



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2015-0497; FRL-9940-17-Region 6]

**Approval and Promulgation of Implementation Plans; Texas; Control of Air Pollution
from Nitrogen Compounds State Implementation Plan**

AGENCY: The Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of revisions to the State Implementation Plan (SIP) submitted by the State of Texas through the Texas Commission on Environmental Quality (TCEQ) on July 10, 2015. The Texas SIP submission revises 30 Texas Administrative Code (TAC) Chapter 117 rules for control of nitrogen compounds to assist the Dallas-Fort Worth (DFW) moderate nonattainment area (NAA) in attaining the 2008 eight-hour ozone (O₃) National Ambient Air Quality Standards (NAAQS).

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket No. EPA-R06-OAR-2015-0497, by one of the following methods:

- *www.regulations.gov*. Follow the online instructions.
- E-mail: Mr. Guy Donaldson at donaldson.guy@epa.gov.
- Mail or delivery: Mr. Guy Donaldson, Chief, Air Branch (6MM-AA), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

Instructions: Direct comments to Docket No. EPA-R06-OAR-2015-0497. The EPA's policy is that all comments received will be included in the public docket without change and made available online at *www.regulations.gov*. The EPA includes any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit any information electronically that is considered CBI or any other information whose disclosure is restricted by statute. The *www.regulations.gov* website is an “anonymous access” system, which means the EPA will not know one’s identity or contact information unless it is provided in the body of a comment. If a comment is e-mailed directly to the EPA without going through *www.regulations.gov*, then the sender’s e-mail address will automatically be captured and included as part of the public docket comment and made available on the Internet. If a comment is submitted electronically, then the EPA recommends that one’s name and other contact information be included in the body of the comment, and with any disk or CD-ROM submitted. If the EPA cannot read a particular comment due to technical difficulties and is unable to contact for clarification, the EPA may not be able to consider the comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment will be considered the official comment with multimedia submissions and should include all discussion points desired. The EPA will generally not consider a comment or its contents submitted outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional information on submitting comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at the 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: Mr. James E. Grady, (214) 665-6745; grady.james@epa.gov. To inspect the hard copy materials, please schedule an appointment with Mr. Grady or Mr. Bill Deese at (214) 665-7253.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” or “our” means “the EPA.”

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I. Background on DFW 2008 Eight-Hour O₃ NAA Designation and Classification

On March 27, 2008, the EPA revised the primary and secondary O₃ standard to a level of 75 parts per billion (ppb). Promulgation of a NAAQS triggers a requirement for the EPA to designate areas as nonattainment, attainment, or unclassifiable, and to classify the NAAs at the time of designation.

On May 21, 2012, the EPA established initial area designations for most areas of the country with respect to the 2008 primary and secondary eight-hour O₃ NAAQS. The EPA published two rules addressing final implementation¹ and air quality designations.² The implementation rule established classifications, associated attainment deadlines, and revoked the 1997 O₃ standards for transportation conformity purposes. The designation rule finalized the NAA boundaries for areas that did not meet the 75 ppb standard. Furthermore, the finalized boundaries were classified according to the severity of their O₃ air quality problems as determined by each area's design value.³ The O₃ classification categories were defined as Marginal, Moderate, Serious, Severe, or Extreme.

Effective July 20, 2012, the DFW 2008 eight-hour O₃ NAA was classified as moderate, consisting of ten counties: Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise County. With the exception of Wise County, all of these counties were designated as nonattainment with a serious classification under the 1997 O₃ standard. Although the NAA was most recently classified as moderate, the first nine counties are still required to meet their more stringent serious classification requirements previously designated under the 1997 O₃ standard. Wise County, however, is required to meet the moderate classification requirements since it is newly designated as nonattainment for the DFW area.⁴ Previously, Wise County was classified as an attainment area and was exempt from the O₃ NAA requirements under the 1997 eight-hour O₃ standard.

¹ See 77 FR 30160 "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach, Attainment Deadlines and Revocation of the 1997 Ozone Standards for Transportation Conformity Purposes."

² See 77 FR 30088, "Air Quality Designations for the 2008 Ozone National Ambient Air Quality Standards."

³ The air quality design value for the 8-hour ozone NAAQS is the three-year average of the annual fourth highest daily maximum eight-hour average ozone concentration. See 40 CFR part 50, appendix I.

⁴ In pursuant to the United States Court of Appeals for the District of Columbia Circuit ruling in favor of the EPA's inclusion of Wise County in the DFW 2008 eight-hour ozone nonattainment area as lawful (see USCA Case #12-1309).

States are required to adopt control measures that implement Reasonably Available Control Technology (RACT) on major sources of NO_x emissions.⁵ The major source emission threshold level for the first nine counties (Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant) remains at a potential to emit (PTE) of fifty tons per year (tpy) NO_x based on its serious classification under the 1997 standard. Wise County major source threshold is 100 tpy NO_x based on the moderate classification requirement.

II. Background on Chapter 117 Proposed Rule Revisions

On July 10, 2015 the EPA received, the TCEQ submitted rule revisions to 30 TAC, Chapter 117 “Control of Air Pollution from Nitrogen Compounds.” The State revised Chapter 117 for all major sources of NO_x in the 2008 DFW O₃ NAA for the implementation of RACT requirements in all counties as required by CAA, section 172(c)(1) and section 182(f). The state previously adopted Chapter 117 NO_x rules for sources in the DFW area as part of the SIP submitted on May 30, 2007, for the 1997 eight-hour O₃ standard. The EPA approved those rules on December 8, 2008.⁶ The scope of the Chapter 117 rule revisions implement the following:⁷

- Add NO_x emission limits and control requirements to major sources in newly designated Wise County.
- Revoke an exemption for utility turbines and auxiliary steam boilers installed after November 15, 1992 in the DFW area;

⁵ The EPA is not making a determination that the TCEQ rules included in these revisions will meet the RACT requirements of the CAA section 182(b) for the 2008 O₃ NAAQS. The EPA will make that review in a separate action. The EPA is only finding that these rule changes will strengthen the SIP by achieving NO_x reductions in the DFW NAA.

⁶ See 73 FR 73562

⁷ This is not an exhaustive list of changes to the 30 TAC Chapter 117 rules. For a complete summary of all Chapter 117 sections associated with this SIP revision, please refer to the Technical Support Document (TSD), “30 Texas Administrative Code (TAC) Chapter 117 Control of Air Pollution from Nitrogen Compounds,” a copy of which is posted in the docket of this proposal.

- Provide compliance flexibility to affected units in all areas covered by Chapter 117 for owners or operators of boilers and process heaters used on a temporary basis (<60 calendar days);
- Repeal certain major source industrial rules and utility rules for the DFW area that are now obsolete due to the passing of compliance dates;
- Add compliance schedules for the new or revised RACT rules and add compliance dates for sources that become subject to these rules after the initial compliance date;
- Add definitions to reflect the change in attainment status of Wise County;
- Implement work practice standards or operating requirements
- Update associated monitoring, recordkeeping, and reporting requirements
- Establish exemptions

Table 2 contains a list of the sections of Chapter 117 with adopted subchapters, divisions, and key sections with modifications associated with the July 10, 2015 DFW 2008 eight-hour O₃ SIP submittal.

Table 2: Description and Sections of 30 TAC, Chapter 117 Proposed for Modification

Description	Section
Subchapter A: Definitions	117.10
Subchapter B, Division 4, DFW Eight-Hour O ₃ NAA Major Sources	117.400, 117.403, 117.410, 117.423, 117.425, 117.430, 117.435, 117.440, 117.445, 117.450, 117.454, and 117.456
Subchapter C, Division 4, DFW Eight-Hour O ₃ NAA Utility Electric Generation Sources	117.1303, 117.1310, 117.1325, 117.1335, 117.1340, 117.1345, 117.1350, and 117.1354
Subchapter G, Division 1, General Monitoring and Testing Requirements	117.8000
Subchapter H, Division 1, Compliance Schedules and Division 2, Compliance Flexibility	117.9030 and 117.9130, 117.9800 and 117.9810

Table 3 contains a list of the sections of Chapter 117 with adopted subchapters, divisions, and key sections with new requirements associated with the July 10, 2015 DFW 2008 eight-hour O₃ SIP submittal.

Table 3: Description and Sections of 30 TAC, Chapter 117 Proposed New

Description	Section
Subchapter B, Division 4, DFW Eight-Hour O ₃ NAA Major Sources	117.405, 117.452

Per TCEQ's request, the following sections listed in Table 4 below will not become a part of the EPA-approved Texas SIP. These rules pertain mainly to the control of carbon monoxide and ammonia emissions, which are not O₃ precursors and, therefore, not necessary components of the DFW SIP. The EPA concurs that these rules can remain outside of the SIP.

Table 4: Description and Sections of 30 TAC, Chapter 117 Not in Texas SIP

Description	Sections
Previously excluded and the TCEQ continues to ask that these remain outside the SIP.	117.210(c), 117.225, 117.410(d), 117.425, 117.1110(b), 117.1125, 117.1310(b), and 117.1325
Adopted new and will not be submitted as a SIP revision.	117.405(d)

Table 5 contains subchapters, divisions, and key sections proposed for repeal from the SIP by the TCEQ. The TCEQ adopts the repeal of existing Subchapters B and C in Division 2 as well as sections 117.9010 and 117.9110 of Subchapter H in Division 1 because compliance dates for sources of NO_x subject to these have passed and are now considered obsolete. Furthermore, sources previously subject are now required to comply with more stringent rules in existing Subchapter B and C, Division 4 and in revised sections 117.9030, 117.9130.

Table 5: Description and Sections of 30 TAC, Chapter 117 Proposed for Repeal

Description	Section
Subchapter B, Division 2, DFW O ₃ NAA Major Sources	117.200, 117.203, 117.205, 117.210, 117.215, 117.223, 117.225, 117.230, 117.235, 117.240, 117.245, 117.252, 117.254, 117.256
Subchapter C, Division 2, DFW O ₃ NAA Utility Electric Generation Sources	117.1100, 117.1103, 117.1105, 117.1110, 117.1115, 117.1120, 117.1125, 117.1135, 117.1140, 117.1145, 117.1152, 117.1154, 117.1156,
Subchapter H, Division 1, Compliance Schedules	117.9010, 117.9110

A complete summary along with all non-substantive changes pertaining to reformatting, restructuring, reorganizing, and administrative revisions will be referenced in the Technical Support Document (TSD), "30 Texas Administrative Code (TAC) Chapter 117 Control of Air Pollution from Nitrogen Compounds," a copy of which is posted in the docket of this proposal.

III. Evaluation of Texas' Proposed Chapter 117 NO_x Control SIP

Please refer to Table 6 for a list of NO_x emissions specifications for major sources in newly designated Wise County. The new NO_x emission limits will assure that each source listed will not exceed the 75 ppb O₃ NAAQS standard.

Table 6: NO_x Emission Limits for 2008 DFW 8-Hour O₃ NAA for Major Sources in Wise County

Source	Type	Capacity	NO _x Limit	Citation
Process Heaters:	-	Max Rated Capacity \geq 40 MMBtu/hr	0.10 lb/MMBtu;	117.405(b)(1)
		An option	or 82 ppm _v NO _x at 3% O ₂ dry basis	117.405(b)(1)
Stationary, Reciprocating Internal Combustion Engines	Gas-Fired Rich-Burn	-	0.50 g/hp-hr	117.405(b)(2)(A)
	Gas-Fired Lean-Burn	White Superior four-cycle units that have been placed into service, modified, reconstructed, or relocated before June 1, 2015	12.0 g/hp-hr	117.405(b)(2)(B)(i)(I)
		White Superior four-cycle units that have been placed into service, modified, reconstructed, or relocated on or after June 1, 2015	2.0 g/hp-hr	117.405(b)(2)(B)(i)(II)
		Clark two-cycle units that have been placed into service, modified, reconstructed, or relocated before June 1, 2015.	12.0 g/hp-hr	117.405(b)(2)(B)(ii)(I)
		Clark two-cycle units that have been placed into service, modified, reconstructed, or relocated on or after June 1, 2015.	2.0 g/hp-hr	117.405(b)(2)(B)(ii)(II)
		Fairbanks Morse MEP two-cycle units that have been placed into service, modified, reconstructed, or relocated before June 1, 2015.	4.0 g/hp-hr	117.405(b)(2)(B)(iii)(I)
		Fairbanks Morse MEP two-cycle units that have been placed into service, modified, reconstructed, or relocated on or after June 1, 2015.	2.0 g/hp-hr	117.405(b)(2)(B)(iii)(II)
		All others	2.0 g/hp-hr	117.405(b)(2)(B)(iv)
Turbines:	Stationary Gas	hp rating \leq 10,000 hp	0.55 lb/MMBtu	117.405(b)(3)(A)
		hp rating \geq 10,000 hp	0.15 lb/MMBtu	117.405(b)(3)(B)

Various controls for each major source in Wise County are needed to achieve the required NO_x limits. Process heaters are expected to achieve compliance after installing dry low-NO_x combustors with the proposed 0.10 lb/MMBtu emission specification. Gas-fired, rich-burn, combustion engines are anticipated to reach compliance using nonselective catalytic reduction (NSCR) as primary control technology with air-to-fuel ratio regulators. The addition of a secondary catalyst module may be required to meet the proposed emission specification of 0.50

g/hp-hr, for gas-fired, lean-burn, combustion engines. All other lean-burn engines are estimated to reach compliance after combustion modifications with the proposed 2.0 g/hp-hr emission specification. New gas-fired, lean-burn engines can meet the proposed 2.0 g/hp-hr standard without modification or installation of additional controls.

It is estimated that the adopted rules will reduce the amount of NO_x in the DFW area by 1.17 tons per day (tpd). The resulting emission reductions will assist Texas in demonstrating attainment of the eight-hour O₃ standard within the DFW NAA. As a result, the EPA is proposing to approve the NO_x emission requirements for affected major sources in the DFW NAA.

IV. The EPAs Proposed Action

The EPA is proposing to approve the submitted TAC Chapter 117 SIP revisions into the SIP because they will assist the DFW area into attainment under the 2008 8-Hour O₃ NAAQS by keeping each emissions source below 75 ppb. The EPA is proposing to approve all amended, repealed, and new sections of Chapter 117 that are being submitted as part of this SIP revision. The EPA is not making a determination that the TCEQ rules included in these revisions will meet the RACT requirements of the CAA §182(b) for the 2008 O₃ NAAQS. The EPA will make that review in a separate action. The EPA is only finding that these rule changes will strengthen the SIP by achieving NO_x reductions in the DFW NAA.

V. Incorporation by Reference

In this action, the EPA is proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference revisions to the Texas regulations as described in the Proposed Action section above. The EPA has made, and will continue to make, these documents

generally available electronically through *www.regulations.gov* and/or in hard copy at the EPA Region 6 office.

VI. 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, the EPA's role is to approve state choices, provided that states meet the criteria of the CAA. Accordingly, this action merely proposes to approve 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 proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reasonably available control technology, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: December 8, 2015.

Ron Curry,

Regional Administrator, Region 6.

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