



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2018-0676; FRL-9986-66-Region 6]

Air Plan Approval; Texas; Emission Statements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving a portion of a State Implementation Plan (SIP) revision submitted by the State of Texas for the 2008 8-hour ozone national ambient air quality standards (NAAQS). The portion of the SIP revision being approved pertains to CAA 2008 ozone NAAQS requirement for emission statements in the Dallas/Fort Worth ozone nonattainment area (DFW area).

DATES: This rule is effective on [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice, unless the EPA receives relevant adverse comment by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If the EPA receives such comment, the EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA-R06-OAR-2018-0676, at <https://www.regulations.gov> or via email to ruan-lei.karolina@epa.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not

submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact Ms. Karolina Ruan Lei, 214-665-7346, *ruan-lei.karolina@epa.gov*. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.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 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. Karolina Ruan Lei, 214-665-7346, *ruan-lei.karolina@epa.gov*. To inspect the hard copy materials, please schedule an appointment with Ms. Karolina Ruan Lei or Mr. Bill Deese at 214-665-7253.

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

I. Background

Section 110 of the CAA requires states to develop and submit to the EPA a SIP to ensure that state air quality meets the NAAQS. These ambient standards currently address six criteria

pollutants: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin through air pollution regulations and control strategies. The EPA approved SIP regulations and control strategies are federally enforceable.

In 2008, we revised the 8-hour ozone primary and secondary NAAQS to a level of 0.075 parts per million (ppm) to provide increased protection of public health and the environment (73 FR 16436, March 27, 2008). The 2008 8-hour ozone NAAQS revised the 1997 8-hour ozone NAAQS of 0.08 ppm. The DFW area was classified as a “Moderate” ozone nonattainment area for the 2008 8-hour ozone NAAQS (77 FR 30088, May 21, 2012). The DFW 2008 ozone nonattainment area consists of Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise counties.

On August 21, 2018, Texas submitted a SIP revision addressing oxides of nitrogen (NO_x) reasonably available control technology (RACT) for a cement manufacturing plant in Ellis County as a part of its DFW 2008 8-hour ozone NAAQS SIP update. That SIP revision also included a description of how the CAA Section 182(a)(3)(B) requirement for emission statements from stationary point sources are met in the DFW area for the 2008 ozone NAAQS, using already-existing measures previously approved by EPA.¹ EPA is only evaluating the emission statements portion of the August 21, 2018 SIP submittal in this action.² A copy of the SIP revision submittal that includes the emission statement requirement is included in the docket to this rulemaking and is available online at www.regulations.gov, Docket number EPA-R06-OAR-2018-0676. In the SIP revision submittal, Texas noted that the SIP revision pertaining to

¹ See page 4-4 of the adopted SIP revision submittal by Texas that is included in the docket to this action.

² In a separate action we proposed to approve the remainder of the August 21, 2018 SIP submittal. See Docket number EPA-R06-OAR-2018-0675 online at www.regulations.gov.

emissions inventory requirements approved by EPA on August 26, 1994 (59 FR 44036) meets the CAA requirement for emission statements. The codification of the Texas SIP approved by EPA can be found at 40 CFR 52.2270(c).

II. The EPA's Evaluation

CAA section 182(a)(3)(B) calls for SIPs for all ozone nonattainment areas to require that the owner or operator of each stationary source of nitrogen oxides or volatile organic compounds (ozone precursors) provide the State with an annual statement of emissions along with a certification that this information is accurate to the best knowledge of the individual certifying the statement.

The Texas SIP includes 30 TAC Section 101.10 (Emissions Inventory Requirements). The certification for emission statements is found at 30 TAC Section 101.10(d) (Certifying statement). We initially approved this certification as meeting the CAA emission statement requirement on August 26, 1994 (59 FR 44036).³ Most recently we approved revisions to 30 TAC Section 101.10 (Emissions Inventory Requirements) on June 8, 2017 (82 FR 26598). The most recently EPA approved Texas regulation continues to include appropriate provisions so that the owner or operator of each stationary source must provide the State with a statement with each emissions inventory attesting that the information contained in the inventory is true and accurate to the best knowledge of the certifying official (30 TAC Section 101.10(d)(1)). We find that the SIP revision submittal that is the subject of this action continues to be consistent with those requirements. Therefore, since the Texas SIP already includes an approved CAA emission

³ In that action, we approved revisions to 30 TAC Section 101.10: Emissions Inventory Requirements and the emission statement program for stationary sources within ozone nonattainment areas as the revisions satisfied CAA Section 182(a)(3)(B) requirements and was consistent with EPA's draft Guidance on the Implementation of an Emission Statement Program (July 1992).

statement requirement, we are approving this portion of the SIP revision as it pertains to the 2008 ozone standard.

III. Final Action

We are approving the revision to the Texas SIP submitted on August 21, 2018, that pertains to the 2008 ozone NAAQS requirement for emission statements for large stationary sources in the DFW area.

The 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 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** without further notice unless we receive relevant adverse comment by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. 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, the 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 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).

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. The 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 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 AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. 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: November 26, 2018.

Anne Idsal,
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 “Emission Statement Requirements for the 2008 Ozone NAAQS”.

The revision reads as follows:

§52.2270 Identification of plan.

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(e) * * *

EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas

SIP

Name of SIP provision	Applicable geographic or non-attainment area	State submittal / effective date	EPA approval date	Comments
* * * * *				
Emission Statement Requirements for the 2008 Ozone NAAQS	Dallas-Fort Worth, TX	8/21/2018	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	

[FR Doc. 2018-26294 Filed: 12/3/2018 8:45 am; Publication Date: 12/4/2018]