

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. EPA will submit a report containing this action 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 February 18, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Intergovernmental relations, Ozone, and Volatile organic compounds.

Dated: December 8, 2010.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart Z—Mississippi

■ 2. Section 52.1270 (c) is amended by revising the entry for "APC-S-5" to read as follows:

§ 52.1270 Identification of plan.

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(c) * * *

EPA-APPROVED MISSISSIPPI REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	* * *
APC-S-5—Regulations for the Prevention of Significant Deterioration of Air Quality				
All	9/24/2007	12/20/10 [Insert citation of publication].	APC-S-5 incorporates by reference the regulations found at 40 CFR 52.21 as of June 15, 2007; This EPA action is approving the incorporation by reference with the exception of the phrase "except ethanol production facilities producing ethanol by natural fermentation under the North American Industry Classification System (NAICS) codes 325193 or 312140," APC-S-5 incorporated by reference from 40 CFR 52.21(b)(1)(i)(a) and (b)(1)(iii)(t). APC-S-5.

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[FR Doc. 2010-31893 Filed 12-17-10; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA-R06-OAR-2010-0412; FRL-9240-8]

Determination of Nonattainment and Reclassification of the Dallas/Fort Worth 1997 8-Hour Ozone Nonattainment Area; Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing its determination that the Dallas/Fort Worth (DFW) moderate 8-hour ozone nonattainment area failed to attain the 1997 8-hour ozone national ambient air quality standard (NAAQS or standard) by June 15, 2010, the attainment deadline set forth in the Clean Air Act

(CAA or Act) and Code of Federal Regulations (CFR) for moderate nonattainment areas. This final determination is based on EPA's review of complete, quality assured and certified ambient air quality monitoring data for the 2007-2009 monitoring period that are available in the EPA Air Quality System (AQS) database. As a result of this final action, the DFW area will be reclassified by operation of law as a serious ozone nonattainment area for the 1997 8-hour ozone standard on the effective date of this rulemaking. The new attainment date for the DFW area is as expeditiously as practicable, but not later than June 15, 2013. The State of Texas must submit State Implementation Plan (SIP) revisions addressing requirements for "serious" areas no later than one year after the effective date of this rulemaking.

DATES: This rule is effective on January 19, 2011.

ADDRESSES: EPA established a docket for this action under Docket ID No. EPA-R06-OAR-2010-0412. All

documents in the docket are listed at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 Freedom of Information Act (FOIA) Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253 to make an appointment.

Please make the appointment at least two working days in advance of your visit. There is a fee of 15 cents per page for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Paige, Air Planning Section, (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-6521; fax number 214-665-6762; e-mail address paige.carrie@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us,” and “our” means EPA. This supplementary information section is arranged as follows:

- I. What action is EPA taking?
- II. What is the effect of this action?
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. What action is EPA taking?

We are finalizing our determination that the DFW 8-hour ozone moderate nonattainment area failed to attain the 1997 8-hour ozone NAAQS by the applicable attainment date. This determination is based on quality-assured and certified ambient air monitoring data for the years 2007–2009. These data show that the DFW area was violating the 1997 8-hour ozone standard at the time of the June 15, 2010 attainment deadline.

As a result of this action, the DFW area will be reclassified by operation of law as a serious ozone nonattainment area for the 1997 8-hour ozone standard on the effective date of this rulemaking.

The rationale for this action is explained in the Notice of Proposed Rulemaking (NPR) published on August 9, 2000 (75 FR 47746) and will not be restated here. No comments were received on the NPR.

II. What is the effect of this action?

The DFW area will be reclassified by operation of law as a serious ozone nonattainment area for the 1997 8-hour ozone standard on the effective date of this rulemaking. The serious area attainment date for the DFW area is as expeditiously as practicable, but not later than June 15, 2013.

The revised SIP for the DFW area must include all the requirements for serious ozone nonattainment area plans, such as: (1) Attainment and reasonable further progress demonstrations (CAA section 182(c)(2), 40 CFR 51.908 and 40 CFR 51.910); (2) an enhanced monitoring program (CAA section

182(c)(1) and 40 CFR 58.10); (3) an enhanced vehicle inspection and maintenance program (CAA section 182(c)(3) and 40 CFR 51.350); (4) clean fuel vehicle programs (CAA section 182(c)(4)); (5) transportation control (CAA section 182(c)(5)); (6) a 50 ton-per-year major source threshold (CAA section 182(c) and 40 CFR 51.165); (7) more stringent new source review requirements (CAA section 182(c)(6) and 40 CFR 51.165); (8) special rules for modification of sources (CAA sections 182(c)(7) and 182(c)(8), and 40 CFR 51.165); (9) contingency provisions (CAA section 182(c)(9)); and (10) increased offsets (CAA section 182(c)(10) and 40 CFR 51.165).¹ See also the requirements for serious ozone nonattainment areas set forth in section 182(c) of the Act. All applicable controls required to demonstrate attainment by June 15, 2013 shall be implemented no later than March 1, 2012.

In addition, the requirements of section 182(b)(3) relating to Stage II gasoline vapor recovery shall apply, provided EPA has not determined that onboard vapor recovery (ORVR) is in widespread use in the motor vehicle fleet and waived the section 182(b)(3) requirement.²

III. Final Action

Pursuant to section 181(b)(2) of the Act, EPA is making a final determination that the DFW 8-hour ozone nonattainment area failed to attain the 1997 8-hour ozone standard by June 15, 2010, the attainment date for moderate ozone nonattainment areas. Thus, the DFW area will be reclassified by operation of law as a serious ozone nonattainment area for the 1997 8-hour ozone standard on the effective date of this rulemaking.

The submittal of the serious area SIP revisions will be due to EPA no later than one year after the effective date of this rulemaking; except that the required SIP revision for Stage II vapor recovery will be due to EPA no later than two years after the effective date of this rulemaking, pursuant to section 182(b)(3)(A) of the Act. All applicable controls required to demonstrate attainment by June 15, 2013 shall be implemented no later than March 1, 2012.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a

¹ For a list of the serious area requirements already in place in the DFW area, see the proposed rulemaking (75 FR 47746).

² See the proposed rulemaking for additional information (75 FR 47746).

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, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act.

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 Order 12866 (58 FR 51735, October 4, 1993);
 - 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 Clean Air Act; 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, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.
- 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. EPA will submit a report containing this action 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 Clean Air Act, petitions for judicial review of this action must be filed in the United

States Court of Appeals for the appropriate circuit by February 18, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: December 12, 2010.
Al Armendariz,
 Regional Administrator, Region 6.
 40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

- 1. The authority citation for part 81 continues to read as follows:
Authority: 42 U.S.C. 7401 *et seq.*
- 2. In § 81.344 the table entitled “Texas—Ozone (8-hour Standard)” is amended by revising the entries for Dallas-Fort Worth, TX and adding a new footnote 5 at the end of the table to read as follows:

§ 81.344 Texas.

* * * * *

TEXAS—OZONE (8-HOUR STANDARD)

Designated area	Designation ^a		Category/classification	
	Date ¹	Type	Date ¹	Type
Dallas-Fort Worth, TX:				
Collin County		Nonattainment	(5)	Subpart 2/Serious.
Dallas County		Nonattainment	(5)	Subpart 2/Serious.
Denton County		Nonattainment	(5)	Subpart 2/Serious.
Ellis County		Nonattainment	(5)	Subpart 2/Serious.
Johnson County		Nonattainment	(5)	Subpart 2/Serious.
Kaufman County		Nonattainment	(5)	Subpart 2/Serious.
Parker County		Nonattainment	(5)	Subpart 2/Serious.
Rockwall County		Nonattainment	(5)	Subpart 2/Serious.
Tarrant County		Nonattainment	(5)	Subpart 2/Serious.

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is June 15, 2004, unless otherwise noted.

⁵ Effective January 19, 2011.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 262

[EPA–HQ–RCRA–2003–0012; FRL–9240–5]

Technical Corrections to the Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action for six technical corrections to an alternative set of hazardous waste generator requirements known as the “Academic Laboratories rule” or “Subpart K” which is applicable to laboratories owned by eligible academic entities. These changes correct errors published in the Academic Laboratories Final rule, including omissions and redundancies, as well as remove an obsolete reference to the Performance Track program, which has been terminated. These technical corrections will improve the clarity of the Academic Laboratories rule.

DATES: This rule is effective on March 7, 2011 without further notice, unless EPA receives adverse comment by January 19, 2011. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the specific

amendments in this Direct Final rule for which the Agency received adverse comment will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–RCRA–2003–0012 by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- *E-mail:* rcra-docket@epa.gov.
- *Fax:* 202–566–9794.
- *Mail:* RCRA Docket, Environmental Protection Agency, *Mailcode:* 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.