

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
Section 101.393	General provisions	12/01/04	[Insert date of <i>FR</i> publication] [Insert <i>FR</i> page number where document begins].	
Section 101.394	Allocation of allowances	12/01/04	[Insert date of <i>FR</i> publication] [Insert <i>FR</i> page number where document begins].	
Section 101.396	Allowance deductions	12/01/04	[Insert date of <i>FR</i> publication] [Insert <i>FR</i> page number where document begins].	
Section 101.399	Allowance Banking and Trading	12/01/04	[Insert date of <i>FR</i> publication] [Insert <i>FR</i> page number where document begins].	
Section 101.400	Reporting	12/01/04	[Insert date of <i>FR</i> publication] [Insert <i>FR</i> page number where document begins].	
Section 101.401	Level of activity certification	2/01/04	[Insert date of <i>FR</i> publication] [Insert <i>FR</i> page number where document begins].	
Section 101.403	Program audits and reports	12/01/04	[Insert date of <i>FR</i> publication] [Insert <i>FR</i> page number where document begins].	
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[FR Doc. 06-7410 Filed 9-5-06; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2005-TX-0023; FRL-8216-4]

Approval and Promulgation of State Implementation Plans; Texas; Revisions for the Mass Emissions Cap and Trade Program for the Houston/Galveston/Brazoria Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revisions to the Texas State Implementation Plan (SIP) concerning the Mass Emissions Cap and Trade (MECT) program for emissions of nitrogen oxides (NO_x) in the Houston/Galveston/Brazoria (HGB) ozone nonattainment area. Additionally,

EPA is approving several subsections of Chapter 116 of the Texas Administrative Code (TAC) (Control of Air Pollution by Permits for New Construction or Modification) that provide cross-references to the MECT program. EPA is approving these revisions in accordance with the requirements of the Federal Clean Air Act (CAA).

DATES: This rule is effective on October 6, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2005-TX-0023. All documents in the docket are listed on the <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 <http://www.regulations.gov> or in hard

copy at the Air Permitting Section (6PD-R), 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 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 related to this SIP revision, and which is part of the EPA docket, 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:

Adina Wiley, Air Permitting Section (6PD-R), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone 214-665-2115, wiley.adina@epa.gov.

SUPPLEMENTARY INFORMATION:

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

Outline

- I. What action is EPA taking?
- II. What is the background for this action?
- III. What are EPA's responses to comments received on the proposed action?
- IV. What does Federal approval of a State regulation mean to me?
- V. Statutory and Executive Order Reviews

I. What action is EPA taking?

EPA is approving as part of the SIP revisions to the MECT program for NO_x emissions in the HGB ozone nonattainment area (consisting of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties) published at Texas Administrative Code (TAC) Title 30, Chapter 101 General Air Quality Rules, Subchapter H Emissions Banking and Trading, Division 3. EPA is approving revisions to sections 101.350-101.354, and 101.360 submitted on January 31, 2003, and revisions to sections 101.356 and 101.359, submitted on December 6, 2004. EPA is also approving revisions to 30 TAC Chapter 116, Control of Air Pollution by Permits for New Construction or Modification that provide cross-references to the MECT program. The revisions to Chapter 116 we are approving are subsections 116.111(a)(2)(L), 116.115(b)(2)(C)(iii), 116.176, 116.610(a)(6), and 116.615(5)(C), which were submitted as a SIP revision on April 12, 2001.

As discussed in our proposed action at 70 FR 58117, we conclude that these revisions to the MECT program are consistent with section 110(l) of the Clean Air Act.

II. What is the Background for this action?

The MECT program was adopted as a State regulation on December 6, 2000. The program is mandatory for most NO_x-emitting stationary facilities in the HGB area. The program sets a declining cap on NO_x emissions beginning January 1, 2002, with the final cap level set in 2007. Each year, covered facilities receive NO_x allowances in an amount determined by a formula, which uses emission rates established in 30 TAC Chapter 117. An allowance is the authorization to emit one ton of NO_x during a control period; a control period

is the calendar year. By March 1 each year, covered facilities must hold enough NO_x allowances to cover their emissions during the previous control period. Facilities may purchase, bank or sell their allowances. The MECT program has a provision to allow a facility to use emission reduction credits (ERCs) generated through the TCEQ Emission Credit Banking and Trading program to permanently increase its MECT allowances, but only if the credits were generated for NO_x in the HGB area before December 1, 2000. The MECT also has a provision to allow a facility to use discrete emission reduction credits (DERCs) and mobile discrete emission reduction credits (MDERCs) generated through the TCEQ Discrete Emission Credit Banking and Trading program in lieu of allowances if they are generated in the HGB area. EPA published a final rule approving the MECT program (except for the use of DERCs and MDERCs in the MECT, which we deferred acting on until our action on the DERC program) on November 14, 2001 (66 FR 57252). Texas has subsequently revised the MECT program in SIP submittals dated July 15, 2002, January 31, 2003, and December 6, 2004.

The MECT allowance allocations and resulting emission reductions were relied on in the HGB attainment demonstration submitted in 2000. As of 2000, the MECT rules were designed to reduce overall industrial NO_x emissions in the HGB area by approximately 90 percent.

Today's action approves several revisions to the MECT that TCEQ submitted to EPA on January 31, 2003, and December 6, 2004. These revisions made changes to support a shift from 90 percent control of industrial sources to 80 percent control in the HGB ozone nonattainment area, expanded the applicability of the MECT, updated and revised the provision of the MECT allowing for the use of DERCs and MDERCs in lieu of MECT allowances, and included a variety of non-substantive changes to correct grammar and reorganize the rule text for readability.

In our proposed approval of the MECT revisions (70 FR 58112), we stated that final action on the MECT would not occur until we published final approval of the attainment demonstration, which is being processed concurrently with this approval. For a further discussion of the attainment demonstration and EPA's responses to comments on this action, please see our action on the attainment demonstration (EPA-R06-OAR-2005-TX-0018).

Also in our proposed approval of the MECT revisions, we stated that the use of DERCs and MDERCs in the MECT program would not be federally approved until we published approvals of both section 101.356, which specifically provides for these uses and which we are acting on here, and the DERC program generally. EPA is publishing a final conditional approval of the DERC program concurrently with our action on the MECT. Therefore, the use of DERCs and MDERCs in the MECT is federally approved as of the effective date of these two rules, but all such uses must be consistent with the conditions of the DERC conditional approval. The TCEQ will not approve the use of any DERCs that were generated from shutdowns since September 30, 2002, and the use of banked shutdown DERCs generated before September 30, 2002, must occur within five years from the date of the commitment letter. In addition, with respect to all DERCs and MDERCs that are to be used in the MECT program, both generators and users of such credits must certify to a waiver of the Federal statute of limitations. EPA approval is also required when DERCs or MDERCs generated in another state or nation, and in either attainment or nonattainment areas (other than the HGB nonattainment areas) are requested for use in the MECT program. Please see the administrative record for our action on the DERC program for further information (EPA-R06-OAR-2005-TX-0029).

III. What are EPA's responses to comments received on the proposed action?

EPA's responses to comments submitted by Galveston-Houston Association for Smog Prevention (GHASP), Environmental Defense (Texas Office), the Lone Star Chapter of the Sierra Club, and Public Citizen (Texas Office) on November 4, 2005, are as follows. EPA has summarized the comments below; the complete comments can be found in the administrative record for this action (EPA-R06-OAR-2005-TX-0023).

Comment 1: EPA should not approve revisions to the SIP that increase the approved industrial NO_x cap level. Further, GHASP questions the technical basis for the alternative Emission Specifications for Attainment Demonstrations (ESADs) used by the TCEQ to establish the proposed NO_x MECT allocations.

Response to Comment 1: EPA disagrees with this comment. First, although the revisions to the allocation scheme represent a reduced level of

control as compared to the previous federally approved SIP, these revisions will nonetheless result in industrial NO_x emission reductions of approximately 80 percent as compared to year 2000 levels. Additionally, the reduction in NO_x emission controls from 90 percent to 80 percent will be countered by reductions in highly-reactive volatile organic compounds (HRVOCs) to achieve an equivalent level of air quality improvement.

Second, the reduction of the stringency of industrial NO_x controls (from approximately 90 percent to 80 percent) is not a component of the MECT revisions evaluated in this rule. The reduction from 90 percent to 80 percent control is actually the result of changes to the emission specifications for attainment demonstrations (ESADs) in 30 TAC Chapter 117. These Chapter 117 ESADs are then used in the MECT allowance allocation formulas in section 101.353. Our full response to this comment, which includes consideration of the changes to the Chapter 117 ESADs therefore appears in our action on the attainment demonstration for HGB (EPA-R06-OAR-2005-0018). This approach is logical because the change to 80 percent industrial NO_x controls is a part of the overall HGB attainment strategy, and should be evaluated in conjunction with other new features of that strategy, principally the addition of new controls for HRVOCs.

The MECT establishes a declining cap for NO_x emissions that is implemented in stages. Both the 90 percent NO_x control strategy and the 80 percent NO_x control strategy that replaced it allocate allowances based on emission goals that are a percentage of the baseline emission level. Allowances under the MECT were originally assigned based on 1997, 1998, and 1999 historical emissions or permit allowables. Section 101.353(a)(3) of the MECT controls the pace of implementation of the declining cap, while the revisions to Chapter 117 (which we are approving in our separate and simultaneous action on the attainment demonstration) reduce the stringency from a nominal 90 percent control to a nominal 80 percent control.

The effect of the change to a nominal 80 percent control strategy on the MECT will be to authorize a total number of MECT allowances in 2007 (the year the cap reaches its ultimate level) that is greater than it would have been under a nominal 90 percent strategy. As discussed in the attainment demonstration rule, however, the 80 percent strategy is consistent with attainment when combined with the other measures described in the attainment demonstration. Further, the

final MECT allowance total under the 80 percent strategy will result in a reduced level of NO_x emissions when compared to the present. Therefore, the 80 percent control level, which will be fully implemented after the 2007 control period, still results in an actual emissions decrease from 2000 levels, and not an increase in emissions as suggested by the commenters.

Comment 2: The MECT lacks a formal oversight mechanism sufficient to address potential environmental justice concerns. The audit provisions in section 101.311 do not specifically provide for an evaluation of the geographic distribution of NO_x allowances, and even if a provision were included in the audit, this would not address concerns that environmental justice issues be resolved in a timely manner. Specifically, GHASP is concerned about the scenario in which large amounts of NO_x MECT allowances could be traded into Harris County and combine with the large amounts of reactive VOC emissions in the same area. This could result in higher ozone levels than predicted by current modeling. EPA should also consider requiring TCEQ to establish a separate trading zone for Harris County to address environmental justice concerns.

Response to Comment 2: EPA disagrees that an additional formal oversight mechanism for Harris County NO_x levels is needed to protect the region from environmental justice concerns. The MECT is a trading program involving primarily emissions of NO_x, although section 101.356(h) does provide that VOC DERCs or MDERCs can be used in lieu of NO_x allowances if a demonstration has been made and approved by the TCEQ Executive Director and EPA. Environmental justice concerns can arise when a final EPA rule, such as a trading program, could result in disproportionate burdens on particular communities, including minority or low income communities. Using this definition, environmental justice concerns can only arise when there is a potential for particular communities to be affected differently from the surrounding areas. This can occur for VOC programs because some VOC emissions have toxic components that can affect discrete areas.

While EPA has acknowledged, at section 4.2(b) of "Improving Air Quality with Economic Incentive Programs" (EPA-452/R-01-001, January 2001) (EIP Guidance), that programs that allow trading of VOCs can result in localized increases of VOCs, the MECT program is designed to avoid such increases. In

particular, as discussed in our July 23, 2001, MECT proposal (66 FR 38240), the use of VOC reductions in place of NO_x allowances under the MECT can only drive VOC emissions lower. That is, because the only involvement of VOCs in the MECT program is the substitution of VOC decreases for NO_x increases, there is no scenario under which this program could allow higher VOC emissions than would otherwise occur. Moreover, NO_x (the focus of the MECT program) is an area-wide pollutant present throughout the HGB area, and therefore the trades of NO_x emissions pursuant to the MECT would not disproportionately impact a local community. Therefore, the HGB MECT does not have the potential to cause environmental justice concerns.

Further, the use of VOC DERCs or MDERCs in the MECT is subject to the stringent retirement ratios of section 101.356(h), which may result in more DERCs being retired than allowances used. Users of VOC DERCs and MDERCs must also obtain prior approval from the TCEQ according to section 101.376. The TCEQ will consider potential environmental justice concerns during this approval process.

For the above reasons, EPA concludes that the use of VOC DERCs and MDERCs in the MECT will not lead to a disproportionate impact on communities of concern.

Although we disagree that the MECT raises environmental justice concerns, GHASP's comment about the potential for high levels of ozone forming in Harris County is relevant to the future control strategy in the HGB area. The future MECT and HECT audits should closely analyze the interaction of the two programs and their combined impact on the HGB area.

Because of our conclusion that a NO_x trading program does not raise particular environmental justice issues, we also disagree that the MECT program requires additional oversight in order to address potential environmental justice concerns in a timely manner. As approved by EPA on November 14, 2001 (66 FR 57252), the MECT does have a formal audit provision that provides sufficient oversight to identify and address potential areas of concern. This audit provision is in section 101.363(a) of the MECT rules and requires TCEQ to conduct an audit every three years, beginning in 2004. The audit will evaluate the impact of the program on the State's ozone attainment demonstration, the availability and cost of allowances, compliance by the participants, and any other elements the TCEQ Executive Director may choose to include. The TCEQ Executive Director

will recommend measures to remedy any problems identified during the audit, including discontinuing allowance trading and use of discrete emission reduction credits and mobile discrete emission reduction credits. The audit data and results must be completed and submitted to EPA and made available for public inspection within 6 months from the beginning of the audit. TCEQ's first MECT audit, finalized in May 2006, is included in the administrative record for this rulemaking action.

The MECT audit provisions described above are consistent with EPA's expectations for evaluating the results of an economic incentive program (EIP), as outlined in section 5.3(b) of the EIP Guidance. Section 5.3(b) explains that an appropriate schedule for program evaluations is at least every three years, which coincides with other periodic reporting requirements such as those applicable to emission inventory requirements required by the CAA. EPA believes that the triennial MECT audit schedule and the required annual report (section 101.363(b)) that summarizes all MECT trades completed in the most recent control period will be sufficient to ensure the MECT does not jeopardize the HGB area's attainment strategy. Also, we note that the MECT audit may in any case consider environmental justice, because section 101.363(a)(1) provides that the audit may address "any other elements the executive director may choose to include."

As noted, we disagree with the commenters that the MECT program raises any environmental justice concerns. In addition, we disagree with their assertion that an increase in ozone formation resulting from large amounts of NO_x and HRVOC emissions is an issue of significant concern. We have reviewed the audit results for the 2002 and 2003 control periods, which show that MECT-subject facilities in all counties except Liberty County significantly reduced their total NO_x emissions from the historical baseline. Actual emissions in Harris County were reduced by 47.1 percent from the historical baseline in 2002 and 62.2 percent from the historical baseline in 2003. Actual emissions in 2003 for the entire HGB area were approximately 86,693 tons; which is already lower than the total amount of 2005 allocations of approximately 87,159 tons. TCEQ expects this trend to continue in future control periods as further reductions are implemented. Therefore, it is reasonable to conclude that under the MECT program Harris County will not have an increase in NO_x emissions that could result in increased ozone formation.

Additionally, EPA continues to support TCEQ's attainment strategy for HGB where the MECT and HECT are integral to reducing levels of ozone. The administrative record for our final action on the HGB attainment demonstration may be found at docket number EPA-R06-OAR-2005-TX-0018.

Finally, EPA also disagrees that a separate trading zone should be established for Harris County to address environmental justice concerns. First, as mentioned above, if and when VOC DERCs and MDERCs are requested for use in lieu of NO_x allowances the TCEQ will consider potential environmental justice concerns during the approval process for such uses. (And in any case, as discussed previously, such use of VOC reductions in lieu of NO_x allowances can only drive VOC emissions lower.) Second, EPA has determined that NO_x emissions are a concern for the entire HGB ozone nonattainment area. Therefore, it is reasonable and appropriate to establish a cap-and-trade program for the entire nonattainment area.

EPA's response to BCCA Appeal Group (BCCAAG) and Texas Industry Project (TIP) comments made on November 4, 2005 is as follows:

Comment: BCCA Appeal Group and TIP support EPA's proposed approval of the revisions to the MECT program and urge EPA to finalize its approval as soon as practicable.

Response: EPA acknowledges the support of BCCAAG and TIP for our approval of revisions to the MECT.

IV. What does Federal approval of a State regulation mean To me?

Enforcement of the State regulation before and after it is incorporated into the federally approved SIP is primarily a State function. However, once the regulation is federally approved, the EPA and the public may take enforcement action against violators of these regulations. In addition, only regulations that have been federally approved can be credited toward an area's attainment or rate of progress plan. EPA is approving the revisions to the 1-hour ozone attainment plan for the HGB area to shift the control strategy from approximately 90 percent control of industrial NO_x emissions to 80 percent control (please see EPA-R06-OAR-2005-TX-0018). The revisions to the MECT enable the shift in the control strategy, and therefore must be approved with the attainment demonstration.

V. Statutory and Executive Order Reviews

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 approves 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 (Pub. L. 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). This action 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 CAA. This 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, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. 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 CAA. 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.*).

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 rule 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 CAA, petitions for judicial review of this action must be filed in the United States

Court of Appeals for the appropriate circuit by November 6, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 40 CFR Part 52

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

Dated: August 24, 2006.

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. The table in § 52.2270(c) entitled "EPA Approved Regulations in the Texas SIP" is amended:

■ a. Under Chapter 101—General Air Quality Rules, Subchapter H—Emissions Banking and Trading, Division 3—Mass Emissions Cap and Trade Program, by revising the entries for sections 101.350, 101.351, 101.352, 101.353, 101.354, 101.356, 101.358, 101.359, 101.360 and 101.363;

■ b. Under Chapter 116 (Reg 6)—Control of Air Pollution by Permits for New Construction or Modification, Subchapter B—New Source Review Permits, Division 1—Permit Applications, by revising the entries for sections 116.111 and 116.115;

■ c. Under Chapter 116 (Reg 6)—Control of Air Pollution by Permits for New Construction or Modification, Subchapter B—New Source Review Permits, Division 7—Emission Reductions: Offsets, by revising the entry for section 116.170 and by adding a new entry for section 116.176;

■ d. Under Chapter 116 (Reg 6)—Control of Air Pollution by Permits for New Construction or Modification, Subchapter F—Standard Permits, by revising the entries for sections 116.610 and 116.615.

The addition and revisions read as follows:

§ 52.2270 Identification of plan.

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(c) * * *

EPA-APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
Chapter 101—General Air Quality Rules				
*	*	*	*	*
Subchapter H—Emissions Banking and Trading				
*	*	*	*	*
Division 3—Mass Emissions Cap and Trade Program				
Section 101.350	Definitions	12/13/02		[Insert date of <i>FR</i> publication] [Insert <i>FR</i> page number where document begins].
Section 101.351	Applicability	12/13/02		[Insert date of <i>FR</i> publication] [Insert <i>FR</i> page number where document begins].
Section 101.352	General Provisions	12/13/02		[Insert date of <i>FR</i> publication] [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
Section 101.353	Allocation of Allowances	12/13/02	[Insert date of <i>FR</i> publication] [Insert <i>FR</i> page number where document begins].	
Section 101.354	Allowance Deductions	12/13/02	[Insert date of <i>FR</i> publication] [Insert <i>FR</i> page number where document begins].	
Section 101.356	Allowance Banking and Trading	11/10/04	[Insert date of <i>FR</i> publication] [Insert <i>FR</i> page number where document begins].	
Section 101.358	Emission Monitoring and Compliance Demonstration.	12/06/00	11/14/01, 66 FR 57252.	
Section 101.359	Reporting	11/10/04	[Insert date of <i>FR</i> publication] [Insert <i>FR</i> page number where document begins].	
Section 101.360	Level of Activity Certification	12/13/02	[Insert date of <i>FR</i> publication] [Insert <i>FR</i> page number where document begins].	
Section 101.363	Program Audits and Reports	09/26/01	11/14/01, 66 FR 57252.	
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Chapter 116 (Reg 6)—Control of Air Pollution by Permits for New Construction or Modification				
*	*	*	*	*
Subchapter B—New Source Review Permits Division 1—Permit Application				
*	*	*	*	*
Section 116.111	General Application	03/07/01	[Insert date of <i>FR</i> publication] [Insert <i>FR</i> page number where document begins].	The SIP does not include subsections 116.111(a)(2)(K) and 116.111(b).
*	*	*	*	*
Section 116.115	General and Special Conditions	11/20/02	[Insert date of <i>FR</i> publication] [Insert <i>FR</i> page number where document begins].	The SIP does not include subsection 116.115(c)(2)(B)(ii)(I).
*	*	*	*	*
Division 7—Emission Reductions: Offsets				
Section 116.170	Applicability of Reduction Credits	06/17/98	09/18/02, 67 FR 58697.	The SIP does not include section 116.170(2).
Section 116.176	Use of Mass Cap Allowances for Offsets.	03/07/01	[Insert date of <i>FR</i> publication] [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
*	*	*	*	*
Subchapter F: Standard Permits				
*	*	*	*	*
Section 116.610	Applicability	03/07/01	[Insert date of <i>FR</i> publication] [Insert <i>FR</i> page number where document begins].	The SIP does not include subsection 116.610(d).
*	*	*	*	*
Section 116.615	General Conditions	03/07/01	[Insert date of <i>FR</i> publication] [Insert <i>FR</i> page number where document begins].	
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[FR Doc. 06-7411 Filed 9-5-06; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2005-TX-0018; FRL-8216-1]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Revisions to the Ozone Attainment Plan for the Houston/Galveston/Brazoria Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revisions to the Texas State Implementation Plan (SIP) as it applies to the Houston/Galveston/Brazoria (HGB) ozone nonattainment area. These SIP revisions result from more recent information on ozone formation in the HGB area indicating that a combination of controls on nitrogen oxides (NO_x) and highly reactive volatile organic compounds (HRVOCs) should be more effective in reducing ozone than the measures in the previously approved 2001 HGB attainment demonstration plan which relied almost exclusively on the control of NO_x. Approval of these revisions incorporates these changes into the federally approved SIP.

The approved revisions include a 1-hour ozone standard attainment demonstration, motor vehicle emissions budgets, a demonstration that all

reasonably available control measures have been adopted for the HGB area and revisions to satisfy the enforceable commitments contained in the previously approved SIP. These revisions present a new mix of controlled strategies in order to achieve attainment. These revisions include changes to the industrial NO_x rules, reducing the stringency from a nominal 90 percent to 80 percent control and revisions to the Texas Inspection and Maintenance (I/M) rules that drop three counties from the I/M program.

As part of the approved revisions to the HGB attainment demonstration, Texas has adopted new control measures which EPA has approved or is approving concurrent with this action. The new control measures are increased control of HRVOC emissions and control of emissions from portable gasoline containers. Also, in separate actions in today's **Federal Register**, EPA is concurrently approving the following emissions trading programs that relate to the HGB attainment demonstration: revisions to the Mass Emissions Cap and Trade Program for the HGB area, the Highly Reactive Volatile Organic Compound Emissions Cap and Trade Program for the HGB area, the Emissions Credit Banking and Trading Program, and the Discrete Emissions Credit Banking and Trading Program.

The SIP revisions to the HGB attainment demonstration addressed in this rulemaking along with the HRVOC rules and emissions trading programs being concurrently approved, will provide for timely attainment of the 1-hour ozone standard in HGB as demonstrated through the modeling

analysis. Additionally, Texas has shown that these revisions will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Clean Air Act. (Section 110(l) demonstration).

DATES: This rule is effective on October 6, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R06-2005-TX-0018. All documents in the docket are listed on the 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 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 15 cent per page fee for making photocopies of documents. On the day