

(Authority: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.203)

### § 38.770 Recovery of funds by VA.

(a) *Recovery of funds.* VA may recover from the grantee any funds that are not used in accordance with a grant agreement. If VA decides to recover such funds, VA will issue to the grantee a notice of intent to recover grant funds, and the grantee will then have 30 days to return the grant funds or submit documentation demonstrating why the grant funds should not be returned. After review of all submitted documentation, VA will determine whether action will be taken to recover the grant funds.

(b) *Prohibition of additional VLGP payments.* When VA makes a final decision to recover grant funds from the grantee, VA must stop further payments of grant funds under this part until the grant funds are recovered and the condition that led to the decision to recover grant funds has been resolved.

(Authority: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.203)

### § 38.775 Compliance review requirements.

(a) *Site visits.* VA may conduct, as needed, site visits to grantee locations to review grantee accomplishments and management control systems.

(b) *Inspections.* VA may conduct, as needed, inspections of grantee records to determine compliance with the provisions of this part. All visits and evaluations will be performed with minimal disruption to the grantee to the extent practicable.

(Authority: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.203)

### § 38.780 Financial management.

(a) *Compliance.* All recipients will comply with applicable requirements of the Single Audit Act Amendments of 1996, as implemented by 2 CFR part 200.

(b) *Financial Management.* All grantees must use a financial management system that complies with 2 CFR part 200. Grantees must meet the applicable requirements of the Office of Management and Budget's regulations on Cost Principles at 2 CFR 200.400–200.475.

(Authority: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.400–200.475)

### § 38.785 Recordkeeping.

Grantees must ensure that records are maintained in accordance with 2 CFR 200.333. Grantees must produce such records at VA's request.

(Authority: 38 U.S.C. 501(d), 2400 note and 2 CFR 200.333)

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R06–OAR–2021–0177; FRL–10021–16–Region 6]

### Air Plan Approval; Texas; Clean Air Act Requirements for Emissions Inventories for Nonattainment Areas for the 2015 Ozone National Ambient Air Quality Standards

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve the portions of the State Implementation Plan (SIP) submitted by the State of Texas to meet the Emissions Inventory (EI) requirements of the Federal Clean Air Act (CAA or the Act), for the Dallas-Fort Worth (DFW), Houston-Galveston-Brazoria (HGB), and Bexar County ozone nonattainment areas for the 2015 8-hour ozone national ambient air quality standards (NAAQS). EPA is proposing to approve this action pursuant to section 110 and part D of the CAA and EPA's regulations.

**DATES:** Written comments must be received on or before April 26, 2021.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2021–0177, at <https://www.regulations.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 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>.

*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:** Ms. Nevine Salem, EPA Region 6 Office, Infrastructure and Ozone Section, 214–665–7222, [salem.nevine@epa.gov](mailto:salem.nevine@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

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. Therefore, an emission inventory for ozone focuses on the emissions of VOC and NO<sub>x</sub> referred to as ozone precursors. 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 nonpoint sources (also called area sources).

#### 1. The 2015 Ozone NAAQS

On October 1, 2015 the EPA revised both the primary and secondary NAAQS<sup>1</sup> for ozone from concentration

<sup>1</sup> The primary ozone standards provide protection for children, older adults, and people with asthma or other lung diseases, and other at-risk populations against an array of adverse health effects that include reduced lung function, increased respiratory symptoms and pulmonary inflammation; effects that contribute to emergency department visits or hospital admissions; and mortality. The secondary ozone standards protect

level of 0.075 part per million (ppm) to 0.070 ppm to provide increased protection of public health and the environment (80 FR 65296, October 26, 2015). The 2015 8-hour ozone NAAQS retains the same general form and averaging time as the 0.075 ppm NAAQS set in 2008 (2008 8-hour NAAQS) but is set at a more protective level. Specifically, the 2015 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour ambient air quality ozone concentrations is less than or equal to 0.07 ppm<sup>2</sup>.

On March 9, 2018 (83 FR 10376), the EPA published the Classifications Rule that establishes how the statutory classifications apply for the 2015 8-hr ozone NAAQS, including the air quality thresholds for each classification category and attainment deadline associated with each classification.

On June 18, 2018, the EPA classified the DFW and HGB areas as marginal nonattainment areas for 2015 ozone NAAQS with an attainment deadline of August 3, 2021. (See 83 FR 25776). 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 July 25, 2018, Bexar county was designated as marginal nonattainment area for the 2015 ozone standard with an attainment deadline of September 24, 2021 (See 83 FR 35136).

2. Statutory and Regulatory Emission Inventory Requirements

An emission inventory of ozone is an estimation of actual emissions of air pollutants that contribute to the formation of ozone in an area. The emissions inventory provides emissions data for a variety of air quality planning tasks, including establishing baseline emission levels for calculating emission reduction targets needed to attain the NAAQS, determining emission inputs for ozone air quality modeling analyses, and tracking emissions over time to determine progress toward meeting Reasonable Further Progress (RFP) requirements.

CAA section 182(a)(1) and 40 CFR 51.1315(b) require states to submit a “base year inventory” for each ozone nonattainment area within two years of the effective date of designation. This inventory must be “a comprehensive,

accurate, current inventory of actual emissions from sources of VOC and NO<sub>x</sub> emitted within the boundaries of the nonattainment area as required by CAA section 182(a)(1)” (40 CFR 51.1300(p), see also CAA section 172(c)(3)). In addition, 40 CFR 51.1310(b) requires that the inventory year be selected consistent with the baseline year for the RFP plan, which is usually the most recent calendar year for which a complete triennial emissions inventory is required to be submitted to the EPA under the Air Emissions Reporting Requirements (AAER) (40 CFR part 51, subpart A).

3. State’s Submittal

On June 10, 2020, Texas adopted a SIP revision addressing the 2015 ozone NAAQS emissions inventory requirements for the DFW, HGB and Bexar County nonattainment areas, and submitted it to EPA on June 24, 2020.<sup>3</sup> Texas has developed a 2017 base year emissions inventory for the DFW, HGB, and Bexar county nonattainment areas. The 2017 base year emissions include all point, nonpoint (area), non-road mobile, and on-road mobile source emissions. Tables 1, 2, and 3 summarize the 2017 NO<sub>x</sub> and VOC emissions for these nonattainment areas for a typical ozone season day emission<sup>4</sup> (reflective of the summer period, when the highest ozone concentrations are expected in these ozone nonattainment areas).

TABLE 1—DFW 2017 EMISSIONS INVENTORY [Tons per day]

| Source type           | NO <sub>x</sub> | VOC    |
|-----------------------|-----------------|--------|
| Point .....           | 29.90           | 21.04  |
| Nonpoint (Area) ..... | 41.82           | 293.62 |
| On-road Mobile .....  | 74.79           | 31.74  |
| Non-road Mobile ..... | 125.13          | 60.56  |
| Total .....           | 271.64          | 406.96 |

TABLE 2—HGB 2017 EMISSIONS INVENTORY [Tons per day]

| Source type           | NO <sub>x</sub> | VOC    |
|-----------------------|-----------------|--------|
| Point .....           | 97.31           | 73.34  |
| Nonpoint (Area) ..... | 32.12           | 287.74 |
| On-road Mobile .....  | 86.34           | 32.29  |
| Non-road Mobile ..... | 101.49          | 58.65  |
| Total .....           | 317.26          | 452.02 |

TABLE 3—BEXAR COUNTY 2017 EMISSIONS INVENTORY [Tons per day]

| Source type           | NO <sub>x</sub> | VOC    |
|-----------------------|-----------------|--------|
| Point .....           | 29.88           | 3.56   |
| Nonpoint (Area) ..... | 6.62            | 74.61  |
| On-road Mobile .....  | 11.42           | 7.09   |
| Non-road Mobile ..... | 35.70           | 20.84  |
| Total .....           | 83.62           | 106.10 |

II. EPA’s Evaluation

EPA has reviewed the Texas SIP revision for consistency with the CAA and regulatory emission inventory requirements. In particular, EPA has reviewed the techniques used by state of Texas to derive and quality assure the emission estimates. EPA has also evaluated whether Texas provided the public with the opportunity to review and comment on the development of the emission estimates and whether Texas addressed the public comments received. A summary of EPA’s analysis is provided below. For a full discussion for our evaluation, please see our Technical Support Document (TSD) included in the docket to this action.

Texas documented the general procedures used to estimate the emissions for each of the four major source types as referenced above. The documentation of the emission estimation procedures was adequate for us to determine that Texas followed acceptable procedures to estimate the emissions.

Texas developed a quality assurance plan and followed this plan during various phases of the emissions estimation and documentation process to quality assure the emissions for completeness and accuracy. These quality assurance procedures are summarized in the documentation describing how the emissions totals were developed. We propose to find that the quality assurance procedures followed by Texas are adequate and acceptable and that Texas has developed inventories of VOC and NO<sub>x</sub> emissions that are comprehensive and complete.

Texas notified the public of the opportunity for comment and offered three public hearings. A full record of public notices, written and oral comments received during the state’s public comment period, as well as states’ responses to those comments are included in the state’s submittal. A copy of the Texas SIP revision submittal is available online at [www.regulations.gov](http://www.regulations.gov), Docket number EPA–R06–OAR–2021–0177.

against adverse effects to the public welfare, including those related to impacts on sensitive vegetation and forested ecosystems.

<sup>2</sup> For a detailed explanation of the calculation of the 3-year 8-hour average, see 80 FR 65296 and 40 CFR part 50, Appendix U.

<sup>3</sup> A copy of the SIP revision is available online at [www.regulations.gov](http://www.regulations.gov), Docket number EPA–R06–OAR–2021–0177.

<sup>4</sup> See Ozone season day emission as defined in 40 CFR 51.1300(q).

### III. Proposed Action

We are proposing to approve the portion of the Texas SIP revision submitted on June 24, 2020 to address the emissions inventory requirements for the DFW, HGB, and Bexar counties for the 2015 ozone NAAQS. The inventories we are proposing to approve are listed in Tables 1, 2, and 3 above. We are proposing to approve the emissions inventories because they contain comprehensive, accurate and current inventories of actual emissions for all relevant sources in accordance with CAA sections 172(c)(3) and 182(a)(1) requirements and because Texas adopted the emission inventories consistent with reasonable public notice and opportunity for a public hearing requirements. A TSD was prepared which details our evaluation. Our TSD may be accessed online at [www.regulations.gov](http://www.regulations.gov), Docket No. EPA-R06-OAR-2021-0177.

### 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: March 22, 2021.

**David Gray,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 2021-06300 Filed 3-25-21; 8:45 am]

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 62

[EPA-R08-OAR-2021-0187; FRL-10021-36-Region 8]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants; North Dakota; Control of Emissions From Existing Municipal Solid Waste Landfills; Control of Emissions From Existing Commercial and Industrial Solid Waste Incineration Units; Negative Declaration of Existing Hospital/Medical/Infectious Waste Incineration Units

**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

or the "Agency") is proposing approval of a CAA section 111(d) plan submitted by the North Dakota Department of Environmental Quality (NDDEQ or the "Department") on July 28, 2020 to regulate landfill gas and its components from existing municipal solid waste (MSW) landfills. The EPA is also proposing approval of a CAA section 111(d)/129 plan submitted by the Department on the same date to regulate air pollutants from existing commercial and industrial solid waste incineration (CISWI) units and air curtain incinerators (ACI). These plans provide for the State's implementation and enforcement of the federal emission guidelines (EG) for existing MSW landfills, CISWI units and ACI in North Dakota. The EPA with this proposed rule is also notifying the public that the Agency has received a request from the State of North Dakota, dated May 8, 2019, for withdrawal of a previously approved CAA section 111(d)/129 plan for hospital/medical/infectious waste incineration (HMIWI) units and for Agency approval of a negative declaration of such units within the State. Approval of this negative declaration will stand in lieu of a North Dakota CAA section 111(d)/129 plan for HMIWI units.

**DATES:** Written comments must be received on or before April 26, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2021-0187, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [www.regulations.gov](http://www.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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.