

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1230

Micrographic Records Management

CFR Correction

In Title 36 of the Code of Federal Regulations, Part 300 to End, revised as of July 1, 2005, on page 889, § 1230.1 is corrected by removing the last sentence of the first paragraph, the following undesignated paragraph, and paragraphs (a), (b), and (c).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX-126-1-7685; FRL-7982-1]

Approval and Promulgation of Implementation Plans; Texas; Speed Limits Local Measure for the Dallas/Fort Worth Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving a State Implementation Plan (SIP) revision for the State of Texas to reduce some speed limits in the Dallas/Fort Worth (DFW) ozone nonattainment area. This measure reduces speed limits in a nine county area from 70 miles per hour to 65 miles per hour and from 65 miles per hour to 60 miles per hour. This measure was submitted on April 25, 2000, and EPA proposed approval on January 28, 2001. These speed limit reductions are designed to reduce nitrogen oxides in the DFW area as part of a strategy to aid the area in attaining of the National Ambient Air Quality Standards.

The EPA is also making a technical correction to ensure that it is clear that the measure applies to a nine county area.

DATES: This rule is effective on November 10, 2005.

ADDRESSES: Copies of the documents relevant to this action are in the official file which is available at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in

the **FOR FURTHER INFORMATION CONTACT** paragraph below 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.

Copies of any State submittals and EPA's technical support document are 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:

Herbert R. Sherrow, Jr., Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7237; fax number 214-665-7263; e-mail address sherrow.herb@epa.gov.

SUPPLEMENTARY INFORMATION:

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

Outline

- I. What Action Is EPA Taking?
- II. What Is the Background for This Action?
- III. What Technical Correction Are We Making?
- IV. What Comments Were Received During the Public Comment Period, January 18, 2001, to March 19, 2001?
- V. Final Action
- VI. Statutory and Executive Order Reviews

I. What Action Is EPA Taking?

EPA is approving the speed limit local measure for the DFW ozone nonattainment area submitted on April 25, 2000.

II. What Is the Background for This Action?

We proposed approval of this SIP element on January 28, 2001.

The Texas Department of Transportation (TxDOT) revised regulations relating to speed limits to allow the Texas Commission on Environmental Quality (TCEQ) to submit a request to change speed limits for environmental reasons when justified. (Please see adopted rules, 25 TexReg 5686, June 9, 2000; and proposed rules, 25 TexReg 2018, March 10, 2000). Consequently, TxDOT lowered all 70 mile per hour (mph) speed limits to 65 mph, and all 65 mph speed limits to 60 mph in the DFW nine county area (Dallas, Tarrant, Collin, Denton, Parker, Johnson, Ellis,

Kaufman, and Rockwall Counties). These slower speeds are anticipated to reduce the emissions of NO_x and improve air quality. The slower speed limits were implemented September 1, 2001. This approval will add a new local measure to the SIP for the DFW ozone nonattainment area. Since the slower speeds are anticipated to reduce NO_x emissions, this local measure will not cause an increase in the criteria pollutants or their precursors. As such, the State's revision meets and complies with the requirements of section 110(l) of the Clean Air Act.

Please refer to 66 FR 4756, January 18, 2001, and its Technical Support Document for details on the speed limit measure.

III. What Technical Correction Are We Making?

We incorrectly stated that the speed limits would apply to the four county DFW area instead of the nine county area in the Speed Limits Reduction section of our proposed rule (see 66 FR 4756, page 4760) and in the Technical Support Document (TSD) page 35. In other references in the Emissions Control Strategy, Local Measures section (66 FR 4756, page 4760; TSD page 32) and the What are the Local Initiatives and are They Approvable? section (66 FR 4756, page 4760; TSD, page 35) we correctly stated that the measure applies to the nine county area. The purpose of this technical correction is to ensure that it is clear that the measure applies to the nine county area.

IV. What Comments Were Received During the Public Comment Period, January 18, 2001, to March 19, 2001?

Three commentors stated that speed limit reductions was not a measure which was effective or a reasonable approach to clean air.

Response: We disagree with the comment. Computer modeling used by the TCEQ to assess the effectiveness of control strategies to improve air quality in the DFW area showed that speed limit reductions would result in substantial emissions reductions in the DFW area. The technical analysis submitted showed a reduction of over 5 tons per day of Nitrogen Oxides and 1/2 ton per day of volatile organic compounds. In addition, the measure would result in reducing the severity of traffic accidents and in fuel savings.

Two commentors stated that the speed limits would not be effective without additional enforcement. One commentor asked if there was funding available for additional police officers to enforce the new speed limits.

Response: We agree that the reduced speed limits should be adequately enforced. The speed limit reduction measure will be enforced through State and Local speed limit enforcement regulations and practices. The TCEQ has committed to working with other State and Local agencies to ensure adequate enforcement and funding for enforcement of this measure. We realize that not all drivers comply with speed limits and the emissions reductions associated with the measure have been developed accordingly.

V. Final Action

EPA is approving the speed limit local measure for the DFW nine county area (Dallas, Tarrant, Collin, Denton, Parker, Johnson, Ellis, Kaufman, and Rockwall Counties) submitted on April 25, 2000.

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

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 December 12, 2005. 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 in 40 CFR Part 52

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

Dated: September 21, 2005.

Lawrence E. Starfield,

Acting 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. In § 52.2270, the table in paragraph (e) entitled "EPA approved nonregulatory provisions and quasi-regulatory measures" is amended by adding one new entry to the end of the table to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(e) * * *

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

Name of SIP provision	Applicable geographic or nonattainment area	State approval/submittal date	EPA approval date	Comments
Approval of the Speed Limits Local Initiative Measure in the DFW nine county area. Affected counties are Dallas, Tarrant, Collin, Denton, Parker, Johnson, Ellis, Kaufman, Rockwall.	Dallas-Fort Worth	4/25/2000	10/11/2005	[Insert FR page number where document begins].

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DEPARTMENT OF DEFENSE

48 CFR Parts 204, 215, 252, and Appendix F to Chapter 2

[DFARS Case 2003-D009]

Defense Federal Acquisition Regulation Supplement; Payment and Billing Instructions

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to improve payment and billing instructions in DoD contracts. This final rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Effective October 11, 2005.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Sain, Defense Acquisition Regulations Council, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0293; facsimile (703) 602-0350. Please cite DFARS Case 2003-D009.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors.

Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dpap/dars/dfars/transformation/index.htm>.

This final rule is a result of the DFARS Transformation initiative. The DFARS changes include—

- Deletion of text at DFARS 204.201, 204.202, 204.7103-2, 204.7104-2, 204.7107, and 204.7108 addressing distribution of contracts and modifications; numbering of contract line items, subline items, and accounting classification references; and inclusion of payment instructions in contracts. Text on these subjects has been relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>. In addition, the related PGI text contains a menu of standard payment instructions from which the contracting officer will make a selection for inclusion in Section G of the contract.

- Clarification of the definition of “accounting classification reference number” at DFARS 204.7101.

- Amendment of DFARS 204.7103-1 to add text addressing contract type in the establishment of contract line items.

- Amendment of DFARS 204.7106 to clarify that contract modifications decreasing the amount obligated shall not be issued unless sufficient unliquidated obligation exists or the purpose is to recover monies owed to the Government.

- Addition of a clause addressing contract line item information needed in contractor payment requests.

- Amendment of Material Inspection and Receiving Report instructions to address electronic submissions.

DoD published a proposed rule at 69 FR 35564 on June 25, 2004. Five sources submitted comments on the proposed rule. A discussion of the comments is provided below:

1. *Comment:* The proposed text at DFARS 204.7103-1 should include labor-hour and/or time-and-materials line items.

DoD Response: Concur. DFARS 204.7103-1 has been expanded to include time-and-materials/labor-hour line items to ensure that proper payment is applied to each line item. Since a time-and-materials/labor-hour contract contains some elements of a fixed-price contract and some elements of a cost-reimbursement contract, specifying time-and-materials/labor-hour line items will avoid potential confusion as to whether these are classified as fixed-price or cost-reimbursement.

2. *Comment:* The proposed text at DFARS 204.7103-1 conflicts with the current text at DFARS 215.204-2(g). Recommend that the text at 215.204-2(g) be deleted or revised to be consistent with the proposed text at 204.7103-1.

DoD Response: Concur. The final rule deletes the text at DFARS 215.204-2(g).

3. *Comment:* Delete the proposed text at DFARS 204.7106(b)(3)(i) and (ii) concerning modification coordination and funding, because they are supplementing the wrong part. Per DFARS 204.7100, the scope of this subpart is to prescribe policies and procedures for assigning contract line item numbers. Further, it is recommended that the language not be included at all in the DFARS, because the text proposed at DFARS 204.7106(b)(3)(i) increases the administrative burden on contracting officers by imposing coordination between the administrative contracting officer (ACO) and the procuring contracting officer (PCO) regardless of the authority already granted in the regulations (FAR 1.602-1; 42.302(a)), and any contracting officer may gain additional information through coordination with other offices or research on the numerous data bases (MOCAS, NAFI, EDA). Additionally, DFARS 204.7106(b)(3)(ii) reiterates the requirement for the contracting officer to ensure that sufficient funds are available before executing any contractual action (FAR 1.602-2(a), 32.703, 43.105(a)) and the processes in