

International Business Reply Mail Service  
 Money Orders  
 Post Office Box Service  
 Negotiated Service Agreements  
 HSBC North America Holdings Inc.  
 Negotiated Service Agreement  
 Bookspan Negotiated Service Agreement  
 Bank of America Corporation Negotiated  
 Service Agreement  
 The Bradford Group Negotiated Service  
 Agreement  
 1001 Market Dominant Product  
 Descriptions  
 Part B—Competitive Products—2000  
 Competitive Product List  
 Express Mail  
 Express Mail  
 Outbound International Expedited Services  
 Inbound International Expedited Services  
 Inbound International Expedited Services 1  
 (CP2008–7)  
 Priority Mail  
 Priority Mail  
 Outbound Priority Mail International  
 Inbound Air Parcel Post  
 Parcel Select  
 Parcel Return Service  
 International  
 International Priority Airlift (IPA)  
 International Surface Airlift (ISAL)  
 International Direct Sacks—M-Bags  
 Global Customized Shipping Services  
 Inbound Surface Parcel Post (at non-UPU  
 rates)  
 International Money Transfer Service  
 International Ancillary Services  
 Special Services  
 Premium Forwarding Service  
 Negotiated Service Agreements  
 Domestic  
 Express Mail Contract 1 (MC2008–5)  
 Outbound International  
 Global Expedited Package Services (GEPS)  
 Contracts  
 GEPS 1 (CP2008–5)  
 Global Plus Contracts  
 Global Plus 1 (CP2008–9 and CP2008–10)

\* \* \* \* \*

[FR Doc. E8–18872 Filed 8–14–08; 8:45 am]

BILLING CODE 7710–FW–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R06–OAR–2005–TX–0027; FRL–8704–8]

### Approval and Promulgation of Air Quality Implementation Plans; Texas; Revisions to Chapter 117 and Emission Inventories for the Dallas/ Fort Worth 8-Hour Ozone Nonattainment Area

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving  
portions of revisions to the State  
Implementation Plan (SIP) submitted by

the State of Texas on May 13, 2005, to  
meet the 5% Increment of Progress (IOP)  
requirement for the Dallas/Fort Worth  
(DFW) nonattainment area. EPA is not  
taking action on the 5% IOP plan in this  
rulemaking. EPA is approving the 2002  
base year inventory for the DFW 8-hour  
ozone nonattainment area. EPA is also  
approving emissions reductions from  
energy efficiency measures  
implemented within the DFW 8-hour  
ozone nonattainment area, and revisions  
to 30 TAC, Chapter 117, Control of Air  
Pollution From Nitrogen Compounds,  
concerning stationary reciprocating  
internal combustion (IC) engines  
operating within the DFW 8-hour ozone  
nonattainment area. EPA is also  
approving into the SIP a federal consent  
decree and subsequent amendments  
thereto concerning the Alcoa Rockdale  
plant in Milam County. These actions  
result in emissions reductions in the  
DFW 8-hour ozone nonattainment area  
and are taken in accordance with  
section 110 and part D of the Clean Air  
Act (the Act) and EPA's regulations.

**DATE:** This final rule is effective on  
September 15, 2008.

**ADDRESSES:** EPA has established a  
docket for this action under Docket No.  
EPA–R06–OAR–2005–TX–0027. All  
documents in the docket are listed on  
the [www.regulations.gov](http://www.regulations.gov) Web site.  
Although listed in the index, some  
information is not publicly available,  
e.g., 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 through  
[www.regulations.gov](http://www.regulations.gov) or in hard copy 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 fee of 15 cents per page 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, which is part of  
the EPA record, 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:** Ms.  
Carrie Paige, Air Planning Section  
(6PD–L), Environmental Protection  
Agency, Region 6, 1445 Ross Avenue,  
Suite 700, Dallas, Texas 75202–2733,  
telephone (214) 665–6521; fax number  
214–665–7263; e-mail address  
[paige.carrie@epa.gov](mailto:paige.carrie@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us,”  
and “our” means EPA.

#### Outline

- I. Background
- II. What Action Is EPA Taking?
- III. What Comments Did EPA Receive on the  
August 22, 2006 Proposed Rulemaking  
for DFW?
- IV. Final Action
- V. Statutory and Executive Order Reviews

#### I. Background

On August 22, 2006, EPA proposed  
approval of the 5% Increment of  
Progress (IOP) plan for the nine counties  
that comprise the DFW 8-hour ozone  
nonattainment area; the 2002 base year  
emissions inventory (EI); the 2007 motor  
vehicle emissions budget (MVEB); and  
related control measures, including a  
federal consent decree concerning an  
Alcoa plant in Rockdale, Milam County,  
dated April 9, 2003; energy efficiency  
measures implemented within the DFW  
8-hour ozone nonattainment area; and  
revisions to 30 TAC, Chapter 117,  
Control of Air Pollution From Nitrogen  
Compounds, concerning stationary  
reciprocating IC engines operating  
within the DFW 8-hour ozone  
nonattainment area.

The August 22, 2006, proposal  
provides a detailed description of the  
revisions and the rationale for EPA's  
proposed actions, together with a  
discussion of the opportunity to  
comment. The public comment period  
for these actions closed on September  
21, 2006. See the Technical Support  
Documents (TSDs) or our proposed  
rulemaking at 71 FR 48870 for more  
information.

On December 22, 2006, the U.S. Court  
of Appeals for the District of Columbia  
Circuit issued a decision in response to  
challenges to EPA's Phase 1  
Implementation Rule for the 8-hour  
Ozone Standard (Phase 1 Rule), granting  
challenges to certain provisions of the  
rule and denying other challenges (69  
FR 23951, April 30, 2004). *South Coast  
Air Quality Mgmt. Dist. v. EPA*, 472 F.3d  
882 (DC Cir. 2006). Because of this  
ruling, EPA decided to delay taking

action on the proposal. On June 8, 2007, in response to several petitions for rehearing, the DC Circuit clarified that the Phase 1 Rule was vacated only with regard to those parts of the rule that had been successfully challenged. Therefore, the Phase 1 Rule provisions placing certain areas solely under the planning requirements of subpart 1 of the Act and provisions waiving three 1-hour requirements from the anti-backsliding provisions of the Phase 1 Rule (69 FR 23951) were vacated. Other provisions, which were not challenged or on which the Agency was upheld, remain in effect. These include the classification provisions for 8-hour nonattainment areas under subpart 2 of Title I; part D of the Act; the 8-hour attainment dates; the timing for emissions reductions needed for attainment of the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS or standard); and the provisions retaining certain 1-hour requirements as anti-backsliding measures.

As a result of this ruling, all relevant requirements of the 5% IOP plan remain in effect and EPA anticipated finally taking action on its proposal. The June 8, 2007, opinion clarifies that the Court did not vacate the Phase 1 Rule's provisions specifying how areas with an outstanding 1-hour attainment demonstration obligation may meet that obligation. Just as EPA was preparing a final action, the DC Circuit issued an order in a second case, which impacted this proposal.

On November 2, 2007, United States Court of Appeals for the District of Columbia entered an Order in the case of *NRDC v. EPA*, Nos. 06–1045, 06–1046 and 06–1047 consolidated, which vacated and remanded to EPA a portion of the preamble to the Final Rule to Implement the 8-hour Ozone NAAQS—Phase 2, 70 FR 71612, November 29, 2005 (Phase 2 Rule). That portion of the Preamble set forth EPA's longstanding policy that allowed Reasonable Further Progress (RFP) plans and attainment demonstrations credit for reductions in nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOCs) occurring outside the nonattainment areas. This ruling impacted EPA's ability to take action on this proposal because, in reliance of this policy, Texas included in its DFW 5% IOP plan reductions from sources outside the nonattainment area.

## II. What Action Is EPA Taking?

EPA is approving only portions of the August 22, 2006, proposal. We are approving the 2002 base year VOC and NO<sub>x</sub> emissions inventories. We find that the 2002 base year VOC and NO<sub>x</sub> EIs

were developed in accordance with the Act and EPA's regulations, and are consistent with EPA's guidance.

We are approving revisions to 30 TAC, Chapter 117, Control of Air Pollution From Nitrogen Compounds, concerning stationary reciprocating IC engines operating within the DFW 8-hour ozone nonattainment area. We are also approving NO<sub>x</sub> emissions reductions of 0.72 tpd achieved by energy efficiency (EE) measures that occurred in the DFW nonattainment area in 2003. These reductions were achieved by power plants, as a result of EE measures implemented in new construction for single and multi-family residences. Therefore, we are approving these two measures into the Texas SIP because they will contribute to attainment of the 8-hour ozone NAAQS, and they meet EPA rules and are consistent with EPA guidance.

We are also approving the April 9, 2003, Alcoa federal consent decree and subsequent amendments thereto into the DFW SIP for establishing and making enforceable a 2.8 tpd reduction in NO<sub>x</sub> emissions by shutting down one of the three boilers and replacing one of the two remaining boilers with a circulating fluidized bed (CFB) boiler before June 15, 2007. These emissions reductions are outside of the DFW nonattainment area, and, as such, current EPA policy does not allow them to be included in the 5% IOP determination, but it does allow such emissions reductions to be used in an overall attainment plan.

Because of changing circumstances since the proposal, EPA cannot finalize its approval of that portion of the proposal that demonstrates DFW has met its 5% IOP obligation. As a result, EPA is also not finalizing action on the VOC and NO<sub>x</sub> MVEBs portion of the proposal. It should be noted that we found the VOC and NO<sub>x</sub> MVEBs adequate on June 1, 2005 (70 FR 31441). In this final action, EPA is only approving those portions of the proposal described below. EPA has determined that it is important to approve the remaining portions of the proposal so that they become a federally enforceable part of the DFW SIP.

We are taking action on the Reasonably Available Control Technology (RACT) for all major sources of VOCs in the DFW 1-hour ozone nonattainment area and emissions reductions projected for the Texas Emissions Reduction Plan (TERP) in a separate rulemaking.

## III. What Comments Did EPA Receive on the August 22, 2006 Proposed Rulemaking for DFW?

We received one comment letter dated September 21, 2006, from Marc Chytilo on behalf of Blue Skies Alliance, Downwinders At Risk, Public Citizen/Texas, and the Lone Star Chapter of the Sierra Club on the August 22, 2006, proposed rulemaking. This comment letter attached comments submitted to the State of Texas during the State's comment period as additional comments to our proposed rulemaking. The letter expressed general disappointment in the efforts put forth by the Texas Commission on Environmental Quality (TCEQ) to improve air quality in the DFW area. In addition, the letter included adverse comments on numerous issues relevant to the proposed rulemaking, including certain control measures that Texas submitted for approval to assist in meeting the 5% IOP.

*Comment:* The commenter states that the work done by Texas to achieve the 1-hour ozone standard in the DFW area was inadequate and that the area remains years away from attaining either the 1-hour or 8-hour ozone standards. The DFW area should now be subject to a Federal Implementation Plan (FIP), outstanding Rate of Progress (ROP) requirements and a mid course review requirement.

*Response:* As a result of numerous control measures implemented under the 1-hour ozone standard, the area's 1-hour ozone values have declined significantly in the past several years. The 2004–2006 1-hour design value for the DFW area is 124 parts per billion (ppb) and the preliminary 1-hour design value for 2005–2007 is also 124 ppb, which meets the 1-hour standard, although this standard was revoked in 2005. As discussed above, EPA is not at this time making a finding with regard to the DFW 5% IOP obligation. Texas has submitted and EPA has approved the 1-hour ROP requirements for the DFW area under the 1-hour ozone standard (see the August 22, 2006 rulemaking at 71 FR 48870). The area is subject to RFP requirements for the 8-hour ozone standard, which was submitted with the State's 8-hour ozone attainment demonstration SIP, by June 15, 2007. There is no mid-course review requirement at this time for either the 1-hour or 8-hour ozone SIP.

We agree that exposure to ozone pollution can affect public health. Even at very low levels, ground-level ozone triggers a variety of health problems including aggravated asthma, reduced lung capacity, and increased

susceptibility to respiratory illnesses like pneumonia and bronchitis. It can also have detrimental effects on plants and ecosystems. Continued implementation of requirements under the Act should improve air quality and allow nonattainment areas, such as DFW, to attain the ozone standard and thereby reduce negative health effects.

*Comment:* The commenter opposes use of the TERP within the 5% IOP, indicating that the TERP was approved into the SIP on November 14, 2001 (66 FR 57160).

*Response:* The concept of TERP as an economic incentive program was approved in the 2001 rulemaking, but we did not in that action approve a SIP credit methodology and therefore we did not approve any TERP emissions reductions as SIP credits. The emissions reduction credits requested by the State for today's rulemaking were neither requested nor approved in the 2001 rulemaking. As discussed above, EPA is not taking action on emissions reductions from the TERP in today's action.

*Comment:* The commenter opposes the inclusion of emissions reductions from Federal measures in the 2007 emissions inventory.

*Response:* Federal measures, which include growth, fleet turnover, and certain measures already in the EPA-approved SIP, along with the calculations, are used to establish a representative emissions inventory for 2007. Because including these factors aids the formation of a representative inventory, EPA's guidance on the development of emissions inventories encourages their inclusion. EPA issued a guidance memorandum on August 18, 2004,<sup>1</sup> that outlines the criteria for 5% IOP plans. This guidance instructs the State to develop a 2007 inventory, including growth, fleet turnover, and measures already in the EPA-approved SIP. The commenter incorrectly assumes that these factors help the State achieve the 5% IOP; in fact, they increase the difficulty. The factors included in developing the 2007 inventory were not used toward the 5% increment of emissions reduction. In fact, the 2002 inventory provides the baseline emissions level for calculating reduction targets and the control strategies for achieving the required emissions reductions. The measures that assist the area in reaching the 5% reduction are new to the SIP, reduce emissions from area and mobile sources,

and are clearly listed in the proposed rulemaking and the TSDs. This methodology is consistent with EPA's past practices for 1-hour ozone SIPs, per sections 110(a)(2) and 172(c) of the Act. To repeat, we are not taking action on the overall 5% IOP in this rulemaking.

*Comment:* The commenter mentioned a number of concerns regarding the creation of the 5% IOP and other concerns related to the 8-Hour Ozone Implementation Rule, such as: (1) The commenter believes that the fees as described in section 185 of the Act and other severe area requirements should apply to DFW; (2) the commenter states that EPA does not have the authority to revoke the 1-hour standard; and (3) the commenter believes that the 5% IOP allows areas to "backslide" by not requiring areas with outstanding 1-hour attainment demonstration obligations to submit either a 1-hour or 8-hour attainment demonstration SIP.

*Response:* All of the concerns outlined above by the commenter were addressed in a separate final rule. For a detailed discussion on EPA's rationale on the revocation of the 1-hour ozone standard and the transition from the 1-hour to the 8-hour standard as a way to ensure continued momentum in States' efforts toward cleaner air, see our Phase 1 Implementation Rule (69 FR 23951) and Final Rule regarding Implementation of the 8-Hour Ozone NAAQS—Phase 1: Reconsideration (70 FR 30592). See also the discussion in Section I above.

The concerns raised regarding the fees as described in section 185 of the Act do not apply to the DFW 1-hour nonattainment area since the area was classified as serious at the time of designation under the 8-hour standard. We also note that as a result of numerous control measures implemented under the 1-hour ozone standard, the area's 1-hour ozone values have declined significantly in the past several years and currently meet the 1-hour standard, although this standard was revoked in 2005.

*Comment:* The commenter opposes the use of Alcoa emissions reductions, citing emissions reductions that were adopted into the SIP by direct final rule on October 26, 2000, and suggesting that the emissions reductions were counted twice.

*Response:* The October 26, 2000 rulemaking is found at 65 FR 64148. This rulemaking discusses the 2000 Texas agreed order and the resulting 30% emissions reductions that were required to be in place by December 31, 2002. The maximum allowable NO<sub>x</sub> emissions from Alcoa under this 2000 Texas agreed order is 13,622.4 tons per

year (tpy). Furthermore, no later than by December 31, 2002, each boiler must meet a NO<sub>x</sub> emissions limit of 1168.0 pounds per hour and 5115.8 tpy. Those emissions reductions were relied on in the DFW 1-hour ozone nonattainment area attainment demonstration SIP because they were shown to contribute to attainment of that standard in DFW. The August 22, 2006, proposed rulemaking distinguishes the October 26, 2000, rulemaking requirements from those in the 2003 Alcoa United States consent decree. The required emissions reductions and limits from the 2000 Texas-agreed order were included in the 2002 emissions inventory baseline. The proposed rulemaking and TSDs describe the additional reductions required by the 2003 United States consent decree. These emissions reductions are surplus to those approved in the October 26, 2000, SIP.

In response to this comment, we also refer back to Section I above, which discusses that EPA's policy allowing credit in a RFP plan for reductions outside a nonattainment area has been remanded to EPA. We are approving the emissions reductions credit from the 2003 Alcoa consent decree in the DFW area toward attainment. We are not using these reductions to achieve the 5% IOP as a result of the remand discussed in Section I above.

*Comment:* The commenter contends that RACT must be re-proposed and suggests the Reasonably Available Control Measures (RACM) analysis is deficient.

*Response:* We agree with the comment concerning RACT, and EPA will take action on the RACT in a separate rulemaking (see 73 FR 40203, July 14, 2008). Additionally, the 5% IOP does not include a RACT requirement (40 CFR 51.905(a)(1)(ii)(B)). However, the SIP implementing the 8-hour standard for the DFW nonattainment area is required to assure that RACT is met (40 CFR 51.912(a)). For more information on the RACT requirement for the 8-hour standard, please see our Phase 2 Rule (70 FR 71612).

A RACM analysis is not required under the 5% IOP SIP (40 CFR 51.905(a)(1)(ii)(B)). Per 40 CFR 51.905(a)(i), the area remains subject to the obligation to adopt and implement the applicable requirements as defined in 40 CFR 51.900(f), which do not include RACM; therefore, a RACM analysis was not submitted. A RACM analysis is required under the 8-hour ozone standard; for more information on the RACM requirement for the 8-hour standard, please see our Phase 2 Rule (70 FR 71612).

<sup>1</sup> "Guidance on 5% Increment of Progress" (40 CFR 51.905(a)(1)(ii)), August 18, 2004; from Lydia Wegman, Director, OAQPS, to EPA Regional Air Directors.

*Comment:* The commenter contends that the MVEBs are neither approvable nor adequate and that we cannot make a finding that the resulting emissions will not cause or contribute to exceedances and violations of the ozone standards.

*Response:* Note that, per 40 CFR 93.118, budgets cannot be used for conformity until EPA has either found the budgets “adequate” or approved the SIP in which they are contained (see the transportation conformity rule at 69 FR 40003). The notice of adequacy determination for the MVEBs used in the DFW 5% IOP was published June 1, 2005 at 70 FR 31441; no comments were received during the comment period for this announcement. As explained in Section II above, EPA will take no action on the VOC and NO<sub>x</sub> MVEBs in this rulemaking.

It should be noted that the conformity regulations at 40 CFR 93.101 (see definitions of motor vehicle emissions budget and control strategy implementation plan) indicate that MVEBs are established by any SIP that provides for reasonable further progress milestones. The 5% IOP plan would establish an 8-hour MVEB because the goal of the IOP is to provide reasonable further progress toward attainment of the 8-hour ozone standard. States should establish the target level of VOC and NO<sub>x</sub> emissions that can occur in the area without affecting the area’s ability to meet the 5% IOP requirement. For more information on the establishment of the 5% IOP, please see our Phase 1 Rule (69 FR 23951).

*Comment:* The commenter contends that the SIP documents are overly complicated, and all elements of the SIP should be located in one place on the State Web site.

*Response:* The State is required to make the submittal publicly accessible, and all information, per the TCEQ, is available at <http://www.tnrcc.state.tx.us/oprd/sips>. The TCEQ acknowledged the complexity of Web sites and indicated they would, in the future, add the SIP proposal and related rules to the DFW SIP page or provide links to other pages.

*Comment:* The commenter states that the timing and location of the public hearings undermined meaningful public participation and that doors were locked and people barred from the State’s public hearing on the draft 5% IOP.

The commenter further asserts that these acts did not provide an adequate opportunity to review and comment on the emissions inventory.

*Response:* We understand that the State was unaware that the doors were locked at the particular meeting in Arlington because there were at least 28

people present at the hearing. The State has updated its policy regarding public meetings to ensure that doors will remain unlocked during public meetings. Although the doors were locked for a portion of this particular meeting, opportunities for the public to participate in the process remained. This public meeting was held on Monday, January 3, 2005, and written public comment was accepted until 5 p.m. on January 6, 2005. In addition, two other public hearings were held—in Austin on January 4, 2005 and Houston on January 5, 2005. Notices of the public meetings for the 5% IOP SIP revision were published in the Austin, Fort Worth, and Houston newspapers in late November, more than a month prior to the meetings. Notice was also published in the Texas Register on December 3, 2004, one month prior to the hearings. Finally, Texas accepted public comments at meetings in September and November 2004, and accepted written comments through January 6, 2005. The timing suggests there was ample opportunity to review and provide comments on the State submittal.

#### IV. Final Action

EPA is approving portions of revisions to the SIP submitted on May 13, 2005, by the State of Texas for the DFW nonattainment area. We are approving the 2002 base year EI; emissions reductions from energy efficiency measures; an April 9, 2003, federal consent decree and subsequent amendments thereto concerning the Alcoa Rockdale plant in Milam County; and revisions to 30 TAC, Chapter 117, Control of Air Pollution From Nitrogen Compounds, concerning stationary reciprocating IC engines operating within the DFW 8-hour ozone nonattainment area and incorporating these revisions into the Texas SIP. These revisions are consistent with the requirements of the Act and EPA’s regulations, guidance and policy. We are approving these rules under section 110 and part D of the Act and EPA’s regulations.

#### V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal

requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other

required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 14, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

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

Dated: August 7, 2008.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

■ 40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

#### Subpart SS—Texas

■ 2. Section 52.2270 is amended as follows:

■ a. The table in paragraph (c) entitled, "EPA Approved Regulations in the

Texas SIP" is amended under Chapter 117 (Reg 7) as follows:

■ 1. Under Subchapter B, by revising the entries for Sections 117.114, 117.201, 117.203, 117.206, 117.213, and 117.214;

■ 2. Under Subchapter D, by revising the entry for Section 117.479.

■ 3. Under Subchapter E, by revising the entry for Section 117.520.

■ b. The table in paragraph (d) entitled "EPA-Approved Texas Source-Specific Requirements" is amended by adding one new entry at the end.

■ c. The second table in paragraph (e) entitled "EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP" is amended by adding two new entries at the end.

The revisions and additions read as follows:

#### § 52.2270 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

#### EPA-APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/ submission date	EPA approval date	Explanation
* * *	* * *	* * *	* * *	* * *
<b>Chapter 117 (Reg 7)—Control of Air Pollution from Nitrogen Compounds</b>				
* * *	* * *	* * *	* * *	* * *
<b>Subchapter B—Combustion at Major Sources</b>				
<b>Division 1—Utility Electric Generation in Ozone Nonattainment Areas</b>				
* * *	* * *	* * *	* * *	* * *
Section 117.114 .....	Emission Testing and Monitoring for the Houston-Galveston Attainment Demonstration.	04/27/05	08/15/2008 [Insert <i>FR</i> page number where document begins].	
* * *	* * *	* * *	* * *	* * *
<b>Division 3—Industrial, Commercial, and Institutional Combustion Sources in Ozone</b>				
Section 117.201 .....	Applicability .....	04/27/05	08/15/2008 [Insert <i>FR</i> page number where document begins].	
Section 117.203 .....	Exemptions .....	04/27/05	08/15/2008 [Insert <i>FR</i> page number where document begins].	
* * *	* * *	* * *	* * *	* * *
Section 117.206 .....	Emission Specifications for Attainment Demonstrations.	04/27/05	08/15/2008 [Insert <i>FR</i> page number where document begins].	
* * *	* * *	* * *	* * *	* * *
Section 117.213 .....	Continuous Demonstration of Compliance.	04/27/05	08/15/2008 [Insert <i>FR</i> page number where document begins].	
Section 117.214 .....	Emission Testing and Monitoring for the Houston-Galveston Attainment Demonstration.	04/27/05	08/15/2008 [Insert <i>FR</i> page number where document begins].	

## EPA-APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
*	*	*	*	*
<b>Subchapter D—Small Combustion Sources</b>				
*	*	*	*	*
<b>Division 2—Boilers, Process Heaters, and Stationary Engines and Gas Turbines at Minor Sources</b>				
Section 117.479 .....	Monitoring, Recordkeeping and Reporting Requirements.	04/27/05	08/15/2008 [Insert <i>FR</i> page number where document begins].	
<b>Subchapter E—Administrative Provisions</b>				
*	*	*	*	*
Section 117.520 .....	Compliance Schedule for Industrial, Commercial and Institutional Combustion Sources in Ozone Non-attainment Areas.	04/27/05	08/15/2008 [Insert <i>FR</i> page number where document begins].	
*	*	*	*	*

(d) \* \* \*

\* \* \* \* \*

## EPA-APPROVED STATE SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit or Order No.	State effective date	EPA approval date	Comments
*	*	*	*	*
Alcoa Inc, Rockdale, Milam County, Texas.	Permit Number 48437 .....	04/27/05	08/15/2008 [Insert <i>FR</i> page number where document begins].	

(e) \* \* \*

\* \* \* \* \*

## EPA-APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Comments
*	*	*	*	*
2002 Emissions Inventory .....	Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall and Tarrant Counties, TX.	04/27/05	08/15/2008 [Insert <i>FR</i> page number where document begins].	
Energy Efficiency Measures .....	Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall and Tarrant Counties, TX.	04/27/05	08/15/2008 [Insert <i>FR</i> page number where document begins].	

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180****[EPA-HQ-OPP-2007-1065; FRL-8375-4]****Forchlorfenuron; Permanent and Time-Limited Pesticide Tolerances****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a permanent tolerance for residues of forchlorfenuron in or on bushberry subgroup 13-07B requested by the IR-4 Project Headquarters, 500 College Road East, Suite 201 W, Princeton, NJ 08540. Time-limited tolerances are also being established under this regulation in support of experimental use permit 71049-EUP-4 for residues of forchlorfenuron in or on almond, cherry, fig, pear, pistachio, plum/prune requested by KIM-C1, LLC c/o Siemer and Associates, Inc. 135 W. Shaw, Suite 102, Fresno, CA 93704. The time-limited tolerances expire on December 31, 2011. IR-4 and KIM-C1, LLC requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective August 15, 2008. Objections and requests for hearings must be received on or before October 14, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established dockets for this action under docket identification (ID) numbers EPA-HQ-OPP-2007-0627 and EPA-HQ-OPP-2007-1065. To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 in the electronic docket at <http://www.regulations.gov>, or, if only

available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:**

Tawanda Maignan, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8050; e-mail address: [maignan.tawanda@epa.gov](mailto:maignan.tawanda@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. General Information****A. Does this Action Apply to Me?**

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

**B. How Can I Access Electronic Copies of this Document?**

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at <http://www.regulations.gov>, you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr>. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

**C. Can I File an Objection or Hearing Request?**

Under section 408(g) of FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2007-1065 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before October 14, 2008.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA-HQ-OPP-2007-1065, by one of the following methods:

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

- **Mail:** Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- **Delivery:** OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

**II. Petition for Tolerance**

In the **Federal Register** of October 24, 2007 (72 FR 205) (FRL-8150-8) and of February 13, 2008 (73 FR 30) (FRL-8351-5), EPA issued notices pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7E7228) by the IR-4 Project Headquarters, 500 College Road East, Suite 201 W, Princeton, NJ 08540 and pesticide petition (PP 7F7246) by KIM-C1, LLC c/o Siemer and