



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2020-0165; FRL-12829-01-R6]

Air Plan Approval; Texas; Reasonably Available Control Technology in the Houston-Galveston-Brazoria Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) is supplementing a proposed rule published on March 10, 2021, to approve revisions to the Texas State Implementation Plan (SIP) concerning Nitrogen Oxide (NO_x) and Volatile Organic Compound (VOC) Reasonably Available Control Technology (RACT) requirements for the Serious Houston-Galveston-Brazoria (HGB), 2008 8-hour ozone National Air Quality Ambient Air Quality Standard (NAAQS) nonattainment area. Because of comments received on the March 10, 2021, proposal, we are providing additional analysis, in this proposal, regarding the RACT requirements which apply to sources of VOC in this area. Consistent with this analysis, EPA is proposing to determine that the Texas Rules meet the RACT requirements for sources of VOCs in the HGB Serious ozone nonattainment area for the purposes of the 2008 standard. The NO_x portion of the RACT analysis in the March 10, 2021, proposal will be addressed in a separate action. The EPA is providing an opportunity for public comment on this supplemental proposal. Comments received on the March 10, 2021, proposal and this supplemental proposal will be addressed in a final rule.

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-2020-0165, at <https://www.regulations.gov> or via email to Shahin.emad@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 Emad Shahin, (214) 665-6717, Shahin.emad@epa.gov. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov. While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: Emad Shahin, 214-665-6717, Shahin.emad@epa.gov. We encourage the public to submit comments via <https://www.regulations.gov>. Please call or e-mail the contact listed above if you need alternative access to material indexed but not provided in the docket.

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

I. Background

On May 13, 2020, the Texas Commission on Environmental Quality (TCEQ or State) submitted to EPA a SIP revision addressing RACT requirements for the 2008 8-hour ozone NAAQS for the two Serious ozone nonattainment areas in Texas—the Dallas-Fort Worth (DFW) and HGB areas.¹ EPA proposed approval of the portions of the submittal that addressed VOC and NO_x RACT requirements for the HGB area on March 10, 2021. For background information regarding the HGB area, Texas’ May 13, 2020, SIP submittal, the ozone NAAQS, and RACT, please see the EPA’s original proposal for this action at 86 FR 13679 (March 10, 2021). In this supplemental proposal, we refer to the May 13, 2020, Texas SIP revision as “the RACT submittal” and we refer to our March 10, 2021, proposed action and Technical Support Document (TSD) as “the March 2021 proposal.” We are supplementing the March 2021 proposal with respect to VOC RACT. We will address NO_x RACT in a separate action.

In our March 2021 proposal, we proposed to approve the RACT submittal for the HGB nonattainment area as meeting the VOC RACT requirements for an area designated as Serious with the exception of the requirement to implement RACT for sources covered by the 2016 CTG for the Oil and Natural Gas Industry.² We proposed to determine that the Texas rules implemented RACT (i.e., the lowest achievable emission rate considering technical and economic feasibility) for all sources subject to all remaining CTG categories. In addition, we proposed that the Texas rules also implement RACT for major sources in categories not covered by a CTG (non-CTG RACT)³. We also proposed to approve negative declarations made for fiberglass boat manufacturing materials,

¹ Clean Air Act (CAA) sections 182(b)(2) and (f) require that SIPs for ozone nonattainment areas classified as Moderate or higher include implementation of RACT for any source covered by a CTG document and also for any major source of VOC or NO_x. 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).

² In a separate action, EPA finalized approval of the Texas SIP revision regarding RACT requirements for sources covered by the 2016 Oil and Natural Gas Control Techniques Guidelines for the DFW and HGB nonattainment areas for the 2008 8-hour ozone NAAQS. See 88 FR 55379 (August 15, 2023).

³ Sources emitting VOCs in a quantity greater than the Serious area major source definition (50 tpy) and not covered by a CTG category or previously approved RACT rule.

manufacturing of pneumatic rubber tires, flat wood paneling coatings, letterpress printing, and automobile and light-duty truck assembly coatings sectors in the HGB area.

During EPA's public comment period, we received a comment claiming that our proposed action would approve a state submission that relied on outdated RACT determinations. EPA has since reviewed additional information and conducted additional analysis. We are providing this supplemental proposal, and an associated Supplemental TSD, containing a compendium of EPA's review of relevant rules (from a variety of other states) currently in place to implement VOC RACT for CTG covered sources across the country. Based on our review of these state rules, and in comparison to Texas' May 13, 2020 SIP submission, we confirm our previous proposal that Texas' rules meet RACT requirements for the 2008 ozone NAAQS.

II. Evaluation

EPA performed an analysis which can be found in the Supplemental TSD⁴ evaluating the relevant RACT rules in various states including Arizona, California, Colorado, Illinois, Indiana, Maine, New Hampshire, Ohio, Vermont, and Wisconsin. EPA found Texas' rules to be generally consistent with or more stringent than control measures in other states' regulations and CTGs. In addition, we reviewed the EPA's RACT/BACT/LAER clearinghouse database, which contains case-specific information on the best available air pollution control technologies that have been required to reduce the emission of air pollutants from stationary sources.⁵ EPA has not identified any new control technologies that are reasonably available considering technological and economic feasibility for these sources. Based upon our findings, EPA confirms our previous proposal that Texas VOC RACT regulations are still representative of RACT for the HGB nonattainment area for the purpose of the 2008 ozone NAAQS standard.

⁴ Available in the docket for this action.

⁵ See: <https://www.epa.gov/catc/ractbactlaer-clearinghouse-rblc-basic-information>.

III. Supplemental Proposed Action

The EPA is supplementing our March 2021 proposal addressing revisions to the Texas SIP with respect to the VOC RACT requirements for the HGB Serious nonattainment area for the 2008 ozone NAAQS. In this supplemental proposal, we are providing an opportunity for public comment on EPA's VOC RACT analysis that further supports the March 2021 proposed approval record in showing that Texas VOC RACT regulations do implement RACT level controls, consistent with sections 182(b)(2) and (c) of the CAA. The EPA will address all comments received on our March 2021 proposal and on this supplemental proposal in our final action.

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 Clean Air 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 Orders 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review 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 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

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 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: July 16, 2025.

Walter Mason,
Regional Administrator, Region 6.

