



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2020-0164; FRL-12896-01-R6]

Air Plan Approval; Texas; Reasonably Available Control Technology in the Dallas-Fort Worth Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve revisions to the Texas State Implementation Plan (SIP). The revisions were submitted by the Texas Commission on Environmental Quality (TCEQ) on May 12, 2020, and May 13, 2020, and address certain CAA requirements for the Dallas-Fort Worth (DFW) Serious nonattainment area (NAA) for the 2008 ozone National Ambient Air Quality Standard (NAAQS).

Specifically, EPA is proposing to approve the revisions to 30 Texas Administrative Code (TAC) Chapter 117 to implement the major source Reasonably Available Control Technology (RACT) requirement for Nitrogen Oxides (NO_x), as addressed in the NO_x RACT analysis and negative declaration included with the Serious area Attainment Demonstration (AD) SIP revision. The volatile organic compounds (VOC) portion of the RACT analysis in the Serious area AD submittal is addressed in a separate action.

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-2020-0164 at <https://www.regulations.gov> or via email to ahuja.anupa@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 Anupa Ahuja, (214) 665-2701, ahuja.anupa@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. While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: Anupa Ahuja, EPA Region 6 Office, Infrastructure and Ozone Section, 214-665-2701, ahuja.anupa@epa.gov. We encourage the public to submit comments via <https://www.regulations.gov>. Please call or e-mail the contact listed above if you need alternative access to material indexed but not provided in the docket.

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

I. Background

Under the CAA, EPA promulgated an 8-hour ozone standard of 0.075 parts per million (ppm) in 2008, which is more protective than the previous 1997 8-hour ozone

standard (73 FR 16436, March 27, 2008).¹ On May 21, 2012, EPA published in the *Federal Register* the initial designations and classifications for the 2008 8-hour ozone standard (77 FR 30088). The DFW 10-county area (Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise counties)² was initially classified as Moderate nonattainment for the 2008 ozone NAAQS. *Id.* at 30147. On August 23, 2019, the EPA reclassified the DFW NAA from Moderate to Serious for the 2008 8-hour ozone NAAQS (84 FR 44238, August 23, 2019).³ Under its Serious classification, pursuant to CAA sections 182(c) and 182(f), Texas must ensure NO_x RACT is in place for all major sources (50 tpy or greater) of NO_x in the DFW NAA.

Section 172(c)(1) of the CAA requires that SIPs for nonattainment areas “provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology) and shall provide for attainment of the primary National Ambient Air Quality Standards (NAAQS).” The EPA has interpreted this to mean that RACT is the lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility.⁴ Section 182 of the CAA requires that states must ensure RACT is in place for each source category for which EPA has issued a control techniques guidelines (CTG), and for any major source not covered by a CTG. CAA section 182(c) defines “major stationary source” as one that emits or has the potential to emit 50 tons per

¹ On October 26, 2015, (80 FR 65292) EPA adopted another revision to the Ozone standard (2015 8-hour ozone standard), but the 2008 standard remains in place. This notice concerns the Serious area RACT requirements under the 2008 standard.

² For the previous 8-hour ozone standard (the 1997 8-hour ozone standard, 0.080 ppm), the DFW ozone NAA included the same counties, aside from Wise County. Effective January 19, 2011, EPA published a final determination of failure to attain and reclassification of the DFW 9-county area from a moderate to a serious nonattainment area for the 1997 eight-hour ozone standard (75 FR 79302, December 20, 2010).

³ The DFW NAA missed the Serious area attainment date and thus was reclassified to Severe (87 FR 60926, October 7, 2022). This action does not address the DFW Severe NAA RACT requirements or the DFW NAA for the 2015 ozone NAAQS.

⁴ 44 FR 53762, September 17, 1979.

year (tpy) or more of NO_x. EPA issues CTGs and each CTG describes techniques available for reducing emissions of VOC from a category of sources, and states recommended levels of control.⁵ EPA also issues Alternative Control Techniques (ACTs) for NO_x. ACTs provide information on available control technologies and their respective cost effectiveness at the time the ACT was issued. ACTs provide information related to control of both major and minor sources, but states are only required to provide for RACT at major sources of NO_x.

In 2015, EPA published the final SIP Requirements Rule (SRR) for implementing the 2008 8-hour ozone NAAQS (80 FR 12279, March 6, 2015). EPA described in the SRR an approach “... allowing in some cases for states to conclude that sources already addressed by RACT determinations for the 1-hour and/or the 1997 ozone NAAQS do not need to implement additional controls to meet the 2008 ozone NAAQS RACT requirement” and noted that “in some cases, a new RACT determination would result in the same or similar control technology under the 1-hour or 1997 standard because fundamental control techniques, as described in the CTGs and ACTs, are still applicable.” Importantly, EPA stated that while states should refer to the existing CTGs and ACTs for purposes of informing their RACT requirements, in doing an updated assessment of RACT for the nonattainment the state should also refer to “... all relevant information (including recent technical information and information received during the public comment period) that is available at the time that they are developing their RACT SIPs for the 2008 ozone NAAQS.”

II. TCEQ SIP Submissions

On May 12, 2020, TCEQ submitted to EPA a SIP revision to 30 TAC Chapter 117 to implement the major source RACT requirements for NO_x associated with its Serious classification for the 2008 ozone NAAQS. TCEQ also submitted to EPA on May

⁵ Id.

13, 2020, the DFW Serious area AD SIP revision that included a RACT demonstration and analysis for NO_x, a negative declaration for the nitric or adipic acid manufacturing category of emission sources, and a discussion of cement kilns operating in the nonattainment area.

A. TCEQ SIP Revision for Control of Air Pollution from Nitrogen Oxides, 30 TAC Chapter 117

On May 12, 2020, the EPA received the TCEQ's submitted rule revisions to 30 TAC Chapter 117 "Control of Air Pollution from Nitrogen Oxides". The proposed revisions revise 30 TAC Chapter 117 to amend the definition of the DFW NAA to include Wise County and extend the implementation of Serious area RACT to new major sources of NO_x in the DFW NAA, including Wise County.⁶ In EPA's action reclassifying the DFW NAA as Serious for the 2008 8-hour ozone NAAQS, Wise County was reclassified from Moderate to Serious nonattainment. 80 FR 44238 (August 23, 2019). The State revised Chapter 117 to implement RACT requirements for all major sources of NO_x in all ten counties of the DFW Serious ozone NAA as required by CAA sections 172(c)(1), 182(c), and 182(f). The new Serious major source levels are set at 50 tpy for the DFW NAA in these rule changes. The Chapter 117 changes ensure major sources of NO_x emissions in Wise County are now subject to RACT requirements under the Serious classification.

B. TCEQ SIP Revision for the DFW NO_x RACT Demonstration and Analysis, DFW AD, Appendix F

The TCEQ analysis for NO_x sources in the DFW NAA can be found in Chapter 4 of the AD, Section 4.5.2 (RACT Analysis, NO_x RACT Determination), and Appendix F

⁶ In 2011, the DFW 9-county area was reclassified from a Moderate to a Serious nonattainment area under the 1997 eight-hour ozone standard (75 FR 79302, December 20, 2010).

(Reasonably Available Control Technology Analysis) of the May 13, 2020, SIP submittal. A copy of Appendix F is also included in the docket to our action.

TCEQ reviewed the EPA's ACT documents to identify potential source categories of NO_x emissions. TCEQ also reviewed the point source emissions inventory and Title V databases to identify all major sources of NO_x emissions. TCEQ's assessment included sources that reported actual emissions as low as 25 tpy of NO_x to account for the difference between actual and potential emissions.

C. Negative Declaration Submitted to EPA on May 13, 2020

For the source category "Nitric and Adipic Acid Manufacturing", Texas stated that there no existing nitric or adipic acid manufacturing plants in the DFW NAA area. TCEQ also stated that for sites with cement kilns in Ellis County, no sites have used wet kilns since 2015, having replaced higher-emitting wet kilns with dry kilns.

III. EPA's Evaluation

A detailed analysis is provided in the Technical Support Document (TSD) for this action and other supporting documents are available in the docket for this action.

EPA has reviewed the proposed RACT analysis in the AD, appendix F, and the proposed and final record provided by TCEQ for Chapter 117 rule revisions which includes explanations and determinations on NO_x control technologies, economic and technical feasibility, and NO_x emissions reductions expected. In addition, EPA examined recent relevant technical information, including best available control technology (BACT) determinations, recent documents issued by the EPA that contained information on the performance of NO_x control technologies, resulting emissions reductions, and other state rules to compare to Texas' SIP submittal and in other states where similar

source categories exist in NAAs.⁷ These documents are identified in the TSD and are available in the public docket to this action.

EPA finds that a comparison of Texas' NO_x emissions rates to other state's rates, recent BACT determinations, and the Texas rulemaking and AD records provide sufficient justification that the control technologies included in the previously approved Chapter 117 rules continue to comprise RACT level of control for the DFW nonattainment area for the 2008 ozone NAAQS.

IV. Proposed Action

The EPA is proposing to determine that the SIP revisions submitted by TCEQ on May 12, 2020, and May 13, 2020, fulfill the Serious RACT requirements for the DFW nonattainment area for the 2008 ozone NAAQS. The EPA is also proposing to approve the concurrent Chapter 117 rule revisions.

V. 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 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);

⁷ 2017 OTC White Paper on Control Technologies and OTC State Regulations for Nitrogen Oxides (NO_x) Emissions from Eight Source Categories, 2019 OTC Regulatory and Technical Guideline for Control of Nitrogen Oxides (NO_x) Emissions from Natural Gas Pipeline Compressor Fuel-Fired Prime Movers, 2023 EGU NO_x Mitigation Strategies Final Rule TSD, 2023 Final Non-EGU Sectors TSD

- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review 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 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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 Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the 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, Incorporation by reference,
Nitrogen dioxide, Ozone, Volatile organic compounds.

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

Dated: July 16, 2025.

Walter Mason,
Regional Administrator, Region 6.

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