

## EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/Subject	State approval/submittal date	EPA approval date	Explanation
Section 115.439 .....	Counties and Compliance Schedules.	35108	01/26/1999, 64 FR 03848.	
<b>Division 4: Offset Lithographic Printing</b>				
Section 115.440 .....	Offset Printing Definitions .....	36214	04/06/2000, 65 FR 18008.	
Section 115.442 .....	Control Requirements .....	35549	01/26/1999, 64 FR 03849.	
Section 115.443 .....	Alternate Control Requirements .....	36214	04/06/2000, 65 FR 18008 Requirements.	FR
Section 115.445 .....	Approved Test Methods .....	35108	01/26/1999, 64 FR 03848.	
Section 115.446 .....	Monitoring and Recordkeeping Requirements.	36214	04/06/2000, 65 FR 18008.	
Section 115.449 .....	Counties and Compliance Schedules.	36865	07/16/2001 66 FR 36919.	
*	*	*	*	*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[AL–057–200116; FRL–7012–1]

#### Approval and Promulgation of Implementation Plans: Alabama: Nitrogen Oxides Budget and Allowance Trading Program

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Alabama on March 12, 2001. This revision was submitted to satisfy EPA's regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO<sub>x</sub> SIP Call." This revision establishes and requires a nitrogen oxides (NO<sub>x</sub>) allowance trading program for large electric generating and industrial units, and reductions for cement kilns, beginning in 2004. The intended effect of this SIP revision is to reduce emissions of NO<sub>x</sub> in order to help attain the national ambient air quality standard for ozone. On December 26, 2000, EPA determined that Alabama had failed to submit a SIP in response to the NO<sub>x</sub> SIP Call, thus starting a 18 month clock for the mandatory imposition of sanctions and the obligation for EPA to promulgate a Federal Implementation Plan (FIP)

within 24 months. On March 12, 2001, Alabama submitted a NO<sub>x</sub> SIP and EPA found that SIP submission complete on March 19, 2001, stopping the sanctions clock. Through this **Federal Register** document, both the sanctions clock and EPA's FIP obligation are terminated.

**EFFECTIVE DATE:** This final rule is effective on August 15, 2001.

**ADDRESSES:** All comments should be addressed to: Sean Lakeman at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303.

Copies of documents relative to this action are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960; Alabama Department of Environmental Management, 400 Coliseum Boulevard, Montgomery, Alabama 36110–2059.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman, Regulatory Planning Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, Georgia 30303. The telephone number is (404) 562–9043. Mr. Lakeman can also be reached via electronic mail at lakeman.sean@epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On March 12, 2001, the Alabama Department of Environmental Management (ADEM) submitted a revision to its SIP to meet the requirements of the NO<sub>x</sub> SIP Call. The revision consists of the adoption of one new section to chapter 335–3–1 General

Provisions: (.14) Emissions Reporting Requirements Relating to Budgets for NO<sub>x</sub> Emissions; and 11 new sections to chapter 335–3–8 Control of Nitrogen Oxide Emissions: (.01) Standards for Portland Cement Kilns; (.04) Standards For Stationary Reciprocating Internal Combustion Engines (reserved); (.05) NO<sub>x</sub> Budget Trading Program; (.06) Authorized Account Representative for NO<sub>x</sub> Budget Sources; (.07) Permits; (.08) Compliance Certification; (.09) NO<sub>x</sub> Allowance Allocations; (.10) NO<sub>x</sub> Allowance Tracking System; (.11) NO<sub>x</sub> Allowance Transfers; (.12) Monitoring and Reporting; and (.13) Individual Unit Opt-ins. On May 16, 2001, (66 FR 27047) EPA published a notice of proposed rulemaking (NPR) proposing to approve the March 12, 2001 SIP revision. That NPR provided for a public comment period ending on June 15, 2001. A detailed description of this SIP revision and EPA's rationale for approving it was provided in the proposed rule and will not be restated here. No significant or adverse comments were received on EPA's proposal.

##### II. Final Action

EPA is approving Alabama's SIP revision including its NO<sub>x</sub> Reduction and Trading Program and cement kiln rule, which was submitted on March 12, 2001. EPA finds that Alabama's submittal is fully approvable because it meets the requirements of the NO<sub>x</sub> SIP Call.

##### III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For

this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)). This action merely 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 (Public Law 104-4). This rule also does 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), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus

standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order.

The approval of the Alabama NO<sub>x</sub> Reduction and Trading Program 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 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 September 14, 2001. 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 will 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: July 6, 2001.

**Phyllis P. Harris,**

*Acting Regional Administrator, Region 4.*

Chapter I, title 40, *Code of Federal Regulations*, 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 B—Alabama

2. Section 52.50 is amended in the Table in paragraph (c) as follows:

- a. Under Chapter No. 335-3-1 by adding entry "Section 335-3-1-.14."
- b. Under Chapter No. 335-3-8 by redesignating the entry "Section 335-3-8-.01" as "Section 335-3-8-.14" and adding new entry "Section 335-3-8-.01."
- c. Under Chapter No. 335-3-8 by adding entry "Section 335-3-8-.04."
- d. Under Chapter No. 335-3-8 by adding entries for Sections 335-3-8-.05 through 335-3-8-.13.

The additions read as follows:

#### § 52.50 Identification of plan.

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(c) \* \* \*

## EPA APPROVED ALABAMA REGULATIONS

State citation	Title subject	Adoption date	EPA approval date	Federal Register notice
<b>Chapter No. 335-3-1—General Provisions</b>				
* Section 335-3-1-.14 .....	* Emissions Reporting Re- quirements Relating to Budget for NO <sub>x</sub> Emis- sions.	* April 6, 2001 .....	* July 16, 2001 .....	* 66 FR 36921
* .....	* .....	* .....	* .....	* .....
<b>Chapter No. 335-3-8—(2) Nitrogen Oxide Emissions</b>				
Section 335-3-8-.01 .....	Standards for Portland Ce- ment Kilns.	April 6, 2001 .....	July 16, 2001 .....	66 FR 36921
* Section 335-3-8-.04 .....	* Standards for Stationary Reciprocating Internal Combustion Engines (Reserved).	* April 6, 2001 .....	* July 16, 2001 .....	* 66 FR 36921
Section 335-3-8-.05 .....	NO <sub>x</sub> Budget Trading Pro- gram.	April 6, 2001 .....	July 16, 2001 .....	66 FR 36921
Section 335-3-8-.06 .....	Authorized Account Rep- resentative for NO <sub>x</sub> Budget Sources.	April 6, 2001 .....	July 16, 2001 .....	66 FR 36921
Section 335-3-8-.07 .....	Permits .....	April 6, 2001 .....	July 16, 2001 .....	66 FR 36921
Section 335-3-8-.08 .....	Compliance Certification ...	April 6, 2001 .....	July 16, 2001 .....	66 FR 36921
Section 335-3-8-.09 .....	NO <sub>x</sub> Allowance Allocations	April 6, 2001 .....	July 16, 2001 .....	66 FR 36921
Section 335-3-8-.10 .....	NO <sub>x</sub> Allowance Tracking System.	April 6, 2001 .....	July 16, 2001 .....	66 FR 36921
Section 335-3-8-.11 .....	NO <sub>x</sub> Allowance Transfers	April 6, 2001 .....	July 16, 2001 .....	66 FR 36921
Section 335-3-8-.12 .....	Monitoring and Reporting	April 6, 2001 .....	July 16, 2001 .....	66 FR 36921
Section 335-3-8-.13 .....	Individual Unit Opt-ins .....	April 6, 2001 .....	July 16, 2001 .....	66 FR 36921
* .....	* .....	* .....	* .....	* .....

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BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION  
AGENCY****40 CFR Part 52**

[TX-57-1-7183a; FRL-7010-9]

**Approval and Promulgation of  
Implementation Plan for Texas:  
Transportation Control Measures Rule****AGENCY:** Environmental Protection  
Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** This action approves a revision to the Texas State Implementation Plan (SIP) that contains the transportation control measures (TCM) rule. The requirements in the State TCM rule address the roles and responsibilities of the Metropolitan Planning Organizations (MPO), implementing transportation agencies, and provide a method for substitution of the TCMs without a SIP revision in the

nonattainment and maintenance areas. The TCM rule is intended to promote effective implementation of the TCMs, streamline TCM substitution process and approval, and increase interaction between the Texas Natural Resource Conservation Commission (TNRCC) and the MPOs in the air quality-transportation planning process at the local levels.

The EPA is approving this SIP revision under section 110(k) and 182 of the Clean Air Act (the Act). The rationale for the final approval action and other information are provided in this document.

**DATES:** This rule is effective on September 14, 2001 without further notice, unless EPA receives adverse comment by August 15, 2001. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD-L), at the EPA Region 6 Office listed below. Copies of

documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Air Planning Section (6PDL),  
Multimedia Planning and Permitting  
Division, Environmental Protection  
Agency, Region 6, 1445 Ross Avenue,  
Dallas, Texas 75202, Telephone: (214)  
665-7214

Texas Natural Resource Conservation  
Commission, Mobile Source Division,  
12124 Park 35 Circle, Austin, Texas  
78753, Telephone: (512) 239-1000.

**FOR FURTHER INFORMATION CONTACT:** Mr. J. Behnam, P. E.; Air Planning Section (6PDL), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Telephone (214) 665-7247.

**SUPPLEMENTARY INFORMATION:** The information contained under this title includes the following sections:

I. What is the Background for this Action?