



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R06-OAR-2012-0100; FRL- 9904-97-Region 6]**

**Approval and Promulgation of Implementation Plans; Texas; Reasonably Available  
Control Technology for the 1997 8-Hour Ozone National Ambient Air Quality Standard**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the Texas State Implementation Plan (SIP) for the Houston/Galveston/ Brazoria (HGB) 1997 8-Hour ozone nonattainment Area (Area). The HGB Area consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller counties. Specifically, we are proposing to approve portions of two revisions to the Texas SIP submitted by the Texas Commission on Environmental Quality (TCEQ) as meeting certain Reasonably Available Control Technology (RACT) requirements for Volatile Organic Compounds (VOC) in the HGB Area. This action is in accordance with section 110 of the federal Clean Air Act (the Act, CAA).

**DATE:** Comments must be received on or before [Insert date 30 days from date of publication in the Federal Register].

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2012-0100, by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.

- E-mail: Alan Shar at [shar.alan@epa.gov](mailto:shar.alan@epa.gov)
- Mail or delivery: Air Planning Section Chief (6PD-L), Environmental Protection

Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

*Instructions:* Direct your comments to Docket ID No. EPA-R06-OAR-2012-0100. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or e-mail that you consider to be CBI or otherwise protected from disclosure. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means 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 [www.regulations.gov](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 and with any disk or CD-ROM you submit. 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 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:* The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all

documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Shar (6PD-L), telephone (214) 665-2164, e-mail shar.alan@epa.gov.

**SUPPLEMENTARY INFORMATION:**

Throughout this document “we,” “us,” and “our” refer to EPA.

**Outline**

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### **I. Background**

#### **A. What actions are we proposing?**

We are proposing to approve portions of revisions to the Texas SIP submitted to EPA with two separate letters dated June 13, 2007 and April 6, 2010 from TCEQ. These two separate submittals are described below.

##### **1. The June 13, 2007 submittal:**

The June 13, 2007 submittal concerns revisions to 30 TAC, Chapter 115 Control of Air Pollution from Volatile Organic Compounds. In addition, the June 13, 2007 submittal included an analysis intended to demonstrate RACT was being implemented in the HGB Area as required by the CAA (Appendix D of the submittal). We approved selected revisions as meeting RACT under the 8-hour ozone NAAQS for some, but not all the submitted industry source categories in the HGB Area on April 2, 2013 at 78 FR 19599. In today's action, we are addressing additional source categories covered in this SIP submittal.

##### **2. The April 6, 2010 submittal:**

In conjunction with the June 13, 2007 submittal, we are also proposing to approve a part of the April 6, 2010 revision to the Texas SIP for VOC RACT purposes. Specifically, we are proposing to find, based on the analysis in Appendix D of the April 6, 2010 submittal that Texas has met certain RACT requirements under section 182(b). Appendix D of the April 6, 2010 submittal is titled "Reasonably Available Control Technology Analysis." and includes source

categories affected by the newly EPA-issued CTGs. See section B for more information on RACT evaluation for the HGB Area.

## **B. What is RACT?**

The EPA has defined RACT as the lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility. See 44 FR 53761, September 17, 1979. Section 172(c)(1) of the Act requires that SIPs for nonattainment areas “provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology) and shall provide for attainment of the primary National Ambient Air Quality (NAAQS) standards.”

Section 182(b)(2) of the Act requires states to submit a SIP revision and implement RACT for moderate and above ozone nonattainment areas. For a Moderate, Serious, or Severe Area a major stationary source is one which emits, or has the potential to emit, 100, 50, or 25 tons per year (tpy) or more of VOCs or NO<sub>x</sub>, respectively. See CAA sections 182(b), 182(c), and 182(d). The EPA provides states with guidance concerning what types of controls could constitute RACT for a given source category through the issuance of Control Techniques Guidelines (CTG) and Alternative Control Techniques (ACT) documents. See [http://www.epa.gov/ttn/naaqs/ozone/ctg\\_act/index.htm](http://www.epa.gov/ttn/naaqs/ozone/ctg_act/index.htm) (URL dating May 23, 2012) for a listing of EPA-issued CTGs and ACTs for VOC.

The HGB Area was designated as Severe for the 1997 8-Hour ozone NAAQS. See 73 FR 56983, October 1, 2008. Thus, per section 182(d) of the CAA, a major stationary source in the HGB Area is one which emits, or has the potential to emit, 25 tpy or more of VOCs or NO<sub>x</sub>.

Under sections 182(b), the SIP for the HGB Area must implement RACT for source categories covered by CTGs, and for major sources with a potential to emit of 25 tpy or more not covered by a CTG. The inventory of VOC and NO<sub>x</sub> sources listed in Appendix D of the April 6, 2010 submittal demonstrates these requirements are fulfilled.

Under section 183(b), EPA is required to periodically review and, as necessary, update CTGs. EPA issued a number of new CTGs in 2006, 2007, and 2008. Accordingly, Texas revised its Chapter 115 regulations to address these VOC RACT control measures.

## **II. Evaluation**

### **A. What is TCEQ's approach and analysis to RACT?**

Under sections 182(b)(2)(A) and (B) states must insure RACT is in place for each source category for which EPA issued a CTG, and for any major source not covered by a CTG. As a part of its June 13, 2007 submittal, TCEQ conducted a RACT analysis to demonstrate that the RACT requirements for CTG sources in the HGB 8-Hour ozone nonattainment Area have been fulfilled. The TCEQ revised and supplemented this analysis in its April 6, 2010 submittal. The TCEQ conducted its analysis by: 1) Identifying all categories of CTG and major non-CTG sources of VOC emissions within the HGB Area; 2) Listing the state regulation that implements or exceeds RACT requirements for that CTG or non-CTG category; 3) Detailing the basis for concluding that these regulations fulfill RACT through comparison with established RACT requirements described in the CTG guidance documents and rules developed by other state and local agencies; and 4) Submitting negative declarations when there are no CTG or major Non-CTG sources of VOC emissions within the HGB Area. We are proposing that TCEQ's submittal, for affected VOC sources in the HGB Area addressed in this notice, provide for the

implementation of all reasonably available control measures as expeditiously as practicable and shall provide for attainment of the primary National Ambient Air Quality (NAAQS) standards.

**B. What CTG source categories are we addressing in this action?**

Table 1 below contains a list of VOC CTG source categories and their corresponding sections of 30 TAC Chapter 115 to fulfill the applicable RACT requirements under section 182(b) of the Act.

Table 1 - CTG Source Categories and Their Corresponding Texas VOC RACT Rules

Entry #	Source Category in HGB Area	CTG Reference Document	Chapter 115, Fulfilling RACT
1	Aerospace	Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations	§§115.420 - 429
2	Surface coating for insulation of magnets	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume IV: Surface Coating of Insulation of Magnet Wire.	§§115.420 – 429
3	Surface coating of coils	Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.	§§115.420 - 429
4	Surface coating of fabrics	Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.	§§115.420 – 429
5	Surface coating of cans	Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.	§§115.420 - 429
6	Use of cutback asphalt	Control of Volatile Organic Emissions from Use of Cutback Asphalt.	§§115.510 – 519
7	Wood furniture	Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations.	§§115.420 – 429
8	Large petroleum dry cleaners	Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners.	§§115.552 – 559

**C. Are there any negative declarations associated with the VOC source categories in the HGB Area?**

Yes, Texas has declared that there are no Fiberglass Boat Manufacturing Materials Operations, Leather Tanning and Finishing Operations, Surface Coating for Flat Wood Paneling Operations, Automobile and Light-Duty Truck Assembly Coating Operations, and Vegetable Oil Manufacturing Operations that are major sources in the HGB Area. Previously, we have approved a negative declaration for the Rubber Tire Manufacturing Operations in the HGB Area. As such, TCEQ does not have to adopt VOC regulations relevant to these source categories at this time for the HGB Area. However, if a major source of these categories locates in the HGB Area in future, then TCEQ will need to take appropriate regulatory measures.

**D. Is Texas' approach to RACT determination based on the June 13, 2007 and April 6, 2010 submittals acceptable?**

As a part of 1-Hour ozone attainment demonstration plan for the HGB Area at 70 FR 58136, October 5, 2005; and 71 FR 52676, September 6, 2006, we stated that Texas has met RACT for VOC and NO<sub>x</sub> sources. In the TSD developed for this action, we evaluated the corresponding sections of 30 TAC Chapter 115 for the source categories identified in Table 1 above in the HGB Area, and have reviewed these sections against our identified reference documents. In its April 6, 2010, submittal to EPA, TCEQ states that it has reviewed the HGB VOC rules and certifies that they satisfy RACT requirements for the 8-Hour ozone standard by the application of control technology that is reasonably available considering technological and economic feasibility. In section B (Certifications) of EPA's May 18, 2006 RACT Q and A document, the framework described in the TSD (pages 3 and 4), and the 70 FR 71612,



November 29, 2005, regarding permissible approaches for determining whether a State's level of control meets RACT, EPA provided guidance that a State's certification of its VOC rules is sufficient or acceptable for a finding that the rules satisfy the RACT requirements. We are proposing a determination that Texas VOC rules meet the CAA's RACT requirements. Consequently, by implementing these control requirements (Chapter 115) Texas is satisfying the RACT requirements for CTG source categories identified in Tables 1 of this document in the HGB Area under the 1997 8-Hour ozone standard.

**E. Is Texas' approach to RACT determination for VOC sources based on the June 13, 2007 and April 6, 2010 submittals acceptable?**

Yes. The purpose of 30 TAC Chapter 115 rules for the HGB Area is to establish reasonable controls on the emissions of ozone precursors. Texas has reviewed its VOC rules and has certified that its rules satisfy RACT requirements. Based upon our evaluation, we are proposing to find that Texas has RACT-level controls in place for all required sources for the HGB Area under the 1997 8-Hour ozone standard.

**III. Proposed Action**

Today, we are proposing to find that for VOC, CTG categories identified in Table 1, Texas has RACT-level controls in place for the HGB Area under the 1997 8-Hour ozone standard. We are also proposing to approve the negative declarations as explained in section II(B) of this action. The EPA had previously approved RACT for VOC and NO<sub>x</sub> into Texas' SIP under the 1-Hour ozone standard.

#### **IV. 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. If a portion of the plan revision meets all the applicable requirements of this chapter and Federal regulations, the Administrator may approve the plan revision in part. 42 U.S.C. 7410(k); 40 CFR 52.02(a).

Thus, in reviewing SIP submissions, EPA's role is to approve state choices that meet the criteria of the Act, and to disapprove state choices that do not meet the criteria of the Act. Accordingly, this proposed action approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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 (Public Law 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;
- 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); and
- 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.

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 18, 2013.

**Ron Curry,**

*Regional Administrator,*

*Region 6.*

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