

We are issuing this AD to detect and correct chafing of the AC feeder cable. A chafed and arcing AC feeder cable could puncture the adjacent hydraulic line, which, in combination with the use of the alternate extension system, could result in an in-flight fire.

#### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

#### (g) Clamp Inspection, Related Investigative Actions, and Corrective Actions

Within 6,000 flight hours or 36 months after the effective date of this AD, whichever occurs earlier: Do a general visual inspection for installation of clamps between the AC feeder cables and hydraulic line; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84-24-53, Revision A, dated May 16, 2013. Do all applicable related investigative and corrective actions before further flight.

#### (h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84-24-53, dated May 11, 2012.

#### (i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, New York Aircraft Certification Office (ACO), ANE-170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; fax 516-794-5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product*: For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or the DAH with a State of Design Authority's design organization approval). For a repair method to be approved, the repair approval must specifically refer to this AD. You are required to ensure the product is airworthy before it is returned to service.

#### (j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF-2013-16, dated

June 14, 2013, for related information. This MCAI may be found in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating it in Docket No. FAA-2013-1067.

(2) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416-375-4000; fax 416-375-4539; email [thd.qseries@aero.bombardier.com](mailto:thd.qseries@aero.bombardier.com); Internet <http://www.bombardier.com>. You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

Issued in Renton, Washington, on December 20, 2013.

**Jeffrey E. Duven,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2013-0439; FRL-9904-87-Region-6]

### Approval and Promulgation of Air Quality Implementation Plans; Texas; Stage II Vapor Recovery Program and Control of Air Pollution From Volatile Organic Compounds

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the Texas State Implementation Plan (SIP) submitted by the Texas Commission on Environmental Quality (TCEQ). The EPA is proposing to approve revisions to regulations that control emissions of volatile organic compounds (VOCs) at gasoline dispensing facilities (GDFs) in Texas. The revisions address the maintenance and removal of Stage II vapor recovery equipment at GDFs. The EPA is also proposing to approve related revisions to the Stage II SIP narrative that pertain to the maintenance and removal of Stage II vapor recovery equipment and demonstrate that the absence of Stage II equipment in the Beaumont-Port Arthur (BPA), Dallas-Fort Worth (DFW) and Houston-Galveston Brazoria (HGB) areas, and in El Paso County would not interfere with attainment of the national ambient air quality standards (NAAQS) for ozone, reasonable further progress (RFP) or any other requirement of the Clean Air Act

(CAA or Act). The EPA is proposing to approve these revisions pursuant to section 110 of the Act and the EPA's regulations and consistent with the EPA's guidance.

**DATES:** Comments must be received on or before January 29, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R06-OAR-2013-0439, by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.

- *E-Mail:* Ms. Carrie Paige at [paige.carrie@epa.gov](mailto:paige.carrie@epa.gov).

- *Mail:* 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 ID No. EPA-R06-OAR-2013-0439. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <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 <http://www.regulations.gov> or email, if you believe that it is CBI or otherwise protected from disclosure. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means that 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 <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 along with any disk or CD-ROM submitted. 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 and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*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). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carrie Paige, Air Planning Section (6PD-L); telephone (214) 665-6521; email address [paige.carrie@epa.gov](mailto:paige.carrie@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

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**I. Background**

*A. What is a SIP?*

A SIP is a set of air pollution regulations, control strategies, other means or techniques, and technical analyses developed by the state, to ensure that the state meets the NAAQS. It is required by section 110 and other provisions of the CAA. A SIP protects air quality primarily by addressing air pollution at its point of origin. A SIP can be extensive, containing state regulations or other enforceable documents, and supporting information such as emissions inventories, monitoring networks, and modeling demonstrations. When a state makes changes to the regulations and control strategies in its SIP, such revisions must be submitted to EPA for approval and incorporation into the federally-enforceable SIP.

*B. What is Stage II Vapor Recovery?*

When an automobile or other vehicle is brought into a gas station to be refueled, the empty portion of the gas tank on the vehicle contains gasoline vapors, which belong to a class of compounds known as VOCs. When liquid gasoline is pumped into the partially empty gas tank the vapors are forced out of the tank as the tank fills with liquid gasoline. Where air pollution control technology is not used, these vapors are emitted into the air. In the atmosphere, these VOCs can, in the presence of sunlight, react with nitrogen oxides (NO<sub>x</sub>) and VOCs from other sources to form ozone. The Stage II system consists of special nozzles and

coaxial hoses at each gas pump that capture vapors from the vehicle’s fuel tank and route them to underground or aboveground storage tank(s) during the refueling process.

The 1990 CAA Amendments require owners or operators of GDFs in serious, severe or extreme ozone nonattainment areas to install and operate a system for recovery of gas vapor from the fueling of vehicles. This requirement only applies to facilities that sell more than a specified number of gallons per month and is set forth in section 182(b)(3)(A)–(C) and section 324(a)–(c) of the CAA. States were required to adopt rules for this requirement no later than two years after the enactment of the 1990 CAA Amendments. As a consequence of these provisions, GDF owners or operators in moderate or worse nonattainment areas have installed these vapor control systems, known as “Stage II controls.”<sup>1</sup>

The first Stage II SIP for Texas was submitted by the State to EPA on September 30, 1992. The SIP required owners and operators of GDFs to install and operate Stage II vapor recovery equipment in the four Texas ozone nonattainment areas classified as moderate or worse. The EPA approved these rules on April 15, 1994 (59 FR 17940). The four areas where Stage II is required are comprised of 16 counties: Beaumont-Port Arthur (BPA), including Hardin, Jefferson and Orange counties; Dallas-Fort Worth (DFW), including Collin, Dallas, Denton and Tarrant counties; El Paso County; and Houston-Galveston-Brazoria (HGB), including Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties. In this rulemaking, where we refer to all 16 of these counties, we will note such as “the 16 counties.” For additional information on Stage II, including the history of Stage II in Texas, please see the technical support document (TSD) in the docket for this action.

*C. What is Onboard Refueling Vapor Recovery (ORVR)?*

In addition to Stage II controls, the 1990 CAA Amendments required another method of controlling vehicle refueling emissions. Section 202(a)(6) of the Act requires an onboard system of capturing vehicle refueling emissions, referred to as an ORVR system. The ORVR system captures fuel vapors from

<sup>1</sup> Stage I vapor recovery systems are installed on the transport tanker trucks that deliver gasoline to the service stations. Stage I systems direct vapors from the underground storage tank at the service station back into the tanker truck as the underground tank is filled with liquid gasoline from the tanker truck.

the vehicle gas tank during refueling. The gas tank and fill pipe are designed so that when refueling the vehicle, fuel vapors in the gas tank travel into a special canister, which adsorbs the vapor. When the engine is in operation, it draws the gasoline vapors into the engine to be used as fuel. In fact, the per-vehicle vapor recovery efficiency of ORVR exceeds that of Stage II. The EPA began the phase-in of ORVR by requiring that 40 percent of passenger cars manufactured in model year 1998 be equipped with ORVR, increasing to 100 percent by model year 2000. The phase-in of ORVR included other vehicle types and ORVR has been a required control on nearly all new gasoline-powered highway vehicles since 2006.<sup>2</sup>

Each year, non-ORVR vehicles continue to be replaced with ORVR vehicles. Stage II and ORVR emission control systems are redundant, and on May 16, 2012, the EPA determined that emission reductions from ORVR are essentially equal to and will soon surpass the emission reductions achieved by Stage II alone (see 77 FR 28772). In the May 16, 2012 action, we found that ORVR vehicles are in “widespread use” and waived the Stage II requirement in order to ensure that refueling vapor control regulations are beneficial without being unnecessarily burdensome to American business. Effective May 16, 2012, a state previously required to implement a Stage II program may take appropriate action to remove the program from its SIP (77 FR 28772, codified at 40 CFR 51.126).

*D. What did the State submit?*

On October 31, 2013, the TCEQ submitted revisions to Title 30 of the Texas Administrative Code, Chapter 115 (denoted 30 TAC 115 or Chapter 115) and corresponding revisions to the Texas Stage II SIP. Chapter 115 addresses control of air pollution from VOCs. The revisions to Chapter 115 specify that new GDFs would not be required to install Stage II equipment and provide removal (also defined as decommissioning) procedures that existing GDFs in the 16 counties must complete by August 31, 2018. The GDFs electing to retain Stage II equipment for some time until August 31, 2018, would be required to maintain such equipment pursuant to the rules in the approved SIP. The revisions to the Stage II SIP narrative describe the removal of Stage

<sup>2</sup> For more detailed information on the phase-in of ORVR, please see the discussion in EPA’s proposed rule for the Widespread Use for Onboard Refueling Vapor Recovery and Stage II Waiver, published on July 15, 2011 (76 FR 41731).

II equipment at GDFs and require maintenance of the Stage II equipment until decommissioning occurs. The revisions to the SIP narrative also include a demonstration that the removal of, or failure to install, Stage II equipment in the 16 counties is consistent with section 110(l) of the Act. Section 110(l) precludes the Administrator from approving a SIP revision if it would interfere with applicable CAA requirements, including attainment and maintenance of the ozone NAAQS.

In addition to the October 31, 2013 submittal, there are two submittals that address revisions to the State's Stage II rules and related SIP, dated November 14, 2002 and June 27, 2007, on which EPA has not taken action.

The revisions in the November 14, 2002 submittal addressed the Stage II rules at 30 TAC 115 (Division 4) and the Stage II SIP narrative. The EPA approved the revisions to Chapter 115 (see 70 FR 15769, March 29, 2005) but evidently overlooked the SIP narrative. EPA is not taking action on the 2002 Stage II SIP narrative because it is superseded by the October 31, 2013 submittal.

The revisions submitted on June 27, 2007, revise Chapter 115 to add exemption language for fleets having 95% or more vehicles with ORVR. EPA is not taking action on the June 27, 2007 revisions because they would be superseded by the revisions in the October 31, 2013 submittal. In addition, in the TCEQ's submittal dated October 31, 2013, the TCEQ adopted the withdrawal of the June 27, 2007 submittal from the EPA.

## II. EPA's Evaluation of the Revisions

### A. Revisions to 30 TAC 115 and the Stage II SIP Narrative

The TCEQ submitted revisions to 30 TAC 115 sections 240–247 and 249. The revised language details the requirements for decommissioning equipment and the requirements for operating the Stage II equipment until it is decommissioned. We have reviewed the revisions and believe the revisions are consistent with 77 FR 28772 and 40 CFR 51.126, EPA's Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures<sup>3</sup> (EPA's Guidance on Removing Stage II), and the recommended installation and decommissioning procedures published

<sup>3</sup> EPA document number EPA-457/B-12-001, dated August 7, 2012 and available electronically at [www.epa.gov/glo/pdfs/20120807guidance.pdf](http://www.epa.gov/glo/pdfs/20120807guidance.pdf). This guidance is also in the docket for today's action.

by the Petroleum Equipment Institute (PEI RP300–93).<sup>4</sup> For a line-by-line evaluation of these revisions, please see the TSD. We are proposing approval of the revisions to sections 115.240–115.247 and 115.249.

The TCEQ is also revising the Stage II SIP narrative, which provides an accounting and description of the Stage II program components. The appendix also explains why the revisions to allow decommissioning of Stage II equipment meet the requirements of the Clean Air Act, Section 110(l). These revisions are consistent with the EPA's Stage II Waiver at 77 FR 28772 and 40 CFR 51.126, the EPA's Guidance on Removing Stage II, and the PEI RP300–93.

### B. Section 110(l) Analysis

Our primary consideration for determining the approvability of the TCEQ's revisions to remove Stage II vapor control requirements from the SIP and provide for decommissioning of all Stage II equipment by August 31, 2018 in the BPA, DFW and HGB areas and El Paso County is whether these revisions comply with section 110(l) of the Act. Section 110(l) of the Act provides that the EPA cannot approve a SIP revision if that revision interferes with any applicable requirement regarding attainment, reasonable further progress (RFP) or any requirement established in the CAA. The EPA can, however, approve a SIP revision that removes or modifies control measures in the SIP once the State makes a "noninterference" demonstration that such removal or modification will not interfere with attainment of the NAAQS, RFP or any other CAA requirement. As such, Texas must make a demonstration of noninterference in the 16 counties in order to remove the Stage II requirements from its SIP.

The TCEQ estimated the impacts on air quality from decommissioning Stage II in Texas by using the equations in the EPA's Guidance on Removing Stage II. The TCEQ assumed there would not be any Stage II equipment in place and calculated emissions based on the national average for replacement of older vehicles with newer, ORVR-equipped models (fleet turnover). We note that the State is not requiring or

<sup>4</sup> The EPA regulations do not require the use of a particular issue of code. The PEI and several states have recommended practices or specific requirements for decommissioning Stage II systems. The PEI guidance referred to as PEI RP300–93 was developed by industry experts with a focus on regulatory compliance and safety. The EPA's Guidance on Removing Stage II is included in the docket for this rulemaking. The PEI document is protected by copyright and is available at [www.pei.org/](http://www.pei.org/).

expecting decommissioning to occur at all GDFs in the 16 counties in the first year following approval of the SIP revision, but assumed an absence of Stage II equipment as a worst-case scenario. The TCEQ compared the estimated impacts against future emission inventories already established in RFP and maintenance plans for these 16 counties. For each area, the calculations show that there would be increases in VOC emissions from Stage II decommissioning and we refer to these increases as a "loss in benefit." Our evaluation of each of the four areas is provided below. For more detail regarding each area, please see the TSD.

### 1. The Beaumont-Port Arthur Area

The BPA area was redesignated as attainment for the 1997 8-hour ozone standard on October 20, 2010, (75 FR 64675). The approved maintenance plan for the redesignated area (see 78 FR 7672, February 4, 2013)<sup>5</sup> demonstrates attainment of the 1997 ozone NAAQS through 2021. We compared the loss in benefit from decommissioning against the VOC emissions approved in the BPA maintenance plan (78 FR 7672) for 2014 and 2021. For each of the future years 2014, 2017 and 2021, the loss in benefit is estimated to be 0.166 tpd, 0.109 tpd and 0.059 tpd respectively. In the approved maintenance plan, the VOC emissions for the future years 2014, 2017 and 2021 are greater than the base year (2005) emissions, thus these future years show a shortfall in emissions reductions. Adding the loss in benefit from decommissioning, the shortfall from 2005 to 2021 increases to an estimated 12.24 tpd or 5.8%. However, the approved maintenance plan provides a drop in NO<sub>x</sub> emissions for the years 2014, 2017 and 2021 and the decrease from 2005 to 2021 is 7.3%, which offsets the 5.8% shortfall in VOC emissions reductions. These numbers indicate that with decommissioning of Stage II equipment, emissions in the BPA area would continue to decline. Furthermore, the TCEQ calculated the loss in benefit through 2030 and the losses shrink each year.<sup>6</sup> The dwindling of loss in VOC benefits is expected over time, as non-ORVR vehicles continue to be replaced with ORVR vehicles.

In addition, the photochemical modeling analysis in the approved maintenance plan (75 FR 64675) showed that the formation of ozone in the BPA area is more sensitive to NO<sub>x</sub>

<sup>5</sup> The action at 78 FR 7672 approved the replacement of the BPA motor vehicle emission budgets with new budgets based on the MOVES2010a emissions model.

<sup>6</sup> See Table 12–1 in the TCEQ proposal dated April 23, 2013, in the docket for this rulemaking.

emissions than to VOC emissions. Specifically, the modeling showed that to decrease the ozone design value in the BPA area, reducing NO<sub>x</sub> emissions is 3.76 times as effective as reducing VOC emissions.<sup>7</sup> Based on this analysis and with the surplus of NO<sub>x</sub> emissions reductions projected through 2021, we would not expect the loss in benefit from Stage II decommissioning to contribute to future violations of the ozone standard in the BPA area.

We are proposing to find that the absence of Stage II vapor recovery equipment in the BPA area will not interfere with any applicable requirement regarding attainment and RFP, or any other applicable requirement of the CAA.

## 2. The DFW Area

The TCEQ estimated that the loss in benefit from decommissioning Stage II equipment in the DFW area would be 2.425 tpd in 2012, 1.594 tpd in 2014, and the estimated losses in benefit continue to decrease as more non-ORVR cars are removed from the fleet. The TCEQ estimates the loss of benefit in 2030 would only be 0.322 tpd. The estimated loss of 1.594 tpd of VOC reduction in 2014, which is when we anticipate decommissioning could begin, assumes that Stage II is completely absent in Collin, Dallas, Denton and Tarrant counties. We understand there are a limited number of contractors qualified to perform decommissioning and owners and operators with relatively newer Stage II equipment would prefer to maintain such equipment through its useful life. Therefore, we expect decommissioning will proceed at an orderly and gradual pace and as such, the actual loss in projected emission reductions will be less than the State has estimated for 2014. Modeling provided by TCEQ indicates very little sensitivity of ozone levels to small changes in VOC emissions (i.e., an estimated increase of up to 0.01 ppb had the decommissioning been completed in 2012).

In addition and as described in more detail elsewhere in this action, the TCEQ acquired 2011 vehicle registration data showing that by the end of 2012 approximately 78.5% of the vehicles registered in Collin, Dallas, Denton, and Tarrant counties were equipped with ORVR. Using national default fuel economy values, the TCEQ estimated that 83.6% of the gasoline dispensed in these counties in 2012 was to ORVR-

equipped vehicles. These numbers are at least five percentage points higher than the projected penetration of ORVR in the national vehicle fleet for 2012, as presented by EPA in the Stage II waiver (77 FR 28772, 28778). The EPA determined that at least 75% of ORVR coverage is substantial enough to be viewed as "widespread" (77 FR 28772). The TCEQ does not have to demonstrate that ORVR is in widespread use in the DFW area because EPA's action at 77 FR 28772 provides a nationwide determination of widespread use effective May 16, 2012. However, the results of the TCEQ's findings are consistent with the Stage II waiver and support the revisions to decommission Stage II equipment in the DFW area.

Finally, Stage II was required for implementation in only four of the DFW nonattainment counties and ORVR is required nationwide. Because ORVR is more efficient than Stage II and ORVR is in widespread use, and because the DFW area ozone levels are more sensitive to NO<sub>x</sub> emissions, we would not expect the loss in benefit from decommissioning in the four counties to contribute to future violations of the ozone standard or interfere with RFP or other applicable CAA requirements.

We are proposing to find that the absence of Stage II vapor recovery equipment in the DFW area will not interfere with any applicable requirement regarding attainment and RFP, or any other applicable requirement of the CAA.

## 3. El Paso County

El Paso County has an approved maintenance plan for the 1997 8-hour ozone NAAQS, which demonstrates attainment of the 1997 ozone NAAQS from 2004 through 2014 (see 74 FR 2387, January 15, 2009). We compared the loss in benefit from decommissioning against the VOC emissions in the approved maintenance plan for 2014. For 2014, the loss in benefit is estimated to be 0.224 tpd. In the approved maintenance plan, the VOC emissions for 2014 are estimated to be 44.61 tpd, which are lower than the base year emissions of 52.44 tpd. The resultant surplus of 7.83 tpd offsets the estimated loss in benefit from decommissioning. The approved maintenance plan also shows a surplus in NO<sub>x</sub> emission reductions through 2014. These numbers indicate that with decommissioning of Stage II equipment, emissions of VOC in El Paso County would continue to decline through 2014. The TCEQ calculated the loss in benefit through 2030 and the losses get smaller each year.

We are proposing to find that the absence of Stage II vapor recovery equipment in El Paso County will not interfere with any applicable requirement regarding attainment and RFP, or any other applicable requirement of the CAA.

## 4. The Houston-Galveston-Brazoria Area

The TCEQ estimated that the loss in benefit from decommissioning Stage II equipment in the HGB area would be 2.361 tpd in 2012, 1.539 tpd in 2014, 0.667 tpd in 2018, and the estimated losses in benefit continue to decrease through 2030, when the TCEQ estimates the loss of benefit would only be 0.298 tpd. The estimated loss of 1.539 tpd of VOC reduction in 2014, which is when we anticipate decommissioning could begin, assumes that Stage II is completely absent in the eight HGB area counties. As stated earlier however, we expect decommissioning will proceed gradually and as such, the actual loss in projected emission reductions will be less than the State has estimated for 2014. Modeling provided by TCEQ indicates very little sensitivity of ozone levels to these small changes in VOC emissions (i.e., an estimated increase of up to 0.02 ppb had the decommissioning been completed in 2012 and an estimated increase of up to 0.01 ppb in 2018).

In addition, the TCEQ acquired 2011 vehicle registration data showing that by the end of 2012 approximately 77.4% of the vehicles registered in the eight HGB counties were equipped with ORVR. Using national default fuel economy values, the TCEQ estimated that 82.7% of the gasoline dispensed in these counties in 2012 was to ORVR-equipped vehicles. These numbers are at least five percentage points higher than the projected penetration of ORVR in the national vehicle fleet for 2012 (77 FR 28772, 28778). The results of the TCEQ's findings are therefore consistent with the Stage II waiver and support the revisions to decommission Stage II equipment in the HGB area.

We would not expect the loss in benefit from decommissioning in the HGB area to contribute to future violations of the ozone standard or interfere with RFP or other applicable CAA requirements.

We are proposing to find that the absence of Stage II vapor recovery equipment in the HGA area will not interfere with any applicable requirement regarding attainment and RFP, or any other applicable requirement of the CAA.

<sup>7</sup> See the docket for 75 FR 64675 and specifically the TSD and proposed rule; the docket ID is EPA-R06-OAR-2008-0932.

### C. The Fraction of ORVR-Equipped Vehicles Where Stage II is Required in Texas

The TCEQ reviewed vehicle registration data to determine what portion of the on-road vehicles in the 16 counties are equipped with ORVR and what portion of the gasoline dispensed in these areas goes into ORVR-equipped vehicles. For these calculations, the TCEQ obtained 2011 vehicle registration data from the Texas Department of Motor Vehicles for each of the 16 counties. The results indicate that by the end of 2012 more than 75% of gasoline was dispensed to ORVR-equipped vehicles in each of the four areas where Stage II is required. In addition, by the end of 2013 at least 75% of the vehicle population in each of these four areas is expected to be ORVR-equipped. We determined that at least 75% of ORVR coverage (percent of gasoline that will be dispensed into ORVR-equipped vehicles) is substantial enough to constitute widespread use (77 FR 28772). The TCEQ does not have to demonstrate that ORVR is in widespread use because EPA's action at 77 FR 28772 provides a nationwide determination of widespread use effective May 16, 2012. However, the TCEQ's findings do demonstrate that ORVR is in widespread use in all four areas and thus lend support to the revisions to decommission Stage II equipment.

### III. Proposed Action

The EPA is proposing to approve revisions to the Texas SIP that control emissions of VOCs and pertain to the maintenance and removal of Stage II vapor recovery equipment submitted on October 31, 2013. We are proposing to approve revisions to the following sections within 30 TAC 115: 115.240, 115.241, 115.242, 115.243, 115.244, 115.245, 115.246, 115.247, and 115.249. The EPA is also proposing to approve related revisions to the Stage II SIP narrative that address the maintenance and removal of Stage II equipment, and demonstrate that the removal of, or failure to install Stage II equipment in the BPA, DFW, and HGB areas, and in El Paso County, meets section 110(l) of the Act. The EPA is proposing to approve these revisions in accordance with section 110 of the Act and EPA's regulations and consistent with EPA guidance.

### 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. 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 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 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 (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.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations,

Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: December 16, 2013.

**Ron Curry,**

*Regional Administrator, Region 6.*

[FR Doc. 2013-31107 Filed 12-27-13; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2010-1071, FRL-9904-68-Region 10]

### Approval and Promulgation of Implementation Plans; State of Washington; Regional Haze State Implementation Plan; Federal Implementation Plan for Best Available Retrofit Technology for Alcoa Wenatchee

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to partially disapprove a Washington Regional Haze State Implementation Plan (RH SIP) element submitted by the State of Washington (the State) on December 22, 2010, that exempted Alcoa's Wenatchee Works aluminum smelting facility (Alcoa Wenatchee facility or Wenatchee facility), located near Wenatchee, Washington, from the Clean Air Act's Best Available Retrofit Technology (BART) requirements. On December 26, 2012, the EPA proposed to approve, along with proposed action on other SIP elements, the State's determination that the Alcoa Wenatchee facility is exempt from BART requirements. The EPA received adverse comments regarding the dispersion modeling used for this determination. After further review, the EPA now proposes to disapprove the State's determination that the facility is not subject to BART and proposes to find that the Wenatchee facility is subject to BART. The EPA is also proposing a BART determination for the facility through a Federal Implementation Plan (FIP). This **Federal Register** document also announces the availability of new information regarding Alcoa's ability to afford limestone slurry forced oxidation (LSFO) sulfur dioxide (SO<sub>2</sub>) control technology at the Intalco Aluminum Corporation facility in Ferndale, Washington (Intalco). Also available for public review is new air quality