



**6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R06-OAR-2011-0079; FRL-9927-59-Region 6]**

**Approval and Promulgation of Implementation Plans; Texas; Revision to Control Volatile Organic Compound Emissions from Storage Tanks and Transport Vessels**

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a Texas State Implementation Plan (SIP) revision for control of volatile organic compound (VOC) emissions from degassing of storage tanks, transport vessels and marine vessels. The revision reformats the existing requirement to comply with current rule writing standards, adds additional control options for owner/operators to use when complying, clarifies the monitoring and testing requirements of the rule, and makes non-substantive changes to VOC control provisions that apply in the Beaumont-Port Arthur (BPA) nonattainment area (Hardin, Jefferson and Orange Counties), four counties in the Dallas-Fort Worth (DFW) nonattainment area (Collin, Dallas, Denton and Tarrant Counties), El Paso County, and the Houston-Galveston-Brazoria (HGB) nonattainment area (Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller Counties).

**DATES:** This rule is effective on [Insert date 60 days after date of publication in the Federal Register] without further notice, unless EPA receives relevant adverse comment by [Insert date 30 days after date of publication in the Federal Register]. 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 No. EPA-R06-OAR-2011-0079, by one of the following methods:

- *www.regulations.gov*. Follow the online instructions.
- E-mail: Mr. Robert M. Todd at *todd.robert@epa.gov*.
- Mail or delivery: Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L),  
Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

*Instructions:* Direct your comments to Docket No. EPA-R06-OAR-2011-0079. 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*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* web site 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* 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, any form of encryption, and be free of any defects or viruses.

*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).

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert M. Todd, (214) 665-2156, [todd.robert@epa.gov](mailto:todd.robert@epa.gov). To inspect the hard copy materials, please contact Mr. Todd or Mr. Bill Deese (214) 665-7253.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

**Table of Contents:**

- I. Background
- II. EPA’s Evaluation
- III. Final Action
- IV. Incorporation by Reference

## V. Statutory and Executive Order Reviews

### **I. Background**

#### *A. CAA and SIPs*

Section 110 of the Clean Air Act (CAA) requires states to develop and submit to EPA a SIP to ensure that state air quality meets National Ambient Air Quality Standards (NAAQS). These ambient standards currently address six criteria pollutants: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin through air pollution regulations and control strategies. EPA approved SIP regulations and control strategies are federally enforceable. States revise the SIP as needed and submit revisions to EPA for approval.

Under Section 182(b)(2) of the Act, major stationary sources and sources covered by control technique guidelines are required to implement RACT in moderate and above ozone nonattainment areas.

#### *B. Volatile Organic Compounds (VOC) and Degassing Emissions*

Volatile organic compounds are an “ozone precursor,” as they react with oxygen, nitrogen oxides (NO<sub>x</sub>) and sunlight to form ozone. Controlling sources of VOC and NO<sub>x</sub> emissions can lower ozone levels in the ambient air. VOC degassing emissions occur when VOC storage tanks, transport vessels and marine vessels are vented and prepared for cleaning, maintenance or change of service. Requirements to control degassing emissions, use low-leaking tank fittings on some control options, monitor control effectiveness and report compliance from degassing operations were implemented in HGB and BPA (62 FR 27964, May 22, 1997). In DFW and El Paso County, these rules were adopted as contingency measures under the 1-hour

ozone standard (62 FR 27964). These VOC requirements for HGB were later updated (75 FR 15348, March 29, 2010 and 78 FR 19599, April 2, 2013). For Collin, Dallas, Denton and Tarrant Counties in the DFW nonattainment area, the contingency measures were not triggered or otherwise implemented under the 1-hour ozone standard, and were left in place (applying only to Collin, Dallas, Denton and Tarrant Counties) as contingency measures under the 1997 8-hour ozone standard (74 FR 1903, January 14, 2009). Texas implemented these contingency measure rules for Collin, Dallas, Denton and Tarrant Counties on May 21, 2011 (35 TexReg 4268, May 21, 2010) when the area failed to meet the 1997 8-hour standard by the moderate area attainment date of June 15, 2010.

*C. SIP Revision Submitted on February 18, 2011*

A SIP submission revising the rules for controlling VOC emissions from degassing of storage tanks, transport vessels and marine vessels was adopted by Texas on January 26, 2011, and submitted to us on February 18, 2011. The revisions submitted by Texas Commission on Environmental Quality (TCEQ) apply to Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant and Waller Counties.

The revision repeals Title 30, Chapter 115 of the Texas Administrative Code (30 TAC 115) sections 115.541, 115.542 and 115.545; adds new sections 115.540 -115.542 and 115.545; and amends existing sections 115.543, 115.544, 115.546, 115.547 and 115.549. The revision (1) reformats the existing rule to simplify and clarify rule requirements; (2) modifies VOC control requirements in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant and Waller Counties; (3) makes changes to provide additional flexibility for affected owners and operators allowing for the use of

alternative control options; and (4) makes non-substantive changes to VOC control provisions that apply in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant and Waller Counties.

Also, the regulation continues to apply to El Paso County on a contingency basis; i.e., the control requirements of the rule will not apply to affected owner/operators in El Paso County unless the agency determines regulation is necessary as a result of a failure to attain the NAAQS for ozone by the attainment deadline or the State fails to demonstrate reasonable further progress in the El Paso County according to the requirements of the 1990 Amendments to the CAA, section 172(c)(9).

This revision clarifies that degassing emissions of storage tanks and transport vessels for sources in Collin, Dallas, Denton, and Tarrant Counties are required to meet the control requirements of the rule at this time. The requirements do not apply to storage tanks or vessels in Ellis, Johnson, Kaufman, Parker, Rockwall or Wise Counties.<sup>1</sup> When the DFW area was reclassified as a Serious ozone nonattainment area for the 1997 ozone standard (75 FR 79302, December 20, 2010) the TCEQ published the notice requiring compliance with degassing requirements in DFW by May 21, 2011 (35 TexReg 4268, May 21, 2010.). This action clarifies that the degassing requirements are in effect for Collin, Dallas, Denton and Tarrant Counties.

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<sup>1</sup> On March 27, 2008 (73 FR 16436), the EPA promulgated a revised 8-hour ozone NAAQS of 0.075 ppm, known as the 2008 ozone standard. On April 30, 2012, the EPA promulgated designations under the 2008 ozone standard (77 FR 30088) and in that action, the EPA designated 10 counties in the DFW area as a Moderate ozone nonattainment area: Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise. The EPA's actions here with respect to DFW, only address the counties which comprised the DFW nonattainment area under the 1-hour ozone standard.

For the HGB area, the rule revisions maintain the existing requirement that VOC vapors generated during degassing operations be routed to a device that maintains a control efficiency of at least 90% for the affected sources.<sup>2</sup>

For DFW, HGB and BPA, the revisions add an explicit requirement that any flare used for control must be designed and operated according to 40 CFR 60.18(b) - (f) as amended through December 22, 2008, and that the flare must be lit at all times VOC vapors are routed to the device during degassing operations. The TCEQ added this requirement to clarify the intent of the rule is for both the flare flame and the pilot to the flare be lit at all times VOC vapors are routed to the device.

The SIP revision submitted by Texas may be accessed online at [www.regulations.gov](http://www.regulations.gov), Docket No. EPA-R06-OAR-2010-0642.

#### *D. CAA Requirements for the SIP Revision*

The primary requirements pertaining to the SIP revision submitted by Texas are found in CAA sections 110(l) and 182(b)(2). CAA section 110(l) requires that a SIP revision submitted to EPA be adopted after reasonable notice and public hearing. Section 110(l) also requires that we not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. Section 182(b)(2) of the Act requires States to adopt Reasonably Available Control Technology (RACT) rules for stationary sources of VOCs in ozone nonattainment areas classified as moderate or above.

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<sup>2</sup> The HGB area is classified as a severe ozone nonattainment area for the 1997 8-hour ozone NAAQS (73 FR 56983, October 1, 2008). Under the 2008 ozone standard the HGB area is classified as a Marginal ozone nonattainment area (77 FR 30088).

## **II. EPA's Evaluation**

The requirements to control degassing emissions, use low-leaking tank fittings on some control options, monitor control effectiveness and report compliance from degassing operations were previously implemented in HGB and BPA (62 FR 27966, May 22, 1997). The requirements were later revised for HGB (75 FR 15348, March 29, 2010 and 78 FR 19599, April 2, 2013). For DFW, we previously approved the rules as a contingency measure to be implemented by Texas if the area failed to reach attainment under the 1-hour ozone nonattainment standards (May 22, 1997, 62 FR 27964). We later approved these same rules as contingency measures to be implemented in the four counties comprising of the 1-hour ozone nonattainment area if DFW did not reach attainment under the 8-hour ozone nonattainment standard (January 14, 2009, 74 FR 1903). Because the nine counties in the DFW 8-hour nonattainment area failed to meet the attainment date, Texas implemented the contingency measure rules for Collin, Dallas, Denton and Tarrant Counties on May 21, 2011. For the El Paso area we initially approved these rules as a contingency measure on May 22, 1997. (62 FR 27966, May 22, 1997).

Under Section 182(b)(2) of the Act, Major stationary sources and sources covered by control technique guidelines are required to implement RACT in moderate ozone and above ozone nonattainment areas. At the time these rules were adopted by TCEQ, the four subject areas were all moderate or above nonattainment for the 1 hour ozone standard.

The VOC degassing rules control emissions from three source types: stationary storage tanks, transport vessels and marine vessels. The latter two source types are not stationary sources and are therefore not subject to RACT requirements. Storage tanks are covered by Control Technique Guidelines (CTGs). As a result, RACT must be implemented for stationary storage



tanks. If there were not a CTG for storage tanks emissions, any major source storage tanks would have had to implement RACT to control its emissions including degassing emissions.

The CTGs for storage tanks provide recommendations for types of controls including the types of seals necessary to reduce emissions from tanks. The CTGs, however, do not include a recommendation that emissions during degassing of the tanks be controlled. Texas has adopted rules based on the CTG recommendations. See 30 TAC 115, Storage of Volatile Organic Compounds, sections 115.110, 115.512-117 and 115.119. These rules have previously been approved as RACT and finding has been affirmed as RACT on a number of occasions. The rules Texas has adopted to control degassing emissions are in addition to the RACT level of control recommended by the CTG. The rules were adopted by TCEQ to address rate of progress requirements in HGB and to meet contingency measure requirements in DFW and El Paso County. Therefore, it is appropriate for the degassing controls in El Paso to remain as a contingency measure and changes to the degassing rules will not interfere with whether RACT is being implemented in these areas.

Moreover, our evaluation finds that the revision to the Texas SIP improves the rules by rewording them so that their intent is unambiguous, clarifying the compliance monitoring and reporting required for affected sources, and does not result in a change in the VOC emission reductions previously approved for degassing of storage tanks, transport vessels and marine vessel in DFW, HGB, BPA and El Paso County.

In our April 2, 2013 approval of Texas's revisions to the SIP for the HGB 1997 8-Hour ozone nonattainment area (78 FR 19599), we found that the Texas SIP met the RACT requirements for CTG and major Non-CTG sources of VOC in this nonattainment area

(Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller Counties) under the 1997 8-Hour ozone NAAQS. We are not altering this finding in this action.

We found that the Texas SIP met the RACT requirements for CTG and major Non-CTG sources of VOC in DFW in our approval of Texas VOC rules for RACT (64 FR 3841). We are not altering this finding in this rule.

Also, the Degassing or Cleaning VOC control requirements approved in the DFW and El Paso County SIPs as contingency measures, for the 8-hour Ozone attainment demonstration, are not altered in this action (January 14, 2009, 74 FR 1903). These measures were triggered in DFW in 2010 and became effective May 21, 2010 (see the Texas Register, 35 TexReg 4268, dated May 21, 2010).

For additional information please see our Technical Support Document which may be accessed online at [www.regulations.gov](http://www.regulations.gov), Docket No. EPA-R06-2010-0642.

### **III. Final Action**

We are approving a Texas SIP revision for control of VOC emissions from storage tank, transport vessel and marine vessel degassing operations adopted on January 26, 2011, and submitted on February 18, 2011. Specifically, we are approving revisions to 30 TAC 115 at sections 115.540 -115.547 and 115.549. The revisions (1) reformat the existing rule to simplify and clarify rule requirements; (2) modify VOC control requirements in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant and Waller Counties; (3) make changes to provide additional flexibility for affected owners and operators allowing for the use of alternative control options; and (4) make non-substantive changes to VOC control provisions that apply in Brazoria,

Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Hardin, Harris, Jefferson, Liberty, Montgomery, Orange, Tarrant and Waller Counties.

We are publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no 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 **[insert date 60 days after date of publication in the Federal Register]** without further notice unless we receive relevant adverse comment by **[insert date 30 days after date of publication in the Federal Register]**. 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 relevant 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.

#### **IV. Incorporation by Reference**

In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.4, we are finalizing the incorporation by reference of the revisions to the Texas regulations as described in the Final Action section above. We have made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the EPA Region 6 office.

## V. 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, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 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 (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 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, 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. section 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 rule 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. section 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 **[insert date 60 days**

**after date of publication of this document in the Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 4, 2015.

**Ron Curry,**  
*Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart SS – Texas**

2. In § 52.2270(c), the table titled “EPA APPROVED REGULATIONS IN THE TEXAS SIP” is amended by:

- a. Under “Subchapter F--Miscellaneous Industrial Sources”, revising the title for “Division 3”;
- b. Adding, in sequential order, the entry for Section 115.540; and
- c. Revising the entries for Sections 115.541 through 115.547 and 115.549.

The addition and revisions read as follows:

**§ 52.2270 Identification of plan.**

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**EPA APPROVED REGULATIONS IN THE TEXAS SIP**

State citation	Title/Subject	State approval/ Submittal date	EPA approval date	Explanation
* * * * *				
<b>Chapter 115 (Reg 5) – Control of Air Pollution From Volatile Organic Compounds</b>				
* * * * *				
<b>Subchapter F – Miscellaneous Industrial Sources</b>				
* * * * *				
<b>Division 3: Degassing of Storage Tanks, Transport Vessels, and Marine Vessels</b>				
Section 115.540	Applicability and Definitions	1/26/2011	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
Section 115.541	Emission Specifications	1/26/2011	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
Section 115.542	Control Requirements	1/26/2011	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	
Section 115.543	Alternate control Requirements	1/26/2011	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	



Section 115.544	Inspection, Monitoring, and Testing Requirements	1/26/2011	<b><u>[Insert date of publication in the Federal Register]</u></b> <b><u>[Insert Federal Register citation]</u></b>	
Section 115.545	Approved Test Methods	1/26/2011	<b><u>[Insert date of publication in the Federal Register]</u></b> <b><u>[Insert Federal Register citation]</u></b>	
Section 115.546	Recordkeeping and Notification Requirements	1/26/2011	<b><u>[Insert date of publication in the Federal Register]</u></b> <b><u>[Insert Federal Register citation]</u></b>	
Section 115.547	Exemptions	1/26/2011	<b><u>[Insert date of publication in the Federal Register]</u></b> <b><u>[Insert Federal Register citation]</u></b>	
Section 115.549	Compliance Schedules	1/26/2011	<b><u>[Insert date of publication in the Federal Register]</u></b> <b><u>[Insert Federal Register citation]</u></b>	
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[FR Doc. 2015-11451 Filed: 5/12/2015 08:45 am; Publication Date: 5/13/2015]