

- 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.

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

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

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

Dated: September 11, 2012.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 2012-23123 Filed 9-18-12; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2012-0100; FRL-9728-8]

#### 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 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) and Oxides of Nitrogen (NO<sub>x</sub>) in the HGB Area. We are also proposing to approve the 2007 Voluntary Mobile Emission Reduction Program (VMEP) commitments for the HGB Area. This action is in accordance with section 110 of the federal Clean Air Act (the Act, CAA).

**DATES:** Comments must be received on or before October 19, 2012.

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

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *U.S. EPA Region 6 "Contact Us" Web site:* <http://epa.gov/region6/r6coment.htm>. Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

- *Email:* Mr. Guy Donaldson at [donaldson.guy@epa.gov](mailto:donaldson.guy@epa.gov). Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8:00 a.m. and 4:00 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

*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 email that you consider to be CBI or otherwise protected from disclosure. The

[www.regulations.gov](http://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 email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your email 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:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment: TCEQ, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Shar, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone

(214) 665-6691, fax (214) 665-7263, email address [shar.alan@epa.gov](mailto:shar.alan@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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

#### Outline

##### I. Background

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

1. The June 13, 2007 Submittal
2. What is a VMEP commitment?
3. The April 6, 2010 Submittal
- B. What is RACT?

##### II. Evaluation

- What types of VMEP commitments qualify for SIP credit?
- What type of programs did Texas submit as VMEP?
- Do the 2007 VMEPs meet our requirements for approval?
- What action is EPA taking on the 2007 VMEP?
- What is TCEQ’s approach and analysis to RACT in the June 13, 2007 submittal?
- What CTG source categories are we addressing in this action?
- Are there any negative declarations associated with the VOC source categories in the HGB Area?
- Why does the revision to 30 TAC Chapter 115 of the June 13, 2007 submittal meet RACT?
- Is Texas’ approach to major Non-CTG sources for RACT determination in the HGB Area acceptable?
- Is Texas’ approach to RACT determination for CTG sources based on the June 13, 2007 and April 6, 2010 submittals acceptable?
- Is Texas’ approach to RACT determination for VOC sources based on the June 13, 2007 and April 6, 2010 submittals acceptable?
- Is Texas’ approach to for RACT determination for major NO<sub>x</sub> sources based on the June 13, 2007 and April 6, 2010 submittals acceptable?

##### III. Proposed Action

##### IV. Statutory and Executive Order Reviews

#### 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, sent to EPA from TCEQ, included the following components. (1) Control of Air Pollution from Motor Vehicles, (2) Control of Air Pollution from Volatile Organic Compounds, and (3) Voluntary Mobile Emission Reduction Program (VMEP) commitments. Each component is discussed below. The first component concerns revisions to 30 TAC Chapter 114 Control of Air Pollution from Motor Vehicles, sections 114.6 and 114.319

which addressed the Texas Low Emission Diesel standards for marine fuels. We approved this component of the June 13, 2007 submittal on October 24, 2008, at 73 FR 63378. The revision to these sections has been in effect, federally, since November 24, 2008. The second component of the June 13, 2007 submittal concerns revisions to 30 TAC, Chapter 115 Control of Air Pollution from Volatile Organic Compounds, sections 115.110, 115.112 –115.117, 115.119, 115.541–115.547 and 115.549. We approved these revisions as enhancing the Texas SIP because these rule revisions required additional VOC controls on storage tanks, lowered VOC emissions, and helped lower ozone levels in the HGB Area. See 75 FR 15348 of March 29, 2010. The revisions to these sections have been in effect, federally, since May 28, 2010. We are now proposing to approve the 2007 VMEP for the HGB Area into Texas SIP. For more information on VMEP see section below. 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).

###### 2. What is a VMEP commitment?

Voluntary mobile source strategies complement existing regulatory programs through voluntary, non-regulatory changes in local transportation activities or changes in in-use vehicle and engine composition. The EPA believes that the Act allows SIP credit for new approaches to reducing mobile source emissions, where supported by enforceable commitments to monitor and assess implementation and backfill any emissions reductions shortfall in a timely fashion. This flexible approach is consistent with the Clean Air Act section 110. Economic incentive provisions are also available in sections 182 and 108 of the Act. Credits generated through VMEP can be counted toward attainment and maintenance of the NAAQS. Due to the innovative nature of this program, only up to 3% of the total future year emissions reductions required to attain an appropriate NAAQS, may be claimed under the VMEP policy guidance.

###### 3. 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, submitted with TCEQ’s letter of April 6, 2010, 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.” 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 or Oxides of Nitrogen (NO<sub>x</sub>).

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>. The inventory of VOC and NO<sub>x</sub> sources listed in Appendix D of the April 6, 2010 submittal is intended to fulfill this requirement.

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. These most

recent revisions to Chapter 115 regulations corresponding to these newly-EPA-issued CTGs will be addressed in a separate rulemaking action.

**II. Evaluation**

*A. What types of VMEP commitments qualify for SIP credit?*

The basic framework for ensuring SIP credit for VMEPs is spelled out in guidance issued under a memorandum from Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, dated October 24, 1997, entitled “Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs).” Generally, to obtain credit for a VMEP, a State submits a SIP that: (1) Identifies and describes a VMEP; (2) Contains projections of emission reductions attributable to the program, along with any relevant technical support documentation; (3) Commits to evaluation and reporting on program implementation and results; and (4) Commits to the timely remedy of any credit shortfall should the VMEP not achieve the anticipated emission reductions. More specifically, the guidance suggests the following key points be considered for approval of credits. The credits should be quantifiable, surplus, enforceable, permanent, and adequately supported. In addition, VMEPs must be consistent with attainment of the standard and with the ROP requirements and not interfere with other CAA requirements. The VMEP program for an area can be revised by a SIP revision that substitutes or adds other VMEP measures if needed.

*B. What type of programs did Texas submit as VMEP?*

The State submitted program descriptions that projected emission reductions attributable to each specific program as part of the HGB attainment demonstration submitted June 13, 2007. Table 1 below lists the identified programs and their projected credits.

**TABLE 1—VOLUNTARY MOBILE EMISSION REDUCTION PROGRAMS AND CREDITS CLAIMED**

Program type	NO <sub>x</sub> benefits (tons per day)
Public and Private Sector Clean Fuel Fleet .....	2.0
Commute Solutions .....	0.77
Pooled Ownership of Vehicles .....	0.05
<b>Total Benefits (tpd) .....</b>	<b>2.82</b>

This revision to the VMEP builds on the existing HGB VMEP program approved by EPA on November 14, 2001 which the State previously has committed to evaluate and report on the program implementation and results and to timely remedy any credit shortfall.

*C. Do the 2007 VMEPs meet our requirements for approval?*

A detailed analysis of all the VMEP measures can be found in our TSD prepared for this document. For each creditable VMEP, the measure was found to be quantifiable. The reductions are surplus because they are not substitutes for mandatory, required emission reductions. The commitment to monitor, assess and timely remedy any shortfall from implementation of the measures is enforceable against the State. The reductions will continue at least for as long as the time period in which they are used by this SIP demonstration, so they are considered permanent. There is a commitment that each measure is adequately supported by personnel and program resources for implementation.

*D. What action is EPA taking on the 2007 VMEP?*

The HGB Area’s ozone SIP VMEP meets the criteria for credit in the SIP. Texas has demonstrated that the credits are quantifiable, surplus, enforceable, permanent, adequately supported, and consistent with the SIP and the Act. Therefore, we are proposing to approve the 2007 VMEP portion of the Texas SIP.

*E. What is TCEQ’s approach and analysis to RACT in the June 13, 2007 submittal?*

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. As a part of 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 the April 6, 2010 submittal. The TCEQ conducted its analysis by: (1) Identifying all categories of CTG and major non-CTG sources of VOC and NO<sub>x</sub> 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 have reviewed the submittal and are proposing that TCEQ has properly conducted its analysis, and their approach to control requirements are in agreement with our RACT requirements for affected VOC sources in the HGB Area.

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

The EPA entered into a CD with the Sierra Club concerning revisions to the Texas SIP for HGB Area. Under the terms of this CD, February 1, 2013 is the deadline by which EPA has to propose a rulemaking action relevant to RACT for VOC and NO<sub>x</sub> source for the HGB Area. Table 2 below contains a list of VOC CTG source categories and their corresponding sections of 30 TAC Chapter 115 that fulfill the applicable RACT requirements, under the terms of the CD.

**TABLE 2—CTG SOURCE CATEGORIES AND THEIR CORRESPONDING TEXAS VOC RACT RULES**

Source category in HGB area	Fulfilling RACT requirement, 30 TAC chapter 115
Bulk Gasoline Plants .....	§ 115.211–219.
Natural Gas/Gasoline Processing .....	§ 115.352–359.
Synthetic Organic Chemical Manufacturing Industry—Polymer & Resin Manufacturing.	§ 115.352–359.
Gasoline Tank Trucks & Vapor Collection Systems .....	§ 115.211–219 and § 115.234–239.
Refineries—Leaks from Equipment .....	§ 115.352–359.
Synthetic Organic Chemical Manufacturing Industry—High Density Resins .....	§ 115.120–129.
Synthetic Organic Chemical Manufacturing Industry—Synthesized Pharmaceutical Products.	§ 115.531–539.
Petroleum Liquid Storage—External Floating Roof Tanks .....	§ 115.112–119.

TABLE 2—CTG SOURCE CATEGORIES AND THEIR CORRESPONDING TEXAS VOC RACT RULES—Continued

Source category in HGB area	Fulfilling RACT requirement, 30 TAC chapter 115
Refineries—Vacuum Producing Systems, Wastewater Separators, Unit Turn-arounds.	§ 115.311–319 and § 115.131–139.
Synthetic Organic Chemical Manufacturing Industry—Air Oxidation Processes .....	§ 115.120–129.
Synthetic Organic Chemical Manufacturing Industry—Reactor Processes & Distillation Operations.	§ 115.120–129.
Shipbuilding and Ship Repair .....	§ 115.420–429.
Solvent Metal Cleaning .....	§ 115.412–419 and § 115.420–429.
Gasoline Service Stations .....	§ 115.221–229.
Petroleum Liquid Storage—Fixed Roof Tanks .....	§ 115.112–119.
Tank Trucks—Gasoline Loading Terminals .....	§ 115.211–219 or § 115.221–229.

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

Yes, Texas has declared that there are no existing major sources of rubber tire manufacturing, identified with the Standard Industrial Classification (SIC) 3011, in the HGB Area. As such, TCEQ does not have to adopt VOC regulations relevant to this source category at this time for the HGB Area. However, if a major source of this category locates in the HGB Area in future, then TCEQ will need to take appropriate regulatory measures for SIP purposes.

*H. Why does the revision to 30 TAC Chapter 115 of the June 13, 2007 submittal meet RACT?*

As stated elsewhere, we approved revisions to 30 TAC, Chapter 115 Control of Air Pollution from Volatile Organic Compounds on March 29, 2010 at 75 FR 15348. We now have reviewed these revisions to Chapter 115 and have determined that they are in agreement with EPA's Control Technique Guidelines (CTG) documents titled Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks (EPA-450/2-77-036, December 1977); Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks (EPA-450/2-78-047, December 1978); and Alternative Control Techniques Document—Volatile Organic Liquid Storage in Floating and Fixed Roof Tanks (EPA-453/R-94-001, January 1994). Also, see our Technical Support Document (TSD) prepared in conjunction with this document. Since these revisions are in agreement with our guideline documents, we are proposing that they satisfy RACT requirements, and by implementing these measures Texas is meeting the VOC RACT for liquid storage sources in the HGB Area.

*I. Is Texas' approach to major Non-CTG sources for RACT determination in the HGB Area acceptable?*

Under section 182(b)(2)(C) states must assure that major sources not covered by a CTG have RACT in place. Texas has identified a list, in its Appendix D of the April 6, 2010 submittal, of major VOC sources in the HGB Area to determine if any do not have RACT level controls in place and do not fall into the identified sectors for which EPA has issued a CTG. TCEQ reviewed the point source emissions inventory and title V databases to identify all major sources of VOC emissions. All sources in the title V database that were listed as a major source for VOC emissions were included in the RACT analysis. Since the point source emissions inventory database reports actual emissions rather than potential to emit emissions, the TCEQ reviewed sources that reported actual emissions as low as 10 tpy of VOC to account for the difference between actual and potential emissions. To be conservative, sites from the emissions inventory database with emissions of 10 tpy or more of NO<sub>x</sub> or VOC 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. We have reviewed TCEQ's April 6, 2010 submittal and find their approach to include these sources in the inventory of the sources acceptable. As documented in Appendix D, Texas found that each source was covered by existing rules and the corresponding VOC control measures were in place for the affected sources. Consistent with our finding under the 1-Hour ozone attainment demonstration plan for the HGB Area at 70 FR 58136, October 5, 2005, and 71 FR 52676, September 6, 2006, Texas has met RACT for VOC and NO<sub>x</sub> sources, and because Texas' approach in its April 06, 2010 submittal, in identifying major Non-CTG sources, is acceptable and consistent with our finding and State has certified that it has RACT in place; we are proposing to

approve TCEQ's determination that VOC control measures in Chapter 115 meet RACT requirements for the major Non-CTG sources of VOC in the HGB Area under the 1997 8-Hour ozone NAAQS.

*J. Is Texas' approach to RACT determination for CTG source categories 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 2 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. We are proposing a determination that Texas VOC rules are in agreement with 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 Table 2 of this document in the HGB Area under the 1997 8-Hour ozone standard.

*K. 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. As such and based upon the above two sections we are proposing to find that for both the CTG categories identified in Table 2 and all Non-CTG sources Texas has RACT-level controls in place for the HGB Area under the 1997 8-Hour ozone standard.

*L. Is Texas' approach to for RACT determination for major NO<sub>x</sub> sources based on the June 13, 2007 and April 6, 2010 submittals acceptable?*

Texas has identified a list of major NO<sub>x</sub> sources in the HGB Area, in its Appendix D of the April 6, 2010 submittal. TCEQ reviewed the point source emissions inventory and title V databases to identify all major sources of NO<sub>x</sub> emissions. All sources in the title V database that were listed as a major source for NO<sub>x</sub> emissions were included in the RACT analysis. Since the point source emissions inventory database reports actual emissions rather than potential to emit emissions, the TCEQ reviewed sources that reported actual emissions as low as 10 tpy of NO<sub>x</sub> to account for the difference between actual and potential emissions. To be conservative, sites from the emissions inventory database with emissions of 10 tpy or more of NO<sub>x</sub> 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. We have reviewed TCEQ's April 6, 2010 submittal and find their approach to include these sources in the inventory of the sources acceptable.

Texas reviewed the list of sources and certified that it has the appropriate NO<sub>x</sub> control measures in place for the affected sources. In addition, 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, Texas has met RACT for VOC and NO<sub>x</sub> sources. We are proposing to approve TCEQ's determination that NO<sub>x</sub> control measures in Chapter 117 meet RACT requirements for major sources of NO<sub>x</sub> in the HGB Area under the 1997 8-Hour ozone NAAQS.

### III. Proposed Action

Today, we are proposing to find that for VOC, CTG categories identified in Table 2 and major Non-CTG sources, and for NO<sub>x</sub>, Texas has RACT-level controls in place for the HGB Area under the 1997 8-Hour ozone standard. The EPA had previously approved RACT for VOC and NO<sub>x</sub> into Texas' SIP under the 1-Hour ozone standard. We are also proposing to approve the 2007 VMEP into Texas SIP.

### 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 (Pub. L. 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: September 6, 2012.

**Lynda F. Carroll,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 2012-23152 Filed 9-18-12; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2012-0713; FRL-9727-6]

### Disapproval of Implementation Plan Revisions; State of California; South Coast VMT Emissions Offset Demonstrations

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to withdraw its final approvals of state implementation plan revisions submitted by the State of California to meet the vehicle-miles-traveled emissions offset requirement under the Clean Air Act for the Los Angeles-South Coast Air Basin 1-hour and 8-hour ozone nonattainment areas. EPA is also proposing to disapprove the same plan revisions. EPA is proposing the withdrawal and disapproval actions in response to a remand by the Ninth Circuit Court of Appeals in *Association of Irrigated Residents v. EPA*. The effect of this action, if finalized as proposed, would be to trigger deadlines by which new plan revisions meeting the applicable requirements must be submitted by the State of California and approved by EPA to avoid sanctions and to avoid an obligation on EPA to promulgate a federal implementation plan.

**DATES:** Written comments must be received on or before October 19, 2012.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2012-0713, by one of the following methods: