstrate attainment, the Commission may revise the SIP to remove the incremental speed limit reduction altogether. However, if the TCEQ determines that more emission reductions are necessary despite this speed limit reduction strategy, the Commission will need to revise the SIP in order to provide additional control measures. Should a SIP revision be submitted incorporating the removal or modification of the speed limit reduction strategy, EPA may publish a revision to this rule. EPA requests comment on whether this state proposed alternative speed limit reduction would be appropriate.

The affected area would include the following counties within the HG nonattainment area: Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller. This control strategy is a necessary measure to consider for contributing to a successful attainment demonstration with the NAAQS for ozone.

Why Are We Proposing To Clarify the State's Enforceable Commitment To Remedy Shortfalls in Emission Reductions Attributable to VMEP in the June 26, 2002, Texas SIP Revision?

Voluntary Mobile Emission Reduction Programs (VMEP) are mobile source strategies which attempt to complement existing programs through voluntary, non-regulatory changes in local transportation activities. Some examples include economic and market-based incentive programs, trip reduction programs, ozone action programs and targeted public outreach efforts. Programs of this type attempt to gain additional emission reductions beyond mandatory Clean Air Act requirements and state rules by engaging the public to make changes in activities that will result in reducing mobile source emissions.

A criterion for approval of VMEPs into SIPs is that the voluntary measure be enforceable. Under this policy, the State is obligated to monitor, assess and report on the implementation of voluntary actions and the resultant emission reductions from those actions. In addition, the State must remedy, in a timely manner, any emission reduction shortfalls should the voluntary measure not achieve the projected emission reduction.

The purpose of this revision is to clarify the State's commitment to remedy any shortfalls in the emission reduction attributed to the VMEP so as to achieve all necessary reductions by the attainment date. The state can remedy such a shortfall by revising the voluntary program such that needed reductions will in fact be achieved, adopting substitute control measures, or demonstrating that attainment can be reached without those emission reductions. This proposed language in no way changes existing language in Section 6.3.8 of the December 2000 HG Attainment Demonstration SIP. This rule represents additional, clarifying language to be added to the SIP. Our review indicates that this additional language does not change or weaken the commitment, but merely adds clarity. EPA has reviewed the state's submittal and believes that it is not entirely clear on the timeframe in which the state would remedy any emission reductions shortfall. EPA has commented to the state that the commitment should be further clarified to explicitly express that the state will remedy any emission reduction shortfall by the attainment date. EPA proposes to approve the state's clarification of its commitment provided that the state further clarifies the commitment consistent with EPA's

comment to explicitly state that any shortfall will be remedied by the attainment date.

The affected area would include the following counties within the HG nonattainment area: Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller. This control strategy is a necessary measure to consider for contributing to a successful attainment demonstration with the NAAQS for ozone.

Proposed Action

We are proposing approval of two revisions: (1) delayed implementation of the 55 mph speed limit for vehicles weighing less than 10,000 pounds until May 1, 2005, or, in the alternative, EPA request's comment on suspension of the implementation of the 55 mph speed limit until May 1, 2005 and increasing the speed limit to a level 5 mph below the previously posted speed limits in the interim; and (2), clarification of a State commitment to remedy any shortfalls in the emission reductions attributed to the VMEP for the HG Ozone Nonattainment Area so as to achieve all necessary reductions by the attainment date.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution or Use" (66 FR 28355, May 22, 2001). This action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the

Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Motor vehicle pollution, Volatile organic compounds, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

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

Dated: September 18, 2002.

Gregg A. Cooke,

Regional Administrator, Region 6.

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