



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2018-0160; FRL-10867-02-R9]

### Air Plan Revisions; California; Yolo-Solano Air Quality Management District

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to partially approve and partially disapprove a revision to the Yolo-Solano Air Quality Management District (YSAQMD) portion of the California State Implementation Plan (SIP). The revision concerns the YSAQMD's demonstration regarding reasonably available control technology (RACT) requirements for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS or "standards") in the portion of the Sacramento Metropolitan nonattainment area under the jurisdiction of the YSAQMD.

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2018-0160. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the

**FOR FURTHER INFORMATION CONTACT** section.

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**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our”

refer to the EPA.

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### **I. Proposed Action**

On April 11, 2023 (88 FR 21572), the EPA proposed to partially approve and partially disapprove the California Air Resources Board’s (CARB) submittal of the YSAQMD’s RACT SIP for the 2008 Ozone National Ambient Air Quality Standards (NAAQS), as listed in Table 1 below.

**Table 1 – Submitted Document**

Local Agency	Document	Adopted	Submitted
YSAQMD	Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Analysis for the 2008 Federal Ozone Standard (“2017 RACT SIP”)	09/13/2017	11/13/2017

We proposed to partially approve YSAQMD’s 2017 RACT SIP because we determined that, except for the RACT elements for non-control technique guideline (CTG) major sources of nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOC), it complied with the relevant Clean Air Act (CAA or “Act”) requirements. We proposed to partially disapprove YSAQMD’s 2017 RACT SIP because we identified two deficiencies that would preclude us from fully approving the submittal. First, we found that District Rule 2.38, “Standards for Municipal Solid

Waste Landfills,” which is relied upon to implement RACT for non-CTG major sources of VOC, has not been submitted for approval into the SIP, and therefore cannot be used to satisfy RACT requirements. Second, we found that District Rule 2.43, “Biomass Boilers,” which the District relied upon to implement RACT for non-CTG major sources of NO<sub>x</sub>, contains a provision that explicitly exempts affected units from complying with rule standards during periods of startup and shutdown and does not provide for an alternative emissions limitation during such periods. This provision is inconsistent with the EPA’s Startup, Shutdown, and Malfunction (SSM) Policy as defined in the EPA’s 2015 SSM SIP Action.<sup>1</sup> The deficiencies are discussed in more detail in our proposed action.

## **II. Public Comments and EPA Responses**

The EPA’s proposed action provided a 30-day public comment period, which concluded on May 11, 2023 (April 11, 2023 (88 FR 21572)). We received one comment letter regarding our proposed action, from the YSAQMD and dated May 10, 2023. We have summarized substantive adverse comments included in this comment letter and provided our responses below. In addition to the substantive comments summarized below, the District’s letter includes information about recent progress it has made to address deficiencies related to SSM exemptions identified in Rule 2.43, and comments regarding the EPA’s communication to the District about the identified deficiencies leading up to publication of the proposed rulemaking.<sup>2</sup> The District’s letter is included in the docket for this action.

*Comment 1:* The YSAQMD asserts that the District’s 2017 RACT SIP identified the Recology Hay Road Landfill and the Yolo County Central Landfill as major sources of VOC in error. The District states that the VOC potential to emit (PTE) of each landfill is below the 25 tons per year (tpy) major source threshold for Severe nonattainment areas, and therefore not

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<sup>1</sup> “State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA’s SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction,” 80 FR 33839 (June 12, 2015).

<sup>2</sup> The District’s revisions to Rule 2.43 were submitted by CARB to the EPA on June 8, 2023 via the State Plan electronic Collection System (SPeCS).

subject to VOC RACT requirements for major sources.

*Response 1:* On May 17, 2023, the EPA emailed the District with a request for further clarification and documentation demonstrating that the VOC PTE of each landfill was below major source thresholds.<sup>3</sup> On May 19, 2023, the District replied with permitting information for each facility and indicated that, when excluding fugitive landfill emissions in accordance with EPA guidance, the VOC PTE of the Recology Hay Road Landfill and Yolo County Central Landfill is 13.04 tpy and 24.7 tpy respectively, which are below major source thresholds.<sup>4</sup> Based on this additional documentation, and for the reasons discussed below, we agree with the District that the Recology Hay Road Landfill and Yolo County Central Landfill are not major sources of VOC, and are therefore not required to implement RACT for VOC.

The EPA defines fugitive emissions as “those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.”<sup>5</sup> A source’s fugitive emissions must be included when determining whether it qualifies as a major source if the source falls within one of 27 listed source categories.<sup>6</sup> Municipal solid waste landfills are not included in this list of source categories, and as a result are not required to include fugitive emissions toward major source applicability. Under additional EPA guidance related to landfills, if a landfill gas collection system is in operation, or if a landfill gas collection system could reasonably be designed to collect a landfill’s gas emissions, then those collected emissions are not fugitive and shall be considered in determining facility PTE.<sup>7</sup> Both Recology Hay Road and Yolo County Central Landfill operate with active gas collection systems, and therefore only the portion of landfill gas that is not collected can be considered fugitive and excluded from

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<sup>3</sup> Email dated May 17, 2023, from Eugene Chen (EPA) to Paul Hensleigh (YSAQMD), Subject: “RACT SIP Comment Letter follow up.”

<sup>4</sup> Email dated May 19, 2023, from Paul Hensleigh (YSAQMD) to Eugene Chen (EPA), Subject: “Re: RACT SIP Comment Letter follow up.”

<sup>5</sup> 40 CFR 70.1; 70.2 (title V definitions). This definition also applies under the NSR program. See 40 CFR 51.165(a)(1)(ix).

<sup>6</sup> 40 CFR 70.2; 40 CFR 51.165(a)(1)(iv)(C).

<sup>7</sup> Memorandum dated October 21, 1994, from John S. Seitz, Director, Office of Air Quality Planning and Standards, U.S. EPA, to EPA Regional Air Directors, Regions I-X, Subject: “Classification of Emissions from Landfills for NSR Applicability Purposes.”

consideration in determining VOC PTE.

The current title V operating permit (Permit No. F-01059-18, issued November 10, 2022) and statement of basis for the Recology Hay Road Landfill lists the following emission units and corresponding VOC PTE:<sup>8</sup>

**Table 1. Recology Hay Road Landfill VOC PTE**

<b>Unit ID</b>	<b>Equipment Description</b>	<b>VOC PTE (tpy)</b>
P-13-16	124-horsepower (hp) Caterpillar IC engine (Certified Tier IV engine)	0.01
P-14-16(a)	124-hp Caterpillar IC engine (Certified Tier IV engine)	0.01
P-28-98(a)	One (1) 500-gallon aboveground gasoline storage tank, one gasoline dispenser (1 nozzle), and one gasoline pressure/vacuum vent valve	0.04
P-51-17	Various equipment including two (2) portable crushers, two (2) portable screens, and two (2) stackers, powered by Off-road engines that also provide propulsion	0.01
P-64-00	Petroleum contaminated soil handling for daily and intermediate cover material	13.00
P-81-10	7-acre lined containment pond and drying areas	0.01
P-85-06(a8)	Municipal Solid Waste landfill not to exceed a total maximum design capacity of 35.6 million cubic yards (17.0 million megagrams)	24.62
P-59-21	174-hp Caterpillar Engine (Certified Tier IV engine)	0.01
	<b>Total</b>	<b>37.66</b>
	<b>Total (excluding Unit ID P-85-06(a8))</b>	<b>13.04</b>

The YSAQMD asserts that the municipal solid waste landfill's 24.62 tpy VOC PTE (Unit ID P-85-06(a8)) consists of landfill fugitive emissions. Excluding these emissions from consideration towards major source applicability would result in a facility-wide VOC PTE of 13.04 tpy. Based upon a review of permitting information, we note that while Unit ID P-86-06(a8) includes fugitive VOC emissions from the landfill, it also includes VOC emissions from the flaring of landfill gas captured by the collection system.<sup>9</sup> We do not consider it appropriate for VOC emissions from flaring activities to be considered fugitive since they represent the destruction of collected landfill gas. The title V permit and statement of basis do not identify the portion of VOC PTE attributable only to flaring activities, but based on the physical design and

<sup>8</sup> See Permit No. F-01059-18, Recology Hay Road Landfill title V permit, Permit No. F-01059-18, Statement of Basis, and Permit to Operate, Unit ID P-86-06(a8)

<sup>9</sup> Id.

enforceable emission limits applicable to flaring activities, we estimate the VOC PTE to be 3.67 tpy.<sup>10</sup> Including this 3.67 tpy VOC PTE results in a facility wide VOC PTE of 16.71 tpy, which is below the Severe nonattainment area major source threshold of 25 tpy. As a result, we agree that the Recology Hay Road Landfill is not a major source of VOC, and is not required to implement RACT for VOC.

The current title V operating permit (Permit No. F-01392-8, issued March 13, 2018) and statement of basis for the Yolo County Central Landfill lists the following emission units and corresponding VOC PTE:<sup>11</sup>

**Table 2. Yolo County Central Landfill VOC PTE**

<b>Unit ID</b>	<b>Equipment Description</b>	<b>VOC PTE (tpy)</b>
P-15-05(a)	Landfill not to exceed max design capacity of 49 million cubic yards	51.03
P-25-07	317-hp emergency engine (Certified Tier III engine)	0.01
P-31-10	Various equipment for dewatering and aeration of non hazardous liquid waste with odor potential (NHLWOP)	--
P-71-06(t)	157-hp emergency engine (Certified Tier II engine)	0.01
P-49-14	Receiving Storage and use of NHLWOP	--
P-90-18	In Vessel Digester Operation	0.93
P-26-98(t2)	Negative pressure landfill gas collection system, landfill gas flare	2.73
P-78-98(t)	Engine 1A, 805-hp landfill gas IC engine	4.11
P-79-98(t)	Engine 2, 805-hp landfill gas IC engine	4.11
P-80-98(t)	Engine 3, 805-hp landfill gas IC engine	4.25
P-81-98(t)	Engine 4A, 805-hp landfill gas IC engine	4.22
P-87-98(t)	Engine 5A, 805-hp landfill gas IC engine	4.22
P-28-17	Concrete crushing plant	--
P-29-17	Screening of waste and wood debris	--
P-30-17	Grinding and shredding of waste and wood debris	0.09
	<b>Total</b>	<b>75.7</b>
	<b>Total (excluding Unit P-15-05(a))</b>	<b>24.7</b>

The District asserts that the municipal solid waste landfill’s 51.03 tpy VOC PTE (Unit ID P-15-05(a)) consists of landfill fugitive emissions. Excluding these emissions from consideration

<sup>10</sup> Based upon a flare VOC permit limit of 14.1 ppm (@ 3% O<sub>2</sub>) and maximum flare heat rate of 45.6 MMBtu/hr.

<sup>11</sup> See Permit F-01392-8, Yolo County Central Landfill title V permit, Permit No. F-01392-8, Statement of Basis, and Emission Evaluation C-07-164.

towards major source applicability would result in a facility-wide VOC PTE of 24.7 tpy. Based upon a review of permitting information, we agree that the 51.03 VOC PTE attributable to P-15-05(a) are fugitive landfill emissions, and note that the gas collection system and landfill flare are accounted for separately as Unit ID P-26-98(t2). With regard to the other permitted emission units, and in particular the landfill gas engines that comprise the majority of the non-fugitive VOC PTE, we note that the facility's title V permit establishes several emission and operating limits on a per-engine basis, including annual VOC tpy limits, VOC concentration limits expressed in parts per million (ppm), and landfill gas fuel usage limitations expressed in million standard cubic feet per year (MMCF/yr). The title V permit also contains requirements for annual source testing, recordkeeping of fuel usage and operating hours, and reporting requirements to ensure the practical enforceability of emission and operating limits. In addition, the title V permit establishes a landfill flare VOC emission limit and landfill gas fuel usage limit for Unit ID P-26-98(t2), and also requires an annual source test, recordkeeping of landfill gas fuel usage, and for the flare to be operated within the parameter ranges established during the most recent source test. We consider these monitoring, reporting, and recordkeeping requirements to ensure the practical enforceability of emission limits for the landfill flare. Based upon this information, we agree with the District that the VOC PTE of the Yolo County Central Landfill is 24.7 tpy, which is below the Severe nonattainment area major source threshold of 25 tpy.<sup>12</sup> As a result, we agree that the Yolo County Central Landfill is not a major source of VOC, and is not required to implement RACT for VOC. For this reason, as described below, we are issuing a final approval of the RACT element for non-CTG major sources of VOC.

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<sup>12</sup> The 24.7 tpy VOC PTE relies on conservative assumptions regarding landfill gas usage and accordingly represents an overestimate of the facility's potential VOC emissions. For example, the aggregated landfill gas usage limits for the flare and engines (1,154 MMCF/yr) is greater than the total amount of landfill gas that is permitted to be collected from the landfill (997.1 MMCF/yr), per title V Permit No. F-01392-8, Conditions B.69 through B.80. Since the sum of destroyed landfill gas cannot exceed the total amount of collected landfill gas, the facility VOC PTE reflects a certain amount of double-counting. The amount of double-counting would be difficult to quantify precisely given the variety of landfill gas destruction scenarios, but as an example, if the entirety of the collected landfill gas were destroyed by the engines and not by the landfill flare, then the landfill flare VOC PTE of 2.73 tpy would represent an additional margin between facility PTE and the major source threshold.

*Comment 2:* The YSAQMD asserts that even if the landfills subject to its regulatory authority were major sources of VOC, they are subject to federally enforceable requirements that implement RACT through a combination of California's statewide landfill methane regulation (LMR) and an EPA Federal implementation plan (FIP). The District notes that the 2017 RACT SIP identifies landfill requirements as federally enforceable through California's CAA section 111(d) State Plan approved by the EPA on September 23, 1999. The District asserts that California later adopted and submitted its statewide LMR for SIP approval and that the EPA proposed to partially approve the LMR in 2020, and in May 2021 proposed a FIP in 40 CFR part 62 subpart OOO to cover identified deficiencies in the LMR.

*Response 2:* As discussed in our response to the previous comment, we agree with the District that the Recology Hay Road Landfill and Yolo County Central Landfill are not major sources of VOC, and are therefore not required to implement RACT for VOC. As a result, we do not consider it necessary to address issues regarding implementation of RACT at these sources. However, we wish to clarify that the EPA's approval of a performance standards plan under CAA section 111(d) is different from approval of a SIP submittal under CAA section 110. Thus, while we have issued both a final partial approval/partial disapproval of the California LMR<sup>13</sup> and a final rule promulgating a partial Federal plan for municipal solid waste landfills under CAA section 111(d),<sup>14</sup> we have not approved these landfill rules as a SIP revision under CAA section 110(k) or issued a FIP under CAA section 110(c), and we are unaware of any pending state submittal of the LMR or District landfill VOC RACT rules for SIP approval. The EPA's SIP approval of RACT-level control rules for landfills regulated by the District would ensure that any future major source landfills in the area meet RACT requirements. We invite the District or CARB to discuss this option further with the EPA.

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<sup>13</sup> 85 FR 1121 (January 8, 2020).

<sup>14</sup> 86 FR 27756 (May 21, 2021).

### III. EPA Action

As discussed in Section II of this preamble above, we received a public comment from the YSAQMD providing additional information relevant to our proposed disapproval of the RACT element for non-CTG major sources of VOC. The basis for our proposed disapproval was the lack of enforceable SIP requirements implementing VOC RACT for two municipal solid waste landfills that the 2017 RACT SIP identified as non-CTG major sources of VOC. Based upon the District’s comment letter and additional information, we no longer consider these two municipal solid waste landfills to be major VOC sources, and therefore find that these sources are not required to implement VOC RACT. As a result, the only District rule relied upon to implement RACT for non-CTG major sources of VOC is Rule 2.41, “Expandable Polystyrene Manufacturing Operations,” which implements limits VOC emissions from manufacture of expandable polystyrene products. As discussed in our April 11, 2023 (88 FR 21572) proposed action, Rule 2.41 implements RACT. We are therefore issuing a final approval of the RACT element for non-CTG major sources of VOC. This represents the only change from our proposed action, as summarized in Table 3 of this preamble below.

**Table 3 – List of RACT elements – 2008 ozone NAAQS**

CTG Document Number	RACT Element	District Rule Implementing RACT	Negative Declaration Submitted	EPA Proposed Action	EPA Final Action
EPA-450/R-75-102	Design Criteria for Stage I Vapor Control – Gasoline Service Stations	2.22 (Gasoline Dispensing Facilities)		Approval	Approval
EPA-450/2-77-008	Surface Coating of Cans		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/2-77-008	Surface Coating of Coils		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/2-77-008	Surface Coating of Paper		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/2-77-008	Surface Coating of Fabric		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/2-77-008	Surface Coating of Automobiles and Light-Duty Trucks		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/2-77-022	Solvent Metal Cleaning	2.31 (Solvent Cleaning and Degreasing)		Approval	Approval
EPA-450/2-77-025	Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/2-77-026	Tank Truck Gasoline Loading Terminals	2.21 (Organic Liquid Storage and Transfer)		Approval	Approval

<b>CTG Document Number</b>	<b>RACT Element</b>	<b>District Rule Implementing RACT</b>	<b>Negative Declaration Submitted</b>	<b>EPA Proposed Action</b>	<b>EPA Final Action</b>
EPA-450/2-77-032	Surface Coating of Metal Furniture		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/2-77-033	Surface Coating of Insulation of Magnet Wire		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/2-77-034	Surface Coating of Large Appliances		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/2-77-035	Bulk Gasoline Plants	2.21 (Organic Liquid Storage and Transfer)		Approval	Approval
EPA-450/2-77-036	Storage of Petroleum Liquids in Fixed-Roof Tanks		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/2-77-037	Cutback Asphalt	2.28 (Cutback and Emulsified Asphalts)		Approval	Approval
EPA-450/2-78-015	Surface Coating of Miscellaneous Metal Parts and Products	2.25 (Metal Parts and Products Coating Operations)		Approval	Approval
EPA-450/2-78-029	Manufacture of Synthesized Pharmaceutical Products		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/2-78-030	Manufacture of Pneumatic Rubber Tires		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/2-78-032	Factory Surface Coating of Flat Wood Paneling		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/2-78-033	Graphic Arts-Rotogravure and Flexography		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/2-78-036	Leaks from Petroleum Refinery Equipment		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/2-78-047	Petroleum Liquid Storage in External Floating Roof Tanks	2.21 (Organic Liquid Storage and Transfer)		Approval	Approval
EPA-450/2-78-051	Leaks from Gasoline Tank Trucks and Vapor Collection Systems	2.21 (Organic Liquid Storage and Transfer)		Approval	Approval
EPA-450/3-82-009	Large Petroleum Dry Cleaners		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/3-83-006	Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/3-83-007	Leaks from Natural Gas/Gasoline Processing Plants		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/3-83-008	Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/3-84-015	Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-450/4-91-031	Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-453/R-96-007	Wood Furniture Manufacturing Operations		Yes	None <sup>a</sup>	None <sup>a</sup>

<b>CTG Document Number</b>	<b>RACT Element</b>	<b>District Rule Implementing RACT</b>	<b>Negative Declaration Submitted</b>	<b>EPA Proposed Action</b>	<b>EPA Final Action</b>
EPA-453/R-94-032  61 FR 44050; 8/27/96	ACT Surface Coating at Shipbuilding and Ship Repair Facilities Shipbuilding and Ship Repair Operations (Surface Coating)		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-453/R-97-004  59 FR 29216; 6/06/94	Aerospace MACT and Aerospace (CTG & MACT)		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-453/R-06-001	Industrial Cleaning Solvents	2.31 (Solvent Cleaning and Degreasing)		Approval	Approval
EPA-453/R-06-002	Offset Lithographic Printing and Letterpress Printing	2.29 (Graphic Arts Printing Operations)		Approval	Approval
EPA-453/R-06-003	Flexible Package Printing		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA-453/R-06-004	Flat Wood Paneling Coatings		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA 453/R-07-003	Paper, Film, and Foil Coatings		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA 453/R-07-004	Large Appliance Coatings		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA 453/R-07-005	Metal Furniture Coatings		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA 453/R-08-003	Miscellaneous Metal Parts Coatings, Table 2 – Metal Parts and Products	2.25 (Metal Parts and Products Coating Operations)		Approval	Approval
EPA 453/R-08-003	Miscellaneous Plastic Parts Coatings, Table 3 – Plastic Parts and Products		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA 453/R-08-003	Miscellaneous Plastic Parts Coatings, Table 4 – Automotive/Transportation and Business Machine Plastic Parts		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA 453/R-08-003	Miscellaneous Plastic Parts Coatings, Table 5 – Pleasure Craft Surface Coating		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA 453/R-08-003	Miscellaneous Plastic Parts Coatings, Table 6 – Motor Vehicle Materials		Yes	None <sup>a</sup>	None <sup>a</sup>
EPA 453/R-08-004	Fiberglass Boat Manufacturing Materials	2.30 (Polyester Resin Operations)		Approval	Approval
EPA 453/R-08-005	Miscellaneous Industrial Adhesives	2.33 (Adhesive Operations)		Approval	Approval
EPA 453/R-08-006	Automobile and Light-Duty Truck Assembly Coatings		Yes	None <sup>a</sup>	None <sup>a</sup>
--	Non-CTG Major Sources of NO <sub>x</sub>	2.27 (Large Boilers) 2.32 (Stationary Internal Combustion Engines) 2.43 (Biomass Boilers)		Disapproval <sup>b</sup>	Disapproval <sup>b</sup>

CTG Document Number	RACT Element	District Rule Implementing RACT	Negative Declaration Submitted	EPA Proposed Action	EPA Final Action
--	Non-CTG Major Sources of VOC	2.41 (Expandable Polystyrene Manufacturing Operations)		Disapproval <sup>c</sup>	Approval <sup>d</sup>

<sup>a</sup> Previously approved on April 5, 2018 (83 FR 14754).

<sup>b</sup> As described in greater detail in the Technical Support Document (TSD), the proposed disapproval for the non-CTG major sources of NO<sub>x</sub> element is based in the deficiencies noted in Rule 2.43 (Biomass Boilers).

<sup>c</sup> As described in greater detail in our TSD, the proposed disapproval for the non-CTG major sources of VOC element is based on the deficiencies noted in Rule 2.38 (Standards for Municipal Solid Waste Landfills).

<sup>d</sup> As described in greater detail in Section II of this preamble, our final action approving the non-CTG major sources of VOC element is based upon the fact that Rule 2.41 implements RACT, and that Rule 2.38 is no longer relied upon to implement RACT.

As authorized in section 110(k)(3) of the Act, the EPA is partially disapproving the 2017 RACT SIP with respect to the RACT element for non-CTG major sources of NO<sub>x</sub>, and partially approving the remainder of the 2017 RACT SIP.

#### 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. 740(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to review state choices, and approve those choices if they meet the minimum criteria of the Act. Accordingly, this final action partially approves and partially disapproves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law.

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

##### *A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

##### *B. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

*C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

*E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

*F. Executive Order 13175: Coordination with Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175, because 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, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

*G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045

because it merely partially approves and partially disapproves state law as meeting Federal requirements. Furthermore, the EPA's Policy on Children's Health does not apply to this action.

*H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act (NTTAA)*

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

*J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Population*

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." The EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."

The District did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action.

Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goals of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

*K. Congressional Review Act (CRA)*

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

*L. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

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

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

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

Dated: **June 22, 2023.**

**Martha Guzman Aceves,**  
*Regional Administrator,*  
*Region IX.*

For the reasons stated in the preamble, the Environmental Protection Agency amends part 52, chapter I, title 40 of the Code of Federal Regulations as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

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

**Subpart F—California**

2. Section 52.220 is amended by adding paragraph (c)(505)(ii)(A)(2) to read as follows:

**§52.220 Identification of plan—in part.**

\* \* \* \* \*

(c) \* \* \*

(505) \* \* \*

(ii) \* \* \*

(A) \* \* \*

(2) Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) for the 2008 8-Hour Ozone National Ambient Air Quality Standards (NAAQS) (“Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Analysis”), as adopted on September 13, 2017, except the RACT determination for non-CTG major sources of NO<sub>x</sub>.

\* \* \* \* \*

3. Section 52.237 is amended by adding paragraph (b)(6)(ii) to read as follows:

**§52.237 Part D disapproval.**

\* \* \* \* \*

(b) \* \* \*

(6) \* \* \*

(ii) RACT determination for non-CTG major sources of Nitrogen Oxides (NO<sub>x</sub>) for the 2008 ozone NAAQS, as contained in the submittal titled “Reasonably Available Control Technology

(RACT) State Implementation Plan (SIP) Analysis for the 2008 Federal Ozone Standard,” as adopted on September 13, 2017, and submitted on November 13, 2017.

\* \* \* \* \*

[FR Doc. 2023-13754 Filed: 6/29/2023 8:45 am; Publication Date: 6/30/2023]