

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).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 4, 2021.

Cheryl Newton,

Acting Regional Administrator, Region 5.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2020-0166; FRL-10017-19-Region 6]

#### Air Plan Approval; Texas; Clean Air Act Requirements for Nonattainment New Source Review and Emission Statements for the 2015 Ozone National Ambient Air Quality Standards

**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 the portions of a State Implementation Plan (SIP)

revision submitted by the State of Texas that describes how CAA requirements for Nonattainment New Source Review (NNSR) and emission statements are met in the Dallas-Fort Worth (DFW), Houston-Galveston-Brazoria (HGB), and Bexar County ozone nonattainment areas for the 2015 ozone National Ambient Air Quality Standards (NAAQS).

**DATES:** Written comments must be received on or before March 15, 2021.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2020-0166, at <https://www.regulations.gov> or via email to [young.carl@epa.gov](mailto:young.carl@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 Carl Young, 214-665-6645, [young.carl@epa.gov](mailto:young.carl@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](http://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:** Carl Young, EPA Region 6 Office, Infrastructure and Ozone Section, 214-665-6645, [young.carl@epa.gov](mailto:young.carl@epa.gov). Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID-19. We encourage the public to submit comments via <https://www.regulations.gov>, as there will be a delay in processing mail and no courier or hand deliveries will be accepted.

Please call or email 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

Ground-level ozone is a gas that is formed by the reaction of Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO<sub>x</sub>) in the atmosphere in the presence of sunlight. These precursors (VOC and NO<sub>x</sub>) are emitted by many types of pollution sources, including point sources such as power plants and industrial emissions sources; on-road and off-road mobile sources (motor vehicles and engines); and smaller residential and commercial sources, such as dry cleaners, auto body shops, and household paints, collectively referred to as area sources. Ozone is predominately a summertime air pollutant (83 FR 25777, June 4, 2018).

On October 1, 2015, we revised the ozone NAAQS to a level of 0.070 parts per million (ppm) (annual fourth-highest daily maximum 8-hour average concentration, averaged over 3 years). See 80 FR 65296, October 26, 2015; and 40 CFR 50, appendix U for more information on the revised 2015 ozone NAAQS, including a detailed explanation of the calculation of the 3-year 8-hour average. The revised 2015 ozone NAAQS provide greater protection of public health and the environment than the previous ozone NAAQS of 0.075 ppm, set in 2008. Although the 2015 ozone NAAQS retain the same general form and averaging time as the NAAQS set in 2008, the lower level is more protective.

The DFW and HGB areas were classified as Marginal ozone nonattainment areas for the 2015 ozone NAAQS with an attainment deadline of August 3, 2021 (83 FR 25776, June 4, 2018). Bexar County (which includes the City of San Antonio) was also classified as a Marginal ozone nonattainment area with an attainment deadline of September 24, 2021 (83 FR 35136, July 25, 2018). The DFW area consists of Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Tarrant, and Wise Counties. The HGB area consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, and Montgomery Counties.

On June 24, 2020, Texas submitted a SIP revision for the DFW, HGB and Bexar County areas. The SIP revision included a description of how provisions previously approved by EPA meet the 2015 ozone NAAQS Marginal area CAA requirements for (1) NNSR

and (2) Emission Statements from stationary point sources. A copy of the SIP revision is available online at [www.regulations.gov](http://www.regulations.gov), Docket number EPA-R06-OAR-2020-0166. In the SIP revision submittal, Texas determined that the NNSR SIP requirements of CAA section 182(a)(2)(C) are met for the 2015 NAAQS as the Texas SIP already includes 30 TAC Section 116.12 (Nonattainment and Prevention of Significant Deterioration Review Definitions) and 30 TAC Section 116.150 (New Major Source or Major Modification in Ozone Nonattainment Area). Texas also determined that 30 TAC Section 101.10 (Emissions Inventory Requirements) of the Texas SIP, which requires that stationary sources report NO<sub>x</sub> and VOC emissions, continues to address the emissions statements requirement of CAA section 182(a)(3)(B) for the 2015 ozone NAAQS.

## II. The EPA's Evaluation

### A. CAA Requirements for NNSR

A NNSR permitting program for ozone nonattainment areas is required by the CAA section 182(a)(2)(C). The NNSR requirements are further defined in 40 CFR 51 Subpart I (Review of New Sources and Modifications). NNSR permits for ozone authorize construction of new major sources or major modifications of existing sources of NO<sub>x</sub> or VOC in an area that is designated nonattainment for the ozone NAAQS. Emissions thresholds and pollutant offset requirements under the NNSR program are based on the nonattainment area's classification. Under these requirements new major sources or major modifications at existing sources in an ozone nonattainment area must comply with the lowest achievable emission rate and obtain sufficient emission offsets for emissions of NO<sub>x</sub> or VOC. For Marginal ozone nonattainment areas, major sources are any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 100 tons per year of NO<sub>x</sub> or VOC (CAA sections 182(c) and 182(f)). The NNSR offset ratio for Marginal ozone nonattainment areas must be at least 1.1 to 1 (CAA section 182(a)(4)). As noted by the State, the Texas SIP already includes 30 TAC Section 116.12 (Nonattainment and Prevention of Significant Deterioration Review Definitions) and 30 TAC Section 116.150 (New Major Source or Major Modification in Ozone Nonattainment Area). For the Bexar County area these provisions require new major sources or major modifications at existing sources,

that emit or has the potential to emit, at least 100 tons per year of NO<sub>x</sub> or VOC, to comply with the lowest achievable emission rate (LAER) and obtain emission offsets at the Marginal classification ratio of 1.1 to 1.

More stringent NNSR requirements apply to the counties in the DFW and HGB areas as they are also classified as Serious nonattainment for the 2008 ozone standard of 0.075 ppm (40 CFR 81.344). For the DFW and HGB areas, these provisions require new major sources or major modifications at existing sources, that emit or has the potential to emit, at least 50 tons per year of NO<sub>x</sub> or VOC, to comply with the LAER and obtain emission offsets at the Serious classification ratio of 1.2 to 1. In 1995, we approved Texas' NNSR program for ozone, which includes Marginal and Serious classification requirements under CAA section 182 (60 FR 49781, September 27, 1995). Most recently, we approved revisions to the Texas SIP to address NNSR requirements in 2012 (77 FR 65119, October 25, 2012) and 2014 (79 FR 66626, November 10, 2014). Therefore, since the Texas SIP includes approved provisions addressing the CAA NNSR requirements for ozone nonattainment areas classified as Marginal, we are proposing to approve this portion of the SIP revision.

### B. CAA Requirements for Emissions Statements

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 NO<sub>x</sub> or VOC provide the State with an annual statement of emissions along with a certification that the information is accurate to the best knowledge of the individual certifying the statement. As noted by the State, 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 in 1994 (59 FR 44036, August 26, 1994). Most recently we approved revisions to 30 TAC Section 101.10 in 2017 (82 FR 26598, June 8, 2017). 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)).

Therefore, since the Texas SIP includes approved provisions addressing the CAA emission statement requirement, we are proposing to approve this portion of the SIP revision.

## III. Proposed Action

We are proposing to approve portions of a SIP revision submitted by the State of Texas on June 24, 2020, that describes how CAA requirements for NNSR and emission statements are met in the DFW, HGB, and Bexar County ozone nonattainment areas for the 2015 ozone NAAQS.

## 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 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 (Pub. L. 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, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and record keeping requirements, Volatile organic compounds.

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

Dated: February 5, 2021.

**David Gray,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 2021-02759 Filed 2-10-21; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA-R01-OAR-2020-0593; FRL-10017-80-Region 1]

#### Approval and Promulgation of State Plans (Negative Declarations) for Designated Facilities and Pollutants: Maine and Rhode Island

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve negative declarations in lieu of state plans to satisfy the requirements in the

Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills for the State of Maine and the State of Rhode Island. The negative declarations certify that there are no existing facilities in the States that must comply with this rule.

**DATES:** Written comments must be received on or before March 15, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R01-OAR-2020-0593 at <https://www.regulations.gov>, or via email to [kilpatrick.jessica@epa.gov](mailto:kilpatrick.jessica@epa.gov). For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, 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 the person identified in the **FOR FURTHER INFORMATION CONTACT** section. 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>.

**FOR FURTHER INFORMATION CONTACT:** Jessica Kilpatrick, Air Permits, Toxics, & Indoor Programs Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Mail Code: 05-2, Boston, MA, 02109-0287. Telephone: 617-918-1652. Fax: 617-918-0652 Email: [kilpatrick.jessica@epa.gov](mailto:kilpatrick.jessica@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the Rules and Regulations section of this **Federal Register**, the EPA is approving the State of Maine and the State of Rhode Island's negative declarations submitted in accordance with 40 CFR 60.23a(b) and 62.06, to satisfy the requirements in the Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills (MSW Landfills Emission Guidelines) as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. See MSW Landfills Emission Guidelines, 81 FR 59276 (August 29, 2016), as amended by 84 FR 32520 (July 8, 2019) (revising Emission Guidelines Implementing Regulations) and 84 FR 44547 (Aug. 26, 2019) (adopting Requirements in Emission Guidelines for MSW Landfills). A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If the EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if the EPA receives adverse comment on an amendment, paragraph, or section of the rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules and Regulations section in this issue of the **Federal Register**.

Dated: February 3, 2021.

**Deborah Szaro,**

*Acting Regional Administrator, EPA Region 1.*

[FR Doc. 2021-02544 Filed 2-10-21; 8:45 am]

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