

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2014-0554; FRL-9923-19-Region 6]

**Approval and Promulgation of Implementation Plans; Texas; Emissions Inventories for the
Dallas-Fort Worth and Houston-Galveston-Brazoria Ozone Nonattainment Areas**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Texas State Implementation Plan (SIP) submitted to meet Emissions Inventory (EI) requirements of the Clean Air Act (CAA) for the Dallas-Fort Worth (DFW) and the Houston-Galveston-Brazoria (HGB) nonattainment areas. EPA is approving the SIP revisions because they satisfy the CAA EI requirements for the DFW and HGB nonattainment areas under the 2008 eight-hour ozone National Ambient Air Quality Standards (NAAQS). EPA is approving the revisions pursuant to section 110 and part D of the CAA and EPA's regulations.

DATES: This direct final rule will be effective **[insert date 60 days from date of publication]** without further notice, unless EPA receives adverse comment by **[insert date 30 days from date of publication]**. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA-R06-OAR-2014-0554, by one of the following methods:

- *www.regulations.gov*. Follow the online instructions.
- E-mail: Ms. Nevine Salem at *salem.nevine@epa.gov*.
- Mail or delivery: Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

Instructions: Direct your comments to Docket No. EPA-R06-OAR-2014-0554. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: Ms. Nevine Salem, (214) 665-7222, salem.nevine@epa.gov. To inspect the hard copy materials, please schedule an appointment with Ms. Salem or Mr. Bill Deese at 214-665-7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

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I. Background

A. The 2008 Ozone National Ambient Air Quality Standards (NAAQS) and Emissions Inventory Requirements

On March 12, 2008 EPA revised the eight-hour ozone NAAQS from 0.08 parts per million (ppm) to 0.075 ppm. (73 FR 16436, March 27, 2008). On July 12, 2012 EPA designated nonattainment areas for the 2008 ozone NAAQS (2008 ozone nonattainment areas) (77 FR 30088, May 21, 2012). The DFW and HGB areas were designated as nonattainment areas for the 2008 ozone NAAQS. *Id.* The DFW area consists of Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant and Wise counties. The HGB area consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller counties.

CAA sections 172(c)(3) and 182(a)(1) require states to develop and submit as a SIP revision an emissions inventory for all areas designated as nonattainment for the ozone NAAQS. 42 U.S.C §§ 172(c) and 182(a). An emissions inventory is an estimation of actual emissions of air pollutants in an area. Ground-level ozone, O₃, is a gas that is formed by the reaction of volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) in the atmosphere in the presence of sunlight. These precursor emissions are emitted by many types of pollution sources, including power plants and industrial emissions sources, on-road and off-road motor vehicles and engines, and smaller sources, collectively referred to as area sources. The EIs provide data for a variety of air quality planning tasks including establishing baseline emission levels, calculating federally required emission reduction targets, emission inputs into air quality simulation models, and tracking emissions over time. The total EI of VOC and NO_x for an area are summarized from the estimates developed for five general categories of emissions sources: point, area, on-road mobile, non-road mobile, and biogenic. EPA's proposed 2008 ozone standard SIP requirements rule suggested that states use 2011 as a base year to address EI requirements (78 FR 34178, 34190, June 6, 2013).

B. SIP Revision Submitted on July 16, 2014

Texas adopted a SIP revision addressing the emissions inventory requirements for the DFW and HGB areas on July 2, 2014 and submitted it to EPA on July 16, 2014. Tables 1 and 2 are the DFW and HGB emissions inventories in the SIP revision.

Table 1. DFW 2011 Emissions Inventory (tons per day or tpd)

Source Type	NOx	VOC
Point	39.95	29.80
Area	42.64	292.49
On-road Mobile	238.87	98.36
Non-road Mobile	120.61	55.00
Total	442.08	475.65

Table 2. HGB 2011 Emissions Inventory (tpd)

Source Type	NOx	VOC
Point	108.44	94.83
Area	21.14	308.73
On-road Mobile	196.21	82.62
Non-road Mobile	121.11	49.93
Total	446.90	536.12

C. CAA Requirements for the SIP Revision

The primary CAA requirements pertaining to the SIP revision submitted by Texas are found in CAA sections 110(l), 172(c)(3) and 182(a)(1). 42 U.S.C. §§ 110(l), 172(c)(3), and 182(a). CAA section 110(l) requires that a SIP revision submitted to EPA be adopted after reasonable notice and public hearing. Section 110(l) also requires that EPA not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. CAA sections 172(c)(3) and 182(a) requires a SIP revision that contains a comprehensive, accurate, current inventory of actual emissions from all sources.

II. EPA's Evaluation

EPA has reviewed the revision for the consistency with the requirements of EPA regulations. A summary of EPA's analysis is provided below. For a full discussion of our evaluation, please see our Technical Support Document (TSD).

CAA sections 172 (c)(3) and 182(a)(1) require a current inventory of actual emissions from all sources of relevant pollutants in the nonattainment areas. EPA Air Emissions Reporting regulations call for states to provide an emissions inventory from all sources every 3 years and required a complete inventory for 2011 (40 CFR 51.30). Additionally, in proposed rulemaking for the 2008 ozone standard we proposed that the states use 2011 as the base year for EI for the reasonable further progress emissions reduction SIP requirement (June 6, 2013, 78 FR 34178, 34190). Texas has developed a 2011 base year emissions inventory for the DFW and HGB nonattainment areas. The 2011 base year emissions includes all point, area, non-road mobile, and on-road mobile source emissions. EPA is approving the emission inventory for DFW and HGB because it contains a comprehensive, accurate, current inventory of actual emissions from all

sources in accordance with CAA sections 172(c)(3) and 182(a). Additionally we find that (1) Texas adopted the EI for DFW and HGB after reasonable notice and public hearing and (2) approval would not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA in accordance with CAA Section 110(1). A technical support document (TSD) was prepared which details our evaluation. Our TSD may be accessed online at www.regulations.gov, Docket No. EPA-R06-OAR-2014-0554.

III. Final Action

We are approving a Texas SIP revision submitted to address the emissions inventory requirements for the DFW and HGB 2008 ozone nonattainment areas. The inventories we are approving are listed in Tables 1 and 2 above.

EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on **insert date 60 days from date of publication** without further notice unless we receive relevant adverse comment by **insert date 30 days from date of publication**. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive relevant adverse comment on an amendment, paragraph, or section of this

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

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days from date of publication]**. 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, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 9, 2015.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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 (e), the second table titled “EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP” is amended by adding an entry at the end for “2011 Emissions Inventory for the 2008 Ozone NAAQS.”

The addition reads as follows:

§ 52.2270 Identification of plan.

* * * * *

(e) * * *

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

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Comments
* * * * *				
2011 Emissions Inventory for the 2008 Ozone NAAQS	Dallas-Fort Worth and Houston-Galveston-Brazoria Ozone Nonattainment Areas	7/16/2014	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	

[FR Doc. 2015-03449 Filed 02/19/2015 at 8:45 am; Publication Date: 02/20/2015]