

national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note), EPA's role is to approve state actions, 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 do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: May 4, 2005.

Richard E. Greene,

Regional Administrator, Region 6.

[FR Doc. 05-9483 Filed 5-11-05; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R06-OAR-2005-TX-0021; FRL-7910-9]

Approval and Promulgation of Implementation Plans; State of Texas; Control of Air Pollution From Motor Vehicles, Mobile Source Incentive Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve revisions to the Texas State Implementation Plan (SIP) to incorporate the Texas Emission Reduction Plan (TERP) into the Texas SIP. The TERP is utilized in each of the nonattainment areas and near nonattainment areas in the state to achieve reductions in the emissions of oxides of nitrogen from on-road and non-road mobile sources. This action will allow the State to capture credit from those reductions and use them in attainment demonstrations for these areas.

DATES: Comments must be received on or before June 13, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID No. R06-OAR-2005-TX-0021, by one of the following methods:

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

- Agency Web site: <http://docket.epa.gov/rmepub/>. Regional Material in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

- U.S. EPA Region 6 "Contact Us" Web site: <http://epa.gov/region6/r6comment.htm>. Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

- E-mail: Mr. Thomas Diggs at diggs.thomas@epa.gov. Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

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

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

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

Instructions: Direct your comments to Regional Material in EDocket (RME) ID No. R06-OAR-2005-TX-0021. EPA's policy is that all comments received will be included in the public file without change, and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through Regional Material in EDocket (RME), regulations.gov, or e-mail if you believe that it is CBI or otherwise protected from disclosure.

The EPA RME website and the federal regulations.gov are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public file and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the Regional Material in EDocket (RME) index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in the official file which is available at the Air Planning Section (6PD-L),

Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment: Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Sandra Rennie, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7367; fax number 214-665-7263; e-mail address rennie.sandra@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

Outline

What Action Are We Taking?
 What Is the Background for This Action?
 What Did the State Submit?
 What Do These Rules Require?
 What Are Oxides of Nitrogen?
 What Areas in Texas Will This Action Affect?
 Why Are We Proposing To Approve This Submittal?
 Proposed Action
 Statutory and Executive Order Reviews

What Action Are We Taking?

We are proposing to approve a revision to the SIP as an economic incentive program consistent with EPA's guidance. For a more complete description of our review, please see the technical support document for this action.

We are proposing to approve rules that implement a portion of the TERP legislation. The legislation created an economic incentive program to accelerate the introduction of lower emitting mobile source technologies in nonattainment and near nonattainment areas of Texas. The State adopted these rules on August 22, 2001.

We are also proposing to approve revisions to these rules that the State adopted on January 28, 2004, and submitted to EPA on March 3, 2004.

What Is the Background for This Action?

In 2001, the Texas Legislature enacted Senate Bill 5, which established the TERP. The TERP includes a grant program designed to accelerate the early introduction and use of lower emitting diesel technologies in the nonattainment and near nonattainment areas of Texas; a grant program to fund improved energy efficiency in buildings; purchase and lease incentives to encourage the introduction of cleaner light duty vehicles into the Texas fleet; and funding for research and development programs focused on new air pollution reduction technologies. This legislation also establishes a statewide incentive program for the purchase or lease of new on-road diesel vehicles and light-duty motor vehicles that meet more stringent emission standards than those required by any federal requirements. The incentives eligible for on-road diesel vehicles are for the incremental cost to purchase the cleaner vehicle. The incentive for eligible light duty vehicles is a specified dollar amount. Each of the incentives is based on the specific emission standard to which the vehicle is certified.

In 2003 Texas House Bill 1365 amended surcharges and fees which fund TERP, along with the eligibility criteria. The 2003 amendments broaden the list eligible to apply for a grant. This adoption also adds three counties to the list where eligible projects may be funded and also includes all counties in nonattainment areas. The amendment also provides for the new methods for streamlining the grant process for small business. The 2003 legislation was projected to provide approximately \$120 million per year for funding those programs through September 2008.

What Did the State Submit?

On March 9, 2005, the Texas Commission on Environmental Quality submitted Texas Emission Reduction Plan rules at 30 TAC, Chapter 114, Subchapter K, Mobile Source Incentive Programs, Division 3, Diesel Emission Reduction Incentive Program for On-Road and Non-Road Vehicles, to EPA as a revision to the SIP. These new rules are found in 30 TAC Sections 114.620-623, 114.626, and 114.629. The State adopted revisions to these rules on January 28, 2004, and submitted them to EPA on March 3, 2004.

What Do These Rules Require?

The TERP includes a number of voluntary incentive and assistance programs designed to help improve the air quality in Texas. The programs included in TERP are as follows: Heavy-Duty Motor Vehicle Purchase or Lease Incentive Program, Light-Duty Motor Vehicle Purchase or Lease Incentive Program and Diesel Emission Reduction Incentive Grant Program for On-Road and Non-Road Vehicles ("Incentive Grant Program"). It is the Incentive Grant Program that is contained in Division 3 and that is before us as a SIP revision.

The Incentive Grant Program rules delineate the individuals and businesses that may apply for grants under TERP and provide that all applicants are subject to the criteria listed in Texas Emission Reduction Plan: Guidance for Emissions Reduction Incentive Grants Program (RG-388). Eligible projects include multiple variations of leasing or purchasing, retrofitting, repowering, or other NO_x reducing technologies for on-road and off-road diesel powered engines. The rule requires that any project funded by a grant must operate no less than 75 percent of the vehicle miles traveled or hours of operations of that project over the following five years in a nonattainment or near nonattainment county.

The plan also requires that a project, excluding infrastructure projects, must meet a cost-effectiveness not to exceed \$13,000 per ton of NO_x emissions. Except in extreme circumstances, the emissions reductions gained by any project funded through a TERP grant may not be used for credit under any state or federal emission reduction credit averaging, banking or trading program. The program allows TERP reductions to be credited toward the NO_x cap and trade program in Houston but only in the unlikely event that the industrial source's compliance cost exceeds \$75,000/ton. In that case, the source would be able to deposit \$75,000/ton into the TERP account where the money would be utilized to achieve more cost effective mobile source reductions.

Use of TERP reductions in the NO_x cap and trade program is covered in 30 TAC 101.357, which is not the subject of this proposed action. We will address this issue when we act on the Mass Emissions Cap and Trade revisions at a later date.

What Are Oxides of Nitrogen?

Nitrogen oxides (NO_x) belong to the group of criteria air pollutants. NO_x results from burning fuels, including

gasoline and coal. Nitrogen oxides react with volatile organic compounds to form ozone or smog and are also major components of acid rain.

What Areas in Texas Will This Action Affect?

The TERP will provide potential emission reductions in the following counties: Bastrop, Bexar, Brazoria, Caldwell, Chambers, Collin, Comal, Dallas, Denton, El Paso, Ellis, Fort Bend, Galveston, Gregg, Guadalupe, Harris, Hardin, Harrison, Hayes, Henderson, Hood, Hunt, Jefferson, Johnson, Kaufman, Liberty, Montgomery, Nueces, Orange, Parker, Rockwall, Rusk, San Patricio, Smith, Tarrant, Travis, Upshur, Victoria, Waller, Williamson, Wilson, and any other county located within an area of Texas designated as nonattainment for ground-level ozone.

Why Are We Proposing To Approve This Submittal?

TERP Division 3 is a measure relied upon in State Implementation Plans for the Early Action Compact areas of Austin, San Antonio, and Northeast Texas, as well as the Houston/Galveston Attainment Demonstration, and the Dallas/Fort Worth 5 percent Increment of Progress Plan. The amount of emission reductions projected for the TERP program is delineated in each of these plan revisions. These reductions are assisting areas to come into attainment with the National Ambient Air Quality Standard for ozone.

Diesel engines are targeted due to their relatively high NO_x emissions and their long operational life, which makes the introduction of newer cleaner engines into a fleet a long term process with normal turnover. The TERP will offset the incremental cost of projects that will reduce oxides of nitrogen emissions from heavy duty diesel trucks and construction equipment in nonattainment areas. This is an incentive to owners and operators to upgrade their fleets at an expedited rate. The upgrade of these fleets will reduce the amount of NO_x emissions to the atmosphere. We are proposing to approve these revisions to the Texas SIP because they will contribute to the attainment of the ozone standard, and therefore strengthen the SIP.

Proposed Action

TERP Division 3 is consistent with EPA guidance for an economic incentive program. See "Improving Air Quality With Economic Incentive Programs," EPA Office of Air and Radiation, EPA-452-/R-01-001 (Jan. 2001). Therefore, we propose to approve the TERP Division 3 rules.

Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review." This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997). EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has

the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it approves a state program.

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

List of Subjects in 40 CFR Part 52

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

Dated: May 4, 2005.

Richard E. Greene,
Regional Administrator, Region 6.

[FR Doc. 05-9480 Filed 5-11-05; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 388

[Docket Number: MARAD-2005-21105]

RIN 2133-AB50

Application Fee Increase for Administrative Waivers of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Maritime Administration (MARAD) proposes to increase the application fee for administrative waivers of the coastwise trade laws from \$300 to \$500. The increased fee would align the application fee with the actual cost of processing and issuing each waiver.

DATES: Comments are due June 13, 2005.