



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2020-0165; FRL-12952-01-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) Reasonably Available Control Technology (RACT) requirements for the Serious Houston-Galveston-Brazoria (HGB), 2008 8-hour ozone National 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 RACT requirements which apply to sources of NO_x in this area. Consistent with this analysis, EPA is proposing to determine that Texas' rules meet NO_x RACT requirements for the 2008 standard under the Serious classification. The volatile organic compounds (VOC) portion of the RACT analysis in the Serious area Attainment Demonstration submittal is 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 ahuja.anupa@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 Anupa Ahuja, (214) 665-2701, ahuja.anupa@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: Anupa Ahuja, EPA Region 6 Office, Infrastructure and Ozone Section, 214-665-2701, ahuja.anupa@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 The 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 associated Technical Support Document (TSD) as “the March 2021 proposal.” We are supplementing the March 2021 proposal with respect to NO_x RACT. We will address the VOC RACT component of the RACT submittal in a separate action.

In our March 2021 proposal, we proposed to approve the RACT submittal for the HGB nonattainment area as meeting the NO_x RACT requirements for an area designated as Serious. We proposed to determine that the Texas rules implemented RACT (i.e., the lowest achievable emission rate considering technical and economic feasibility²) for all sources subject to RACT requirements.

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. The EPA has since reviewed additional information and conducted additional analysis. We are providing this supplemental proposal and an associated

¹ Clean Air Act (CAA) section 182(b)(2) and (f), in combination, 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 major source threshold for Serious ozone nonattainment areas is 50 tons per year. CAA 182(c). 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 See 44 FR 53761 (September 17, 1979).

Supplemental TSD containing our review of relevant information to confirm our previous proposal that Texas' rules meet Serious area NO_x RACT requirements for the 2008 ozone NAAQS.

II. EPA's Evaluation

A detailed analysis is provided in the supplemental TSD for this action, and the supplemental TSD and other supporting documents are available in the docket for this action at [regulations.gov](https://www.regulations.gov).

The EPA has reviewed the proposed RACT analysis in the attainment demonstration, Appendix F, and the proposed and final records provided by TCEQ for their Chapter 117 rule revisions which includes explanations and determinations on NO_x control technologies, economic and technical feasibility, and NO_x emissions reductions expected. The EPA also examined relevant technical information that was available to the State at the time they developed their SIP submission, including Best Available Control Technology (BACT) determinations, recent documents issued by the EPA that contained information on the performance of NO_x control technologies, resulting emissions reductions, and other state rules to compare to Texas' SIP submittal and in other states where similar source categories exist in NAAs.³ These documents are identified in the TSD and are available in the docket.

The EPA finds that records confirm our proposal that previously approved Texas Chapter 117 NO_x RACT rules continue to comprise RACT level of control for the HGB nonattainment area for the 2008 ozone NAAQS.

³ 2017 OTC White Paper on Control Technologies and OTC State Regulations for Nitrogen Oxides (NO_x) Emissions from Eight Source Categories, 2019 OTC Regulatory and Technical Guideline for Control of Nitrogen Oxides (NO_x) Emissions from Natural Gas Pipeline Compressor Fuel-Fired Prime Movers, 2023 EGU NO_x Mitigation Strategies Final Rule TSD, 2023 Final Non-EGU Sectors TSD. These documents are available in the docket at [regulations.gov](https://www.regulations.gov).

III. Supplemental Proposed Action

The EPA is supplementing our March 2021 proposal addressing revisions to the Texas SIP with respect to the NO_x 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 supplemental NO_x RACT analysis that further supports the March 2021 proposed approval record in showing that Texas NO_x RACT regulations do implement RACT level controls, consistent with section 182(b)(2), (c), and (f) 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 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);
- 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 the 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, Volatile organic compounds.

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

Dated: August 26, 2025.

Walter Mason,

Regional Administrator, Region 6.

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