

under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this final rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule will directly affect only individuals and will not directly affect small entities. Therefore, this final rule is exempt, pursuant to 5 U.S.C. 605(b), from the final regulatory flexibility analysis requirements of section 604.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a “significant regulatory action,” requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

VA has examined the economic, interagency, budgetary, legal, and policy implications of this final rule and has determined that it is a significant regulatory action under Executive Order 12866.

Catalog of Federal Domestic Assistance

This final rule would affect the program that has the following Catalog of Federal Domestic Assistance program number and title: 64.009—Veterans Medical Care Benefits. To the extent that VA directly provides medical care to patients under the Civilian Health and Medical Program of the Department of Veterans Affairs or other programs,

this rule would also affect those programs, which have no Catalog of Federal Domestic Assistance program numbers.

List of Subjects in Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs, veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, and Veterans.

Approved May 15, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

■ For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 17 as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, and as noted in specific sections.

■ 2. Section 17.32 is amended by:

■ a. In paragraph (d)(1)(iv), adding “or” after the semicolon at the end of the paragraph.

■ b. In paragraph (d)(1)(v), removing “; or” and adding, in its place, a period at the end of the paragraph.

■ c. Removing paragraph (d)(1)(vi).

■ d. Removing paragraph (g)(4).

[FR Doc. E9–16898 Filed 7–15–09; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2007–0905; FRL–8931–1]

Approval and Promulgation of Implementation Plans; Texas; Revisions to General Air Quality Rules and the Mass Emissions Cap and Trade Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking a direct final action to approve portions of one revision to the Texas State Implementation Plan (SIP) submitted by the State of Texas on August 16, 2007;

these portions of the SIP revision approved: Repeal an unnecessary effective date in the Texas SIP under Title 30 in the Texas Administrative Code (TAC), Chapter 101—General Air Quality Rules, Subchapter A—General Rules; and make non-substantive changes in the Texas SIP to the Mass Emissions Cap and Trade Program (MECT) under 30 TAC Chapter 101, Subchapter H—Emissions Banking and Trading, Division 3. EPA has determined that these changes to the Texas SIP comply with the Federal Clean Air Act (the Act or CAA) and EPA regulations, are consistent with EPA policies, and will improve air quality. This action is being taken under section 110 and parts C and D of the Act.

DATES: This direct final rule is effective on September 14, 2009 without further notice, unless EPA receives relevant adverse comment by August 17, 2009. If EPA receives such comment, 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 ID No. EPA–R06–OAR–2007–0905, by one of the following methods:

(1) *www.regulations.gov*: Follow the online instructions for submitting comments.

(2) *E-mail*: Mr. Jeff Robinson at robinson.jeffrey@epa.gov. Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below.

(3) *U.S. EPA Region 6 “Contact Us” Web site*: <http://epa.gov/region6/r6coment.htm>. Please click on “6PD” (Multimedia) and select “Air” before submitting comments.

(4) *Fax*: Mr. Jeff Robinson, Chief, Air Permits Section (6PD–R), at fax number 214–665–6762.

(5) *Mail*: Mr. Jeff Robinson, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

(6) *Hand or Courier Delivery*: Mr. Jeff Robinson, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2007–0905. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless

the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through <http://www.regulations.gov> or e-mail, if you believe that it is CBI or otherwise protected from disclosure. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD-ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air Permits Section (6PD-R), 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 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 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. A 15-cent per page fee will be charged for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area on the seventh

floor at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal related to this SIP revision, and which is part of the EPA docket, is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning today's direct final action, please contact Ms. Adina Wiley (6PD-R), Air Permits Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue (6PD-R), Suite 1200, Dallas, TX 75202-2733. The telephone number is (214) 665-2115. Ms. Wiley can also be reached via electronic mail at wiley.adina@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, wherever any reference to "we," "us," or "our" is used, we mean EPA.

Table of Contents

- I. What Action Is EPA Taking?
- II. What Did Texas Submit?
- III. What Is EPA's Evaluation of This SIP Revision?
- IV. Final Action
- V. Statutory and Executive Order Reviews

I. What Action Is EPA Taking?

We are taking direct final action to approve portions of one revision to the Texas SIP submitted by the Texas Commission on Environmental Quality (TCEQ) on August 16, 2007. One of the portions of the August 16, 2007 SIP revision submittal repeals an unnecessary effective date in the Texas SIP that is under the General Air Quality Rules found at 30 TAC Chapter 101, Subchapter A. Another portion of the August 16, 2007 submittal revises the MECT Program in the Texas SIP that is under 30 TAC Chapter 101, Subchapter H, Division 3. The MECT Program in the Texas SIP is non-substantively revised to correctly update the name and acronym of the Houston/Galveston/Brazoria ozone nonattainment area and to update the cross-references to the stationary source nitrogen oxide (NO_x) rules found in the Texas SIP at 30 TAC Chapter 117 as a result of the non-substantive recodification of Chapter 117 approved by EPA as part of the Texas SIP on December 3, 2008 (see 73 FR 73562). Consequently, we are approving the repeal of section 101.22 from the Texas SIP, and revisions to the Texas SIP at sections 101.350(10), 101.351(a), 101.353(a), 101.354(a) and (e), and

101.360(a)(3) submitted on August 16, 2007 by the TCEQ.

We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no relevant 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 September 14, 2009 without further notice unless we receive relevant adverse comment by August 17, 2009. 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 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.

II. What Did Texas Submit?

We are approving portions from one SIP revision that TCEQ adopted on July 25, 2007 and submitted to EPA on August 16, 2007. A copy of the revised rule as well as the Technical Support Document (TSD) can be obtained from the Docket, as discussed in the "Docket" section above. A discussion of the specific Texas rule changes that we are approving is included in the TSD and summarized below. The TSD also contains a discussion as to why EPA is not taking action on certain provisions of this Texas SIP submittal. We are not acting today upon revisions to the general air quality definitions at 30 TAC Chapter 101, Subchapter A, section 101.1 because previous revisions are still pending for review by EPA. We are also not acting today upon the revisions to the Emission Credit Banking and Trading Program at 30 TAC Chapter 101, Subchapter H, Division 1, sections 101.302 and 101.306 because EPA is still reviewing a previous revision to the SIP submitted on October 24, 2006. Similarly, we are not acting today upon the revisions to the Discrete Emission Credit Banking and Trading Program at 30 TAC Chapter 101, Subchapter H, Division 4, sections 101.372 and 101.376 because the October 24, 2006 SIP revision is still under EPA review. EPA has not yet taken action on the System Cap Trading Program at 30 TAC

Chapter 101, Subchapter H, Division 5 and therefore is not acting today upon revisions to sections 101.383 and 101.385.

A. 30 TAC Chapter 101, Subchapter A

Section 101.22—Effective Date

The existing SIP-approved version of section 101.22 was adopted by the State of Texas on July 20, 1981, and approved by EPA on April 22, 1982 (*see* 47 FR 17285). Section 101.22 established an effective date by which the general air quality rules found at 30 TAC Chapter 101 are in force in the State of Texas. The TCEQ repealed section 101.22 on July 25, 2007.

B. 30 TAC Chapter 101, Subchapter H, Division 3

1. Section 101.350—Definitions

The existing SIP-approved version of section 101.350(1)–(14) was adopted by the TCEQ on December 13, 2002, and approved by EPA on September 6, 2006 (*see* 71 FR 52664). The revisions to section 101.350(10) adopted by the TCEQ on July 25, 2007, update the name and acronym of the Houston/Galveston (HGA) ozone nonattainment area to Houston/Galveston/Brazoria (HGB) ozone nonattainment area, consistent with the 1997 eight-hour ozone designations.

2. Section 101.351—Applicability

The existing SIP-approved version of section 101.351(a) and (b) was adopted by the TCEQ on December 13, 2002, and approved by EPA on September 6, 2006 (*see* 71 FR 52664). The revisions to section 101.351(a) and (a)(1) adopted by the TCEQ on July 25, 2007, update the name of the Houston/Galveston/Brazoria ozone nonattainment area to be consistent with the definitions at section 101.350, update cross-references to stationary source NO_x rules at 30

TAC Chapter 117 as a result of the Chapter 117 recodification to the Texas SIP, and provide grammatical changes.

3. Section 101.353—Allocation of Allowances

The existing SIP-approved version of section 101.353(a)–(h) was adopted by the TCEQ on December 13, 2002, and approved by EPA on September 6, 2006 (*see* 71 FR 52664). The revisions to section 101.353(a) adopted by the TCEQ on July 25, 2007, update the allowance calculation figure to correctly cross-reference the recodified stationary source NO_x rules to the Texas SIP at 30 TAC Chapter 117.

4. Section 101.354—Allowance Deductions

The existing SIP-approved version of section 101.354(a)–(g) was adopted by the TCEQ on December 13, 2002, and approved by EPA on September 6, 2006 (*see* 71 FR 52664). TCEQ revised section 101.354(a) and (e) to correctly cross-reference the recodified stationary source NO_x rules to the Texas SIP at 30 TAC Chapter 117.

5. Section 101.360—Level of Activity Certification

The existing SIP-approved version of section 101.360(a)–(c) was adopted by the TCEQ on December 13, 2002, and approved by EPA on September 6, 2006 (*see* 71 FR 52664). TCEQ revised section 101.360(a)(3) to correctly cross-reference the recodified stationary source NO_x rules to the Texas SIP at 30 TAC Chapter 117.

III. What Is EPA's Evaluation of This SIP Revision?

A. 30 TAC Chapter 101, Subchapter A

Section 101.22—Effective Date

The July 25, 2007, repeal of section 101.22 is approvable. The Texas

Administrative Code does not need to include the effective date for the general air rules since each section now has its own effective date included at the end of each section. Additionally, EPA includes the effective date for each section that is approved into the Texas SIP at 40 CFR 52.2270(c).

B. 30 TAC Chapter 101, Subchapter H, Division 3

1. Section 101.350—Definitions

The revisions to section 101.350(10) adopted by the TCEQ on July 25, 2007, are approvable. These revisions are non-substantive and serve only to update the name and acronym of the Houston/Galveston (HGA) ozone nonattainment area to Houston/Galveston/Brazoria (HGB) ozone nonattainment area, consistent with the 1997 eight-hour ozone designations. These revisions do not affect the functionality of the SIP-approved MECT program.

2. Section 101.351—Applicability

The revisions to section 101.351(a) and (a)(1) adopted by the TCEQ on July 25, 2007, are approvable. These non-substantive revisions update the name of the Houston/Galveston/Brazoria ozone nonattainment area to be consistent with the definitions at section 101.350, update cross-references to the stationary NO_x rules at 30 TAC Chapter 117 as a result of the Chapter 117 recodification to the Texas SIP, and provide grammatical changes. The table below demonstrates that the cross-references have been updated correctly and that no previous SIP-approved section of Chapter 117 was overlooked in the cross-reference update. These non-substantive revisions do not alter the applicability or functionality of the SIP-approved MECT program.

| SIP-approved references in § 101.351 As adopted by TCEQ December 13, 2002, effective January 17, 2003 Approved by EPA September 6, 2006 (71 FR 52664) | Recodified Chapter 117 references As adopted by TCEQ July 25, 2007, effective August 10, 2007 |
|--|--|
| <p><i>§ 101.351(a) refers to sections:</i></p> <p>§ 117.106—Emission Specifications for Attainment Demonstrations for Utility Electric Generation in Ozone Nonattainment Areas.</p> <p>§ 117.206—Emission Specifications for Attainment Demonstrations for Industrial, Commercial, and Institutional Combustion Sources in Ozone Nonattainment Areas.</p> <p>§ 117.475—Emission Specifications for Boilers, Process Heaters, and Stationary Engines and Gas Turbines at Minor Sources.</p> | <p><i>§ 101.351(a) refers to sections:</i></p> <p>§ 117.1210—Emission Specifications for Attainment Demonstration at Major Utility Electric Generation Sources in the HGB Ozone Nonattainment Area.</p> <p>§ 117.310—Emission Specifications for Attainment Demonstration for Combustion Control at Major Industrial, Commercial, and Institutional Sources in the Houston-Galveston-Brazoria Ozone Nonattainment Area.</p> <p>§ 117.2010—Emission Specifications for Combustion Control at Minor Sources in the HGB Ozone Nonattainment Area.</p> |

3. Section 101.353—Allocation of Allowances

The revisions to section 101.353(a) adopted by the TCEQ on July 25, 2007,

are approvable. The non-substantive revisions to the allowance calculation figure correctly cross-reference the recodified stationary source NO_x rules

in the Texas SIP at 30 TAC Chapter 117. The table below demonstrates that the cross-references have been updated correctly and that no previous SIP-

approved section of Chapter 117 was overlooked in the cross-reference

update. These non-substantive revisions do not affect the calculation of

allowances or the functionality of the SIP-approved MECT program.

| SIP-approved references in § 101.353 As adopted by TCEQ December 13, 2002, effective January 17, 2003 Approved by EPA September 6, 2006 (71 FR 52664) | Recodified Chapter 117 references As adopted by TCEQ July 25, 2007, effective August 10, 2007 |
|--|---|
| <p><i>Figure 101.353(a)(2) refers to sections:</i></p> <p>§ 117.106—Emission Specifications for Attainment Demonstrations for Utility Electric Generation in Ozone Nonattainment Areas.</p> <p>§ 117.206—Emission Specifications for Attainment Demonstrations for Industrial, Commercial, and Institutional Combustion Sources in Ozone Nonattainment Areas.</p> <p>§ 117.475—Emission Specifications for Boilers, Process Heaters, and Stationary Engines and Gas Turbines at Minor Sources.</p> <p><i>Figure 101.353(a)(3) refers to sections:</i></p> <p>§ 117.206(c)(1)(A) and (B)—ESADs for gas-fired boilers</p> <p>§ 117.206(c)(2)(A)—fluid catalytic cracking units</p> <p>§ 117.206(c)(5)—wood fuel fired boilers</p> <p>§ 117.206(c)(8)(A)(i)—process heaters other than pyrolysis reactors.</p> <p>§ 117.206(c)(8)(B)—process heaters that are pyrolysis reactors</p> <p>§ 117.206(c)(9)(A)(ii)—stationary, reciprocating internal combustion engines that are gas-fired rich burn engines not fired on landfill gas.</p> <p>§ 117.206(c)(10)—stationary gas turbines</p> <p>§ 117.206(c)(11)—duct burners used in turbine exhaust ducts</p> <p><i>Figure 101.353(a)(5) refers to sections:</i></p> <p>§ 117.106—Emission Specifications for Attainment Demonstrations for Utility Electric Generation in Ozone Nonattainment Areas.</p> <p>§ 117.206—Emission Specifications for Attainment Demonstrations for Industrial, Commercial, and Institutional Combustion Sources in Ozone Nonattainment Areas.</p> <p>§ 117.475—Emission Specifications for Boilers, Process Heaters, and Stationary Engines and Gas Turbines at Minor Sources.</p> <p><i>Figure 101.353(a)(6) refers to sections:</i></p> <p>§ 117.206(c)(17)—alternative to the emission specifications in (c)(1)–(16).</p> <p>§ 117.475(c)(6)—alternative to the emission specifications in (c)(1)–(5).</p> | <p><i>Figure 101.353(a)(2) refers to sections:</i></p> <p>§ 117.1210—Emission Specifications for Attainment Demonstration at Major Utility Electric Generation Sources in the HGB Ozone Nonattainment Area.</p> <p>§ 117.310—Emission Specifications for Attainment Demonstration for Combustion Control at Major Industrial, Commercial, and Institutional Sources in the Houston-Galveston-Brazoria Ozone Nonattainment Area.</p> <p>§ 117.2010—Emission Specifications for Combustion Control at Minor Sources in the HGB Ozone Nonattainment Area.</p> <p><i>Figure 101.353(a)(3) refers to sections:</i></p> <p>§ 117.310(a)(1)(A) and (B)—ESADs for gas-fired boilers.</p> <p>§ 117.310(a)(2)(A)—fluid catalytic cracking units.</p> <p>§ 117.310(a)(5)—wood fuel-fired boilers.</p> <p>§ 117.310(a)(8)(A)(i)—process heaters other than pyrolysis reactors.</p> <p>§ 117.310(a)(8)(B)—process heaters that are pyrolysis reactors.</p> <p>§ 117.310(a)(9)(A)(ii)—stationary, reciprocating internal combustion engines that are gas-fired rich burn engines not fired on landfill gas.</p> <p>§ 117.310(a)(10)—stationary gas turbines.</p> <p>§ 117.310(a)(11)—duct burners used in turbine exhaust ducts.</p> <p><i>Figure 101.353(a)(5) refers to sections:</i></p> <p>§ 117.1210—Emission Specifications for Attainment Demonstration at Major Utility Electric Generation Sources in the HGB Ozone Nonattainment Area.</p> <p>§ 117.310—Emission Specifications for Attainment Demonstration for Combustion Control at Major Industrial, Commercial, and Institutional Sources in the Houston-Galveston-Brazoria Ozone Nonattainment Area.</p> <p>§ 117.2010—Emission Specifications for Combustion Control at Minor Sources in the HGB Ozone Nonattainment Area.</p> <p><i>Figure 101.353(a)(6) refers to sections:</i></p> <p>§ 117.310(a)(17)—alternative to the emission specifications in (a)(1)–(16).</p> <p>§ 117.2010(c)(6)—alternative to the emission specifications in (c)(1)–(5).</p> |

4. Section 101.354—Allowance Deductions

The July 25, 2007, revisions to section 101.354(a) and (e) are approvable. These non-substantive revisions correctly

cross-reference the recodified stationary source NO_x rules in the Texas SIP at 30 TAC Chapter 117. The table below demonstrates that the cross-references have been updated correctly and that no previous SIP-approved section of

Chapter 117 was overlooked in the cross-reference update. These non-substantive revisions do not affect the calculation of allowances or the functionality of the SIP-approved MECT program.

| SIP-approved references in § 101.354 As adopted by TCEQ December 13, 2002, effective January 17, 2003 Approved by EPA September 6, 2006 (71 FR 52664) | Recodified Chapter 117 references As adopted by TCEQ July 25, 2007, effective August 10, 2007 |
|--|--|
| <p><i>§ 101.354(a) refers to sections:</i></p> <p>§ 117.114—Emission Testing and Monitoring for the Houston/Galveston Attainment Demonstration for Utility Electric Generation in Ozone Nonattainment Areas.</p> <p>§ 117.214—Emission Testing and Monitoring for the Houston/Galveston Attainment Demonstration for Industrial, Commercial, and Institutional Combustion Sources in Ozone Nonattainment Areas.</p> <p>§ 117.479—Monitoring, Recordkeeping, and Reporting Requirements for Boilers, Process Heaters, and Stationary Engines and Gas Turbines at Minor Sources.</p> <p><i>§ 117.354(e) refers to sections:</i></p> <p>§ 117.206—Emission Specifications for Attainment Demonstrations for Industrial, Commercial, and Institutional Combustion Sources in Ozone Nonattainment Areas.</p> <p>§ 117.475—Emission Specifications for Boilers, Process Heaters, and Stationary Engines and Gas Turbines at Minor Sources.</p> | <p><i>§ 101.354(a) refers to sections:</i></p> <p>§ 117.1240—Continuous Demonstration of Compliance for Utility Electric Generation Sources in HGB Ozone Nonattainment Area.</p> <p>§ 117.340—Continuous Demonstration of Compliance for Major Industrial, Commercial, and Institutional Sources in the HGB Ozone Nonattainment Area.</p> <p>§ 117.2035—Monitoring and Testing Requirements for Minor Sources in HGB Ozone Nonattainment Area.</p> <p><i>§ 117.354(e) refers to sections:</i></p> <p>§ 117.310—Emission Specifications for Attainment Demonstration for Combustion Control at Major Industrial, Commercial, and Institutional Sources in the Houston-Galveston-Brazoria Ozone Nonattainment Area.</p> <p>§ 117.2010—Emission Specifications for Combustion Control at Minor Sources in the HGB Ozone Nonattainment Area.</p> |

| SIP-approved references in § 101.354 As adopted by TCEQ December 13, 2002, effective January 17, 2003 Approved by EPA September 6, 2006 (71 FR 52664) | Recodified Chapter 117 references As adopted by TCEQ July 25, 2007, effective August 10, 2007 |
|---|---|
| <p>§ 117.206(h)(3)—changes after December 31, 2000, to a unit subjected to an ESAD in section 117.206(c).</p> <p>§ 117.475(f)—changes after December 31, 2000 to a unit subjected to an ESAD in section 117.475(c).</p> | <p>§ 117.310(e)(3)—changes after December 31, 2000, to a unit subject to ESAD in section 117.310(a).</p> <p>§ 117.2010(f)—changes after December 31, 2000, to a unit subject to an ESAD in section 117.2010(c).</p> |

5. Section 101.360—Level of Activity Certification

The July 25, 2007, revisions to section 101.360(a)(3) are approvable. These non-substantive revisions correctly

cross-reference the recodified stationary source NO_x rules in the Texas SIP at 30 TAC Chapter 117. The table below demonstrates that the cross-references have been updated correctly and that no previous SIP-approved section of

Chapter 117 was overlooked in the cross-reference update. These non-substantive revisions do not affect the calculation of allowances or the functionality of the SIP-approved MECT program.

| SIP-approved references in § 101.360 As adopted by TCEQ December 13, 2002, effective January 17, 2003 Approved by EPA September 6, 2006 (71 FR 52664) | Recodified Chapter 117 references As adopted by TCEQ July 25, 2007, effective August 10, 2007 |
|---|---|
| <p><i>§ 101.360(a)(3) refers to sections:</i></p> <p>§ 117.106—Emission Specifications for Attainment Demonstrations for Utility Electric Generation in Ozone Nonattainment Areas.</p> <p>§ 117.206—Emission Specifications for Attainment Demonstrations for Industrial, Commercial, and Institutional Combustion Sources in Ozone Nonattainment Areas.</p> <p>§ 117.475—Emission Specifications for Boilers, Process Heaters, and Stationary Engines and Gas Turbines at Minor Sources.</p> | <p><i>§ 101.360(a)(3) refers to sections:</i></p> <p>§ 117.1210—Emission Specifications for Attainment Demonstration at Major Utility Electric Generation Sources in the HGB Ozone Nonattainment Area.</p> <p>§ 117.310—Emission Specifications for Attainment Demonstration for Combustion Control at Major Industrial, Commercial, and Institutional Sources in the Houston-Galveston-Brazoria Ozone Nonattainment Area.</p> <p>§ 117.2010—Emission Specifications for Combustion Control at Minor Sources in the HGB Ozone Nonattainment Area.</p> |

C. Does Approval of Texas's Rule Revisions Interfere With Attainment, Reasonable Further Progress, or Any Other Applicable Requirement of the Act?

Section 110(l) of the CAA states that EPA cannot approve a SIP revision if the revision would interfere with any applicable requirements concerning attainment and reasonable further progress towards attainment of the National Ambient Air Quality Standards (NAAQS) or any other applicable requirements of the Act. Our review of the Texas SIP submittals indicate that the revisions will not interfere with any applicable requirements concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act.

IV. Final Action

EPA is taking direct final action to approve portions of one revision to the Texas SIP submitted August 16, 2007. Specifically, EPA is approving the repeal of the effective date provision at 30 TAC Chapter 101, Subchapter A, section 101.22. EPA is also approving non-substantive revisions to the MECT program at 30 TAC Chapter 101, Subchapter H, Division 3, sections 101.350(10), 101.351(a), 101.353(a), 101.354(a) and (e), and 101.360(a)(3).

EPA is not taking action on the revisions to the general air quality

definitions at 30 TAC Chapter 101, Subchapter A, section 101.1, revisions to the Emission Credit Banking and Trading Program at 30 TAC Chapter 101, Subchapter H, Division 1, sections 101.302, revisions to Discrete Emission Credit Banking and Trading Program at 30 TAC Chapter 101, Subchapter H, Division 4, sections 101.372 and 101.376, or revisions to the System Cap Trading Program at 30 TAC Chapter 101, Subchapter H, Division 5, 101.383, and 101.385. These revisions remain under review by EPA and available for future actions.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, 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, 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 September 14, 2009. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 6, 2009.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

■ 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 SS—Texas

■ 2. The table in § 52.2270(c) entitled “EPA Approved Regulations in the Texas SIP” is amended under “Chapter 101—General Air Quality Rules” as follows:

■ a. Under Subchapter A, by removing the entry for Section 101.22, Effective Date;

■ b. Under Subchapter H, Division 3, by revising the entries for Sections 101.350, 101.351, 101.353, 101.354, and 101.360.

The revisions read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

| State citation | Title/subject | State approval/submittal date | EPA approval date | Explanation |
|--|-------------------------------------|-------------------------------|--|-------------|
| Chapter 101—General Air Quality Rules | | | | |
| * * * | * * * | * * * | * * * | * * * |
| Subchapter H—Emissions Banking and Trading | | | | |
| * * * | * * * | * * * | * * * | * * * |
| Division 3—Mass Emissions Cap and Trade Program | | | | |
| Section 101.350 | Definitions | 7/25/2007 | July 16, 2009 [Insert FR page number where document begins]. | |
| Section 101.351 | Applicability | 7/25/2007 | July 16, 2009 [Insert FR page number where document begins]. | |
| * * * | * * * | * * * | * * * | * * * |
| Section 101.353 | Allocation of Allowances | 7/25/2007 | July 16, 2009 [Insert FR page number where document begins]. | |
| Section 101.354 | Allowance Deductions | 7/25/2007 | July 16, 2009 [Insert FR page number where document begins]. | |
| * * * | * * * | * * * | * * * | * * * |
| Section 101.360 | Level of Activity Certification ... | 7/25/2007 | July 16, 2009 [Insert FR page number where document begins]. | |
| * * * | * * * | * * * | * * * | * * * |