



**6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R06-OAR-2017-0055; FRL-9979-57-Region 6]**

**Approval and Promulgation of Implementation Plans; Texas; Reasonably Available Control Technology in the Houston-Galveston-Brazoria Ozone Nonattainment Area**

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

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing approval of revisions to the Texas State Implementation Plan (SIP) addressing volatile organic compounds (VOC) revised rules and the State's reasonably available control technology (RACT) analyses for VOC and nitrogen oxides (NO<sub>x</sub>). We are proposing to approve the revised VOC rules as assisting in reaching attainment of the 2008 ozone National Air Quality Ambient Air Quality Standards (NAAQS or the standard) and as meeting the RACT requirements in the Houston-Galveston-Brazoria 2008 8-hour ozone nonattainment area (HGB area). We are also proposing to approve negative declarations for certain VOC source categories subject to RACT in the HGB area. The EPA also is proposing to find that the State's RACT analyses demonstrate that the HGB area meets the VOC and NO<sub>x</sub> RACT requirements for this standard.

**DATES:** Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2017-0055, at <http://www.regulations.gov> or via email to [Todd.Robert@epa.gov](mailto:Todd.Robert@epa.gov). Follow the online instructions

for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact Robert M. Todd, (214) 665-2156, Todd.Robert@epa.gov. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit

*<http://www2.epa.gov/dockets/commenting-epa-dockets>.*

*Docket:* The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at the 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:** Robert M. Todd, 214-665-2156,

Todd.Robert@epa.gov To inspect the hard copy materials, please schedule an appointment with Mr. Todd or Mr. Bill Deese at 214-665-7253.

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

## **I. Background**

Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO<sub>x</sub>) help produce ground-level ozone, or smog, which harms human health and the environment. Sections 182(b)(2) and (f) require that SIPs for ozone nonattainment areas classified as moderate or above include implementation of RACT for any source covered by a Control Techniques Guidelines (CTG) document and for any major source of VOC or NO<sub>x</sub>. 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 September 17, 1979 (44 FR 53761).

For a Moderate, Serious, or Severe area a major stationary source is one that 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 CTG and Alternative Control Techniques (ACT) documents. See <http://www.epa.gov/airquality/ozonepollution/SIPToolkit/ctgs.html> (URL dating August 17, 2014) for a listing of EPA-issued CTGs and ACTs. Any major source not covered by the presumptive CTG rule or a rule similar to the ACT must be controlled to meet RACT.

On March 27, 2008, the EPA revised the primary and secondary Ozone (O<sub>3</sub>) standard to a level of 75 parts per billion (ppb). Promulgation of a NAAQS triggers a requirement for the EPA to designate areas as nonattainment, attainment, or unclassifiable, and to classify the NAAs at the time of designation. On May 21, 2012, the EPA established initial area designations for most areas of the country with respect to the 2008 primary and secondary eight-hour O<sub>3</sub> NAAQS. The

EPA published two rules addressing final implementation<sup>1</sup> and air quality designations.<sup>2</sup> The implementation rule established classifications, associated attainment deadlines, and revoked the 1997 O<sub>3</sub> standards for transportation conformity purposes. The designation rule finalized the NAA boundaries for areas that did not meet the 75 ppb standard. Furthermore, the finalized nonattainment areas were classified according to the severity of their O<sub>3</sub> air quality problems as determined by each area's design value.<sup>3</sup> The O<sub>3</sub> classification categories were defined as Marginal, Moderate, Serious, Severe, or Extreme.

The HGB area, which consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties in Texas, is currently designated as nonattainment for the 2008 8-hour ozone NAAQS with a "moderate" classification (81 FR 90207, December 14, 2016). Originally the HGB area was classified as "marginal" (77 FR 30088 and 77 FR 30160, May 21, 2012).<sup>4</sup> However, the HGB area did not meet the revised attainment deadline of July 20, 2016 and was reclassified to moderate. Based on the moderate classification of the HGB area for the 2008 ozone standard, under section 182(b) of the CAA, a major stationary source in the area is one that emits, or has the potential to emit, 100 tpy or more of VOCs or NO<sub>x</sub>.

On December 29, 2016 Texas submitted its SIP demonstration that RACT for sources of VOC and NO<sub>x</sub> emissions in the HGB area is met for the 2008 NAAQS, along rule revisions to 30 TAC, Chapter 115 (Control of Air Pollution from Volatile Organic Compounds). Texas, in its SIP analyses to identify major stationary sources of NO<sub>x</sub> and VOC reviewed the TCEQ point

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<sup>1</sup> See 77 FR 30160 "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach, Attainment Deadlines and Revocation of the 1997 Ozone Standards for Transportation Conformity Purposes."

<sup>2</sup> See 77 FR 30088, "Air Quality Designations for the 2008 Ozone National Ambient Air Quality Standards."

<sup>3</sup> The air quality design value for the 8-hour ozone NAAQS is the three-year average of the annual fourth highest daily maximum 8-hour average ozone concentration. See 40 CFR part 50, appendix I.

<sup>4</sup> Subsequently the attainment deadlines were revised under the marginal classification. 80 FR 12264, March 6, 2015; 81 FR 26697, May 4, 2016).

source emissions inventory, NSR and Clean Air Act Title V databases to locate potential sources. All sources in the Title V database that were listed as a major source for NO<sub>x</sub> or VOC emissions are included in the RACT analysis. TCEQ noted that they reviewed sources that reported actual emissions as low as 10 tpy of NO<sub>x</sub> or VOC to account for the difference between actual and potential emissions. TCEQ also noted that sites from the emissions inventory database with emissions equal to or greater than a threshold of 25 tpy or more of NO<sub>x</sub> or VOC definition that were not identified in the Title V database and could not be verified as minor sources by other means are also included in the RACT analysis.

## **II. Evaluation**

### ***Reliance on Prior RACT Determination for HGB Area***

In TCEQ's December 29, 2016 SIP, Table F-1 titled "*State Rules Addressing VOC RACT Requirements in CTG Reference Documents*" lists VOC CTG source categories, its reference document, and state rules addressing VOC RACT requirements. Table F-2 titled "*State Rules Addressing VOC RACT Requirements in ACT Reference Documents,*" in TCEQ's December 29, 2016 SIP, lists state rules addressing VOC RACT in ACT reference documents. The implementation rule of March 6, 2015 (80 FR 12279), explains that States should refer to existing CTG and ACT documents as well as all relevant technical information including recent technical information received during the public comment period to determine if RACT is being applied. States may conclude, in some cases, that sources already addressed by RACT determinations to meet the 1-hour and/or the 1997 8-hour ozone NAAQS do not need to implement additional controls to meet the 2008 ozone NAAQS RACT requirement (80 FR 12264, March 6, 2015). The EPA has approved the 30 TAC Chapter 115 VOC rules as RACT for the HGB area under the 1-hour and 1997 8-hour ozone NAAQS (71 FR, 52670, September 6,

2006; 78 FR 19599, April 2, 2013; 79 FR 21144, April 15, 2014; 79 FR 45105, August 4, 2014; and 80 FR 16291, March 27, 2015). The EPA determined that VOC RACT is in place for all CTG and non-CTG major sources in the HGB area for the 1-hour and 1997 8-hour ozone NAAQS (71 FR 52676, September 6, 2006 and 79 FR 21144, April 15, 2014). Texas's SIP submittal relies on those EPA-approved Chapter 115 rules for the 1-hour and 1997 8-hour ozone NAAQS to fulfill RACT requirement for CTG and non-CTG VOC major sources for the 2008 8-hour ozone NAAQS. We are proposing to incorporate by reference the dockets for those decisions.<sup>5</sup>

We are proposing to find that the rules we approved as meeting RACT for the 1-hour and 1997 8-hour ozone NAAQS also meet RACT for the 2008 8-hour ozone NAAQS. We have determined this is appropriate because the fundamental control techniques described in the CTG and ACT documents, are still applicable and a new RACT determination by Texas would result in the same or similar control technology as the RACT determinations made for the 1-hour or 1997 standard. This view is supported by the implementing rule for the 2008 ozone NAAQS.<sup>6</sup> The Chapter 115 rules provide appropriate VOC emissions reductions that are equivalent to control options cited in the CTG and ACT documents and any non-CTG major sources are controlled. During the public comment period for the attainment demonstration the state received one suggestion to implement the new CTG for the Oil and Natural Gas Industry (EPA-453/B-16-001, October 2016) in the HGB area. EPA has issued a notice of proposed withdrawal; request for comment. See 83 FR 10478, March 9, 2018.

### ***VOC RACT Analysis for Additional Controls or Newly Identified Sources***

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<sup>5</sup> See EPA-R06-OAR-2005-TX-0018 and EPA-R06-OAR-2012-0100, available through the Regulations.gov website at: <https://www.regulations.gov/>.

<sup>6</sup> See 80 FR 12279, final action and rationale and 80 FR 12280, first column, comments and responses.

TCEQ found that the VOC storage tank category was partially controlled and evaluated whether additional controls would be feasible and economical. They revised the storage tank rules to add more controls to meet RACT. TCEQ also identified a Vegetable Oil Manufacturing Operations source emitting VOCs in a quantity greater than the major source definition required under the previous NAAQS standard for the HGB area. TCEQ's analysis showed that the source met control recommendations listed in an earlier CTG document for the Vegetable Oil Manufacturing Operations source category and therefore met RACT. We are proposing to fully approve the submitted rules as part of the SIP to assist in achieving the 2008 ozone NAAQS and finding the revised storage tank rules meet VOC RACT for the HGB area. Below, we discuss in more detail our proposed approval of the storage tank rule revisions and the vegetable oil manufacturing processing source as meeting RACT. Please see the Technical Support Document (TSD) for additional information.

Texas in its DFW RACT analyses for the 2008 ozone standard, found that the storage tank source category was partially controlled and additional controls were feasible and economical. We recently approved storage tank rule revisions as meeting the RACT requirement for the 2008 ozone NAAQS in the DFW area<sup>7</sup>. The SIP requirements controlling VOC emissions from storage tanks are found in 30 TAC, Chapter 115, Subchapter B, Division 1 (Storage of Volatile Organic Compounds) and Texas revised §§ 115.112, 115.114, 115.118 and 115.119 for the HGB area to match those EPA approved for the DFW area as RACT. The major changes are to §115.112, Control Requirements, which increases control efficiency of control devices, other than vapor recovery units or flares, from 90% to 95% for VOC storage tanks in the HGB area and expands the requirement to control VOC emissions to sources not previously covered;

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<sup>7</sup> We approved those rules on December 21, 2017. See 82 FR 60546. The codification of the Texas SIP approved by EPA can be found at 40 CFR 52.2270(c).

§115.114, Inspection Requirements, which adds the requirement to inspect closure devices on fixed roofs tanks to prevent VOC flash gassing; §115.118, Recordkeeping Requirements, which expands recordkeeping requirements for fixed roof crude oil and condensate storage tanks with uncontrolled VOC emissions of at least 25 tpy to the HGB area, as well as extends record retention for affected VOC storage tanks and expands the rule applicability to include the aggregate of fixed roof crude oil and condensate storage tanks at pipeline breakout stations in the HGB area; and, §115.119, Compliance Schedules, which clarifies the responsibility for sources in the HGB area to comply and defines July 20, 2018 as the final date for owners and operators to comply with the new standards for the area. The increased control efficiency requirements; inspection, repair, and recordkeeping requirements; and expanded applicability for fixed roof crude oil and condensate storage tanks are already in place for VOC storage tanks in the DFW area. We have approved the rule changes into the state SIP and found they meet VOC RACT for the DFW area. We are proposing to incorporate by reference the docket for that decision.<sup>8</sup>

The adopted rule revisions address RACT for both CTG and non-CTG major VOC storage tanks in the HGB area. We propose to approve the Texas submitted revisions, as described in detail in the TSD to this proposal, to the storage tank rule for the HGB area as part of the SIP and as meeting RACT for the HGB area for the 2008 8-hour NAAQS.

In the Texas submittal, the State identified a vegetable oil manufacturing operation category in the HGB area as a major source.<sup>9</sup> Previously, EPA had approved Texas' negative declaration for vegetable oil manufacturing operation for the HGB area for the VOC RACT for

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<sup>8</sup> See EPA-R06-OAR-2015-0832, available through the Regulations.gov website at: <https://www.regulations.gov/>.

<sup>9</sup> The Vegetable Oil Control Techniques Guideline was deferred regarding implementation in 1979 and it is not currently listed as an applicable source category. The Solvent Extraction for Vegetable Oil Production NESHAP (40 CFR Part 63 Subpart GGGG) applies controls to the same manufacturing category and emission sources, has been adopted by reference into TCEQ's Chapter 113 regulations and applies to this facility.

the 1997 8-hour ozone NAAQS (79 FR 21144, April 15, 2014). In its RACT analysis for the 2008 8-hour ozone standard, Texas determined that existing SIP-approved Chapter 115 rules for existing process vents and the bulk loading operations already approved as RACT for the 1997 8-hour ozone standard satisfy VOC RACT requirements for this single vegetable oil manufacturing operations source. The SIP rules are consistent with the EPA approved RACT requirements for vegetable oil processing operations in the San Joaquin Valley Unified Air Pollution Control District Rule 461.2 (current rule number 4691) (59 FR 2535, January 18, 1994). Also this source category is covered under 40 CFR Part 63, Subpart GGGG. EPA agrees with Texas that the controls for vegetable oil manufacturing operations meet RACT. Thus, we propose to approve Texas's analysis that RACT is met for the vegetable oil manufacturing operation source. For further details of the San Joaquin rule, please see the TSD.

During the public comment period for the attainment demonstration, the state did receive a suggestion that it include the October, 2016 Oil and Natural Gas CTG<sup>10</sup> in their RACT analysis. A review of EPA's implementing memo<sup>11</sup> for this CTG shows Texas is required to submit revisions to the SIP two years, or sooner, after the availability of the CTG. In this case, the date of the notice of availability was October 27, 2016 (See 81 FR 74798 ) which did not allow adequate time for Texas to incorporate the Oil and Natural Gas CTG controls into their state rules and submit them as part of this RACT analysis. Texas therefore was not required to consider this newly issued CTG in their analysis.

### ***VOC RACT Negative Declarations***

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<sup>10</sup>EPA has issued a "notice of proposed withdrawal: request for comment" indicating the agency is considering withdrawing the Oil and Natural Gas CTG. See 83 FR 10478, March 9, 2018.

<sup>11</sup>See "Implementing Reasonably Available Control Technology Requirements for Sources Covered by the 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry" Memorandum from Anna Marie Wood, October 20, 2016. [https://www.epa.gov/sites/production/files/2016-10/documents/implementing\\_reasonably\\_available\\_control\\_technology\\_requirements\\_for\\_sources\\_covered\\_by\\_the\\_2016\\_control\\_techniques\\_guidelines\\_for\\_the\\_oil\\_and\\_natural\\_gas\\_industry.pdf](https://www.epa.gov/sites/production/files/2016-10/documents/implementing_reasonably_available_control_technology_requirements_for_sources_covered_by_the_2016_control_techniques_guidelines_for_the_oil_and_natural_gas_industry.pdf)

States are not required to adopt RACT limits for source categories for which no major sources exist in a nonattainment area and can submit a negative declaration to that effect. The negative declaration would need to assert that there are no major CTG sources in the area, and the accompanying analysis would need to support that conclusion. Texas has reviewed its emission inventory and determined that its previous negative declarations for fiberglass boat manufacturing materials, surface coating for flat wood paneling, letterpress printing, automobile and light-duty truck assembly coating, and rubber tire manufacturing submitted as part of its HGB Area VOC RACT SIP for the 1997 ozone NAAQS are still applicable (79 FR 21144, April 15, 2014). We also are unaware of any sources in these CTG source categories in the area and therefore we propose to approve these negative declarations. See Table F-2 titled “*State Rules Addressing VOC RACT Requirements in ACT Reference Documents.*” We are also not aware of any major sources in the ACT source categories in the area and therefore we propose to agree with TCEQ’s negative declaration for the ACT categories.

#### *HGB Area NOx RACT TCEQ Analysis*

Under CAA section 182(f) RACT is required for major sources of NO<sub>x</sub>. For NO<sub>x</sub>, the EPA has issued ACT documents that describe available control technologies but do not define presumptive RACT levels. In TCEQ’s December 29, 2016 SIP, Table F-3: *State Rules Addressing NOx RACT Requirements in ACT Reference Documents* provides the emission source categories, the ACT reference documents, and the state rules addressing the RACT requirements for sources in the NO<sub>x</sub> ACT documents. TCEQ also identified other major NO<sub>x</sub> sources than those covered by the ACT and how the RACT requirement is addressed for them. The RACT analysis is contained in Appendix F of the TCEQ’s December 29, 2016 SIP submittal as a component of the HGB 2008 8-hour ozone attainment demonstration plan.

In 2013, EPA determined that NO<sub>x</sub> control measures in 30 TAC Chapter 117 met 1997 8-hour RACT requirements for major sources of NO<sub>x</sub> in the HGB area under the 1-hour and 1997 8-hour ozone NAAQS (78 FR 19599, April 2, 2013). Texas's SIP relies on those EPA-approved Chapter 117 rules to fulfill RACT requirements for NO<sub>x</sub> source categories that exist in the HGB area with the exception of a glass furnace. We are proposing to incorporate by reference the docket for that decision.<sup>12</sup>

In our implementation rule for the 2008 ozone NAAQS we made clear we believed that, in some cases, new RACT determinations would “result in the same or similar control technology as the RACT determinations made for the 1-hour or 1997 standards.” This is because the fundamental control techniques, as described in the CTG and ACT documents, are still applicable. Following this line of reasoning, Texas determined the existing Chapter 117 NO<sub>x</sub> reduction regulations provide appropriate NO<sub>x</sub> emissions reductions that meet RACT emission reduction requirements and adequately incorporate ACT document controls where appropriate. As noted above, during the public comment period for the attainment demonstration, the state did receive a suggestion that it include the October, 2016 Oil and Natural Gas CTG in their RACT analysis. A review of the controls in the CTG indicated NO<sub>x</sub> emissions were not considered in this CTG. Texas, therefore, is not required to consider this newly issued CTG in their NO<sub>x</sub> analysis. We are proposing to find that the existing Chapter 117 rules meet the RACT requirement in the HGB area for the 2008 ozone NAAQS.

Texas noted their review of NO<sub>x</sub> sources in the HGB area identified a facility falling under the Glass manufacturing ACT category. The source has existing controls consistent with RACT. For a full discussion of the source and the rationale for including existing controls as

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<sup>12</sup> See is EPA-R06-OAR-2012-0100, available through the Regulations.gov website at: <https://www.regulations.gov/>.

RACT for the HGB area please see the TSD to this proposal. Texas did not locate any major sources subject to the NO<sub>x</sub> Emission from Cement Manufacturing ACT. For all the other NO<sub>x</sub> ACT sources, excepting the glass manufacturing facility mentioned above, the state has established Chapter 117 regulations we have previously approved as RACT for the 1997 8-hour ozone NAAQS and as discussed above are proposing to find meet RACT for the 2008 ozone NAAQS.

### ***CAA 110(l) Analysis***

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.

The TCEQ provided copies of the Public Notice of proposed changes to Chapter 115 (Control of VOC Emissions), including the text published in the Texas Register and local newspapers. The TCEQ also held a public hearing on the revisions to Chapter 115 on October 24, 2016 in Houston, Texas. (More information on the public comments the state received is available in the TSD to this proposal.)

The only change in control requirements in these revisions are the additional controls for VOC storage tanks. The remainder of the revisions provide an evaluation that with new controls on VOC storage tanks, existing controls on NO<sub>x</sub> and VOC are sufficient to meet the RACT requirements for the HGB area. The changes to the VOC storage tank rules will enhance the state's ability to come into compliance with the 2008 O<sub>3</sub> standard. The institution of the additional control requirements would not be expected to interfere with attainment or maintenance of any other NAAQS. In sum, Texas adopted the SIP revision after reasonable

notice, a public hearing, and an opportunity for public comment. We propose that the revisions enhance the SIP by providing VOC emission reductions through new requirements on storage tanks and continuing NO<sub>x</sub> and VOC RACT controls for the HGB area. The CAA 110(l) requirements are met.

### III. Proposed Action

We are proposing to approve revisions to the Texas SIP addressing the 2008 ozone NAAQS and the RACT requirements for sources in the HGB area. Specifically, we are proposing to: (1) find previous VOC and NO<sub>x</sub> RACT determinations made for the HGB area under the 1-hour ozone NAAQS and the 1997 8-hour NAAQS meet RACT for the 2008 ozone NAAQS; (2) approve revisions to 30 TAC Chapter 115 sections described in Table 1 below into the state SIP because they assist in meeting the 2008 ozone NAAQS; (3) find the revisions described in Table 1 below meet VOC RACT for the HGB area; and (4) find that the HGB area meets VOC and NO<sub>x</sub> RACT for the 2008 ozone NAAQS.

**Table 1 Summary of Substantive Revisions to 30 TAC §115 Proposed for Approval**  
**Subchapter B, Division 1, Storage of Volatile Organic Compounds**

<b>Section Amended</b>	<b>Amendment</b>	<b>Comments</b>
115.112 Control Requirements.	115.112(a)(3) – minor clerical changes, changes §60.18(b-f) to read §60.18(b) – (f)	Non substantive
	115.112(d)(5) – Minor word changes, changes “subparagraphs” to read “subparagraph”.	Non substantive
	115.112(d) – adds reference to compliance dates and efficiencies cited in 115.112(e)(3).	Clarifies duty to comply in HGB area by July 20, 2018.
	115.112(e)(3)(A)(i-iii) – increases control efficiency requirements for VOC control devices, other than flares or vapor recovery devices, from 90% efficiency to 95% efficiency as of July 20, 2018.	Represents an increased level of VOC control in the HGB area on the date of implementation.
	115.112(e)(5) – Word change applies the requirement to control VOC emissions from aggregated storage tanks at pipeline breakout stations in the HGB NA area	Change will reduce VOC emissions in the HGB area by requiring greater control of VOC emissions from pipeline break out stations in the area.

	115.112(e)(6) – Minor word changes, changes “subparagraphs” to read “subparagraph”.	Non substantive
	115.112(e)(7) – Adds crude oil and condensate storage tanks in HGB area to sources required to maintain flash emission control devices per manufacturer recommendations or good Engineering Practice.	Will aid in compliance and VOC emissions reductions.
115.114 Inspection Requirements.	115.114(a)(5), adds inspection requirement of closure devices controlling VOC flash gassing on fixed roof storage tanks storing crude oil or condensate prior to custody transfer or at pipeline breakout stations in the HGB area.	Will reduce potential for VOC emissions in the HGB area.
115.118 Recordkeeping Requirements.	Changes to 115.118(a)(6)(D) –Expands the requirement to keep records detailing standards used to maintain tanks and tank closure devices to sources in the HGB NA area. This recordkeeping requirement now applies to owner/operators (O/Os) of storage tanks used to store crude oil or condensate prior to custody transfer, or at a pipeline breakout station, in the HGB area and required to control flash emissions via 115.112(e).	Recordkeeping will enhance compliance and enforcement of control requirements.
	Changes to 115.118(a)(6)(E) expands requirement to maintain record of inspection results and required repairs in 115.112(e)(7) or 115.114(a)(5) to sources in HGB area by eliminating the phrase limiting this requirement to the Dallas-Fort Worth area and making a minor wording change to the paragraph.	Recordkeeping will enhance compliance and enforcement of control requirements.
	New requirement in 115.118(a)(7) for O/Os to maintain any record created after January 1, 2017, in the HGB NA area, for five years at a minimum.	Applies five-year recordkeeping requirement to affected sources in the HGB area. This is expected to enhance compliance and enforcement of the rules.

<p>115.119 Compliance Schedules</p>	<p>Changes to 115.119(a)(1), clarifies existing sources in HGB NA area should comply with control requirements in 115.112(e)(1)-(6), rather than the earlier reference to 115.112(e) in its entirety. The changes to the language distinguish between compliance dates for exiting requirements in the HGB NA area under 115.112(e)(1)-(6) and the new requirement for the HGB NA area under 115.112(e)(7).</p> <p>Additional sentence expressly states the requirement to comply with 90% control efficiency requirement [see 115.112(e)(3)(A)(i)] in the HGB area no longer applies beginning July 20, 2018. Therefore, all control devices in the area must meet the 95% DRE requirement after that date. Also, some ministerial changes to conform with current formatting practices for state rules were made.</p>	<p>Clarifies applicability and will result in increased compliance and reduced regulatory confusion.</p> <p>Represents an increased level of VOC control in the HGB area on the date of implementation. Ministerial changes are non-substantive.</p>
	<p>Changes to 115.119(a)(2) clarifies existing sources in HGB area should comply with control requirements in 115.112(e)(1)-(6), rather than the earlier reference to 115.112(e) in its entirety. The changes to the language distinguish between compliance dates for exiting requirements in the HGB NA area under 115.112(e)(1)-(6) and the new requirement for the HGB NA area under 115.112(e)(7).</p> <p>Additional wording expressly states the requirement to comply with 90% DRE [see 115.112(e)(3)(A)(i)] is in effect in the HGB area for an affected source until the source complies with the 95% control efficiency stated in 115.112(e)(3)(A)(ii) or July 20, 2018 at the latest.</p>	<p>Clarifies applicability and should result in increased compliance and reduced regulatory confusion.</p> <p>Full compliance represents an increased level of VOC control in the HGB NA area and will result in reduced VOC emissions in the area on the date of implementation.</p>
	<p>New paragraph 115.119(a)(3) is added requiring compliance with new control standards, inspection and record keeping requirements for affected sources in the HGB NA area as soon as practicable, but not later than July 20, 2018.</p>	<p>Clarifies early compliance is desirable and establishes a final date to comply. Expected to simplify compliance and enforcement.</p>

#### IV. Incorporation by Reference

In this action, the EPA is proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference revisions to the Texas regulations as described in the Proposed Action section above. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and 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, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 20, 2018.

**Anne Idsal,**

*Regional Administrator, Region 6.*

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