

or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### 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 (Public Law 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 October 7, 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 14, 2005.

**Max H. Dodson,**

*Acting Regional Administrator, Region 8.*

■ 40 CFR part 52 is amended to read 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 JJ—North Dakota

■ 2. Section 52.1820 is amended by adding paragraph (c)(34) to read as follows:

#### § 52.1820 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(34) Certain revisions to the North Dakota State Implementation Plan and Air Pollution Control Rules as submitted by the Governor with a letter dated April 11, 2003. The revisions affect portions of North Dakota Administrative Code (N.D.A.C.) regarding construction and minor source permitting and prevention of significant deterioration of air quality.

(i) Incorporation by reference.

(A) Revisions to the North Dakota Air Pollution Control Rules as follows:

(1) Chapter 33-15-14, N.D.A.C., Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V Permit to Operate, subsections 33-15-14-02.5, 33-15-14-02.13.c, 33-15-14-02.13.i(5), 33-15-14-03.4, 33-15-14-03.5.a(1)(d), and 33-15-14-03.11, effective March 1, 2003.

(2) Chapter 33-15-15, N.D.A.C., Prevention of Significant Deterioration of Air Quality, subsections 33-15-15-01.1.x(2)(d) and 33-15-15-01.4.h(3), effective March 1, 2003.

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**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[R06-OAR-2005-TX-0011; FRL-7948-7]

#### Approval and Promulgation of Air Quality Implementation Plans; Texas; Vehicle Inspection and Maintenance Program for Travis and Williamson Counties

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving a revision to the State Implementation

Plan (SIP) submitted by the Chairman of the Texas Commission on Environmental Quality (TCEQ) on December 6, 2004. The revision incorporates into the SIP a vehicle inspection and maintenance (I/M) program for Travis and Williamson Counties. The program is a control measure adopted as part of the Austin Early Action Compact (EAC). EPA is approving this revision as a strengthening of the SIP, in accordance with the requirements of sections 110 and 116 of the Federal Clean Air Act (the Act), which will result in emission reductions needed to help ensure attainment of the 8-hour National Ambient Air Quality Standard (NAAQS) for ozone.

**DATES:** This final rule is effective on September 7, 2005.

**ADDRESSES:** EPA has established a docket for this action under Regional Material in EDocket (RME) ID No. R06-OAR-2005-TX-0011. All documents in the docket are listed in the RME index at <http://docket.epa.gov/rmepub/>; once in the system, select "quick search," then type in the appropriate RME docket identification number. Although listed in the index, some information is not publicly available, *i.e.*, confidential business information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in 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 cents per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

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

**FOR FURTHER INFORMATION CONTACT:** Carrie Paige, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-6521, [paige.carrie@epa.gov](mailto:paige.carrie@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, wherever "we," "our," and "us" is used, we mean EPA.

#### Outline

- I. Background
- II. What Action is EPA Taking?
- III. Final Action
- IV. Statutory and Executive Order Reviews

#### I. Background

On May 23, 2005 (70 FR 29461) EPA published a notice of proposed rulemaking (NPRM) proposing to approve revisions to the SIP submitted to EPA by the State of Texas. The NPRM proposed approval of the Austin EAC area's Clean Air Action Plan (CAAP) and related control measures. One of those control measures was a vehicle inspection and maintenance (I/M) program in Chapter 114, Subchapter C for Travis and Williamson Counties, which are within the Austin EAC area. In the May 23, 2005 NPRM, EPA provided the public an opportunity to review and comment on these revisions. Section VII of the proposal provides a detailed description of the vehicle I/M program revisions and the rationale for EPA's proposed approval of the program. The public comment period ended on June 22, 2005. In this rulemaking, we are taking action on only the vehicle I/M program revisions. No comments were received on EPA's proposed approval of the I/M program. Final action on EPA's proposed approval of the Austin EAC area's CAAP and 8-hour ozone attainment demonstration for the EAC area will be addressed in a separate rulemaking.

#### II. What Action Is EPA Taking?

Today we are approving a revision to the Texas SIP under sections 110 and 116 of the Act. The revision includes a vehicle I/M program for Travis and Williamson Counties, within the Austin EAC area. The I/M rule revision is a control strategy that will assist the Austin EAC area in achieving reductions in emissions that contribute to the formation of ground-level ozone.

Vehicle I/M programs focus on reducing emissions of NO<sub>x</sub> and VOCs through automobile inspections that lead to repair and maintenance of vehicles covered by the program. While I/M programs are mandatory for certain ozone nonattainment areas under

section 182 of the Act, state and local governments may initiate I/M programs voluntarily in order to reduce emissions of NO<sub>x</sub> and VOCs from automobiles. Texas adopted rules in Chapter 114, Subchapter C for an I/M program that applies only in EAC areas where participation is requested by the participating county and the most populous municipality in the county. This EAC I/M program is distinct from the State's SIP-approved I/M program in Chapter 114, Subchapter B applicable to nonattainment areas. Resolutions requesting EAC I/M programs were approved and signed by Travis County on March 23, 2004, the City of Austin on March 25, 2004, Williamson County on March 23, 2004, and the City of Round Rock on March 25, 2004.

The I/M program we are approving today is being incorporated into the Texas SIP as part of the State's EAC control strategies to voluntarily reduce emissions of NO<sub>x</sub> and VOCs from automobiles in the Austin EAC area. Accordingly, this rule is not being approved pursuant to requirements set forth in EPA's final I/M rule at 40 CFR Part 51, Subpart S, but rather as a strengthening of the SIP. EPA's review of the material submitted indicates that the rule is approvable to achieve emission reductions within a range of those represented in the State's modeling study and attainment demonstration. EPA is approving the SIP revision as stated above, to include vehicle I/M for Travis and Williamson Counties.

#### III. Final Action

EPA is approving the vehicle I/M program for Travis and Williamson Counties and will incorporate this revision into the Texas SIP as a strengthening of the SIP. This revision will contribute to improvement in air quality and attainment of the 8-hour ozone NAAQS in the Austin EAC area. We have evaluated the State's submittal and have determined that it meets the applicable requirements of the CAA, is consistent with EPA policy and the EAC protocol.

#### IV. 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 and because this action will not have a significant, adverse effect on the supply, distribution, or use of energy, 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 under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note), 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 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. section 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. section 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 7, 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 40 CFR Part 52**

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Volatile Organic Compounds, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 29, 2005.

**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 under Chapter 114, immediately following Section 114.53, by adding a new centered subchapter heading “Subchapter C—Vehicle Inspection and Maintenance; Low Income Vehicle Repair Assistance Retrofit, and Accelerated Vehicle Retirement Program; and Early Action Compact Counties,” immediately followed by a new centered heading “Division 3—Early Action Compact Counties,” immediately followed by new entries for Sections 114.80, 114.81, 114.82, 114.83, 114.84, 114.85, 114.86 and 114.87 to read as follows:

**§ 52.2270 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA APPROVED REGULATIONS IN THE TEXAS SIP**

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
*	*	*	*	*

**Chapter 114 (Reg 4)—Control of Air Pollution from Motor Vehicles**

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
* * * * *				
<i>Subchapter C—Vehicle Inspection and Maintenance; Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program; and Early Action Compact Counties Division 3: Early Action Compact Counties</i>				
Section 114.80 .....	Applicability .....	11/17/04	8/8/05 [Insert FR page number where document begins].	
Section 114.81 .....	Vehicle Emissions Inspection Requirements.	11/17/04	8/8/05 [Insert FR page number where document begins].	
Section 114.82 .....	Control Requirements .....	11/17/04	8/8/05 [Insert FR page number where document begins].	Subsection 114.82(b) is NOT part of the approved SIP.
Section 114.83 .....	Waivers and Extensions .....	11/17/04	8/8/05 [Insert FR page number where document begins].	
Section 114.84 .....	Prohibitions .....	11/17/04	8/8/05 [Insert FR page number where document begins].	
Section 114.85 .....	Equipment Evaluation Procedures for Vehicle Exhaust Gas Analyzers.	11/17/04	8/8/05 [Insert FR page number where document begins].	
Section 114.86 .....	Low Income Repair Assistance Program (LIRAP) for Participating Early Action Compact Counties.	11/17/04	8/8/05 [Insert FR page number where document begins].	
Section 114.87 .....	Inspection and Maintenance Fees	11/17/04	8/8/05 [Insert FR page number where document begins].	
* * * * *				

[FR Doc. 05-15607 Filed 8-5-05; 8:45 am]  
 BILLING CODE 6560-50-P

**LEGAL SERVICES CORPORATION**

**45 CFR Part 1611**

**Financial Eligibility**

**AGENCY:** Legal Services Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Legal Services Corporation (“LSC” or “Corporation”) is amending its regulations relating to financial eligibility for LSC-funded legal services and client retainer agreements. The revisions are intended to reorganize the regulation to make it easier to read and follow; simplify and streamline the requirements of the rule to ease administrative burdens faced by LSC recipients in implementing the regulation and to aid LSC in enforcement of the regulation; and to clarify the focus of the regulation on the financial eligibility of applicants for LSC-funded legal services.

**DATES:** This final rule is effective September 7, 2005.

**FOR FURTHER INFORMATION CONTACT:** Mattie C. Condray, Senior Assistant General Counsel, Office of Legal Affairs, Legal Services Corporation, 3333 K. St., NW., Washington, DC 20007-3522; (202) 295-1624 (phone); (202) 337-6519 (fax); *mcondray@lsc.gov*. (e-mail).

**SUPPLEMENTARY INFORMATION:** Section 1007(a) of the Legal Services Corporation Act requires LSC to establish guidelines, including setting maximum income levels, for the determination of applicants’ financial eligibility for LSC-funded legal assistance. Part 1611 implements this provision, setting forth the requirements relating to determination and documentation of client financial eligibility. Part 1611 also sets forth requirements related to client retainer agreements.

**Procedural Background**

On June 30, 2001, LSC initiated a Negotiated Rulemaking and appointed a Working Group comprised of representatives of LSC (including the Office of Inspector General), the National Legal Aid and Defenders Association, the Center for Law and Social Policy, the American Bar Association’s Standing Committee on Legal Aid and Indigent Defendants and a number of individual LSC recipient programs. The Negotiated Rulemaking Working Group met three times throughout 2002 and developed a Draft Notice of Proposed Rulemaking (NPRM) which was the basis for the NPRM published by LSC on November 22, 2002 proposing significant revisions to

Part 1611 (67 FR 70376).<sup>1</sup> Further action on the rulemaking was suspended, in deference to a request by Representative James Sensenbrenner, Chairman of the U.S. House of Representatives Judiciary Committee, that LSC suspend action on the rulemaking pending the confirmation of new LSC Board of Directors members appointed by President Bush.

After the confirmation of nine new board members and the appointment of a new LSC President, the reconstituted Operations and Regulations Committee resumed consideration of the Part 1611 rulemaking in early 2004. At the meeting of the full Board of Directors on April 30, 2005, the Board approved the republication of a revised NPRM for public comment. That NPRM was published on May 24, 2005 (70 FR 29695).

LSC received thirteen (13) comments on the NPRM, including nine comments from individual LSC grant recipients, one comment from a senior attorney with a recipient commenting in his personal capacity, one comment from a member of the public, and comments from the Center for Law and Social Policy on behalf of the National Legal Aid and Defenders Association, and the American Bar Association’s Standing Committee on Legal Aid and Indigent

<sup>1</sup> For additional discussion of the Negotiated Rulemaking Working Group, see 67 FR 70376 (November 22, 2002).