



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2017-0760, EPA-R09-OAR-2020-0476, and EPA-R09-OAR-2021-0176;  
FRL-11409-01-R9]

**Air Plan Revisions; California; Antelope Valley Air Quality Management District;  
Imperial County Air Pollution Control District; Correcting Amendments**

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

**ACTION:** Final rule; correcting amendments.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to correct sections in the Code of Federal Regulations (CFR), erroneously caused by administrative oversight, to reflect the current status of conditional approval provisions in the California State Implementation Plan (SIP). These corrections concern Antelope Valley Air Quality Management District's (AVAQMD's) reasonably available control technology (RACT) SIP demonstration requirements for the 1997 and 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) and Imperial County Air Pollution Control District's (ICAPCD's) RACT SIP demonstration requirements for the 2008 8-hour ozone NAAQS.

**DATES:** These correcting amendments are effective on November 2, 2023.

**ADDRESSES:** The EPA has established dockets for this action under Docket ID No. EPA-R09-OAR-2017-0760, EPA-R09-OAR-2020-0476, and EPA-R09-OAR-2021-0176. All documents in the dockets 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 disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Elijah Gordon, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3158 or by email at *gordon.elijah@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

Table 1 lists the documents addressed by this corrective action with the dates they were locally adopted, revised, or amended, and submitted by the California Air Resources Board (CARB).

Table 1 – RACT SIP Demonstrations and SIP-Approved Rules

Local Agency	Document	Local Action	Submitted
AVAQMD	AVAQMD 8-Hour Reasonably Available Control Technology—State Implementation Plan Analysis (RACT SIP Analysis)—1997 8-hour Ozone NAAQS “2006 RACT SIP”	Adopted 09/19/2006	01/31/2007
AVAQMD	AVAQMD 8-Hour Reasonably Available Control Technology—State Implementation Plan Analysis (2015 RACT SIP Analysis)—2008 8-hour Ozone NAAQS “2015 RACT SIP”	Adopted 07/21/2015	10/23/2015
AVAQMD	Rule 1151.1 - Motor Vehicle Assembly Coating Operations	Adopted 6/20/2017	8/9/2017
AVAQMD	Rule 1110.2 - Emissions from Stationary, Non-Road and Portable Internal Combustion Engines	Amended 09/18/2018	10/30/2018
ICAPCD	Reasonably Availability Control Technology Analysis for the 2017 Imperial County State Implementation Plan for the 2008 8-Hr Ozone Standard “2017 RACT	Adopted 09/12/2017	11/14/2017

Local Agency	Document	Local Action	Submitted
ICAPCD	SIP”  Rule 415 - Transfer and Storage of Gasoline	Revised 11/03/2020	02/19/2021

The EPA conditionally approved revisions to the AVAQMD portion of the California SIP on October 10, 2017 (82 FR 46923). These revisions concerned AVAQMD’s demonstration regarding RACT requirements for the AVAQMD portion of the Western Mojave Desert nonattainment area for the 1997 8-hour ozone NAAQS, and the AVAQMD portion of the West Mojave Desert nonattainment area for the 2008 8-hour ozone NAAQS. In the October 10, 2017 action, we added paragraphs (b), (b)(1), (b)(2), (b)(3), and (b)(4) to the “Identification of plan - conditional approval” section of 40 CFR part 52, subpart F (40 CFR 52.248), addressing RACT demonstrations for rules deemed to not meet RACT requirements. According to 40 CFR 52.248(b), if the State failed to meet its commitment to address the identified deficiencies by November 9, 2018, the conditional approval would be treated as a disapproval. The State submitted SIP revisions addressing all identified deficiencies for the rules listed in paragraphs 40 CFR 52.248(b)(1) through (4) in advance of this November 9, 2018 deadline.

We subsequently approved the SIP revisions addressing the identified deficiencies. We finalized approval of Rule 1151.1 on May 24, 2018 (83 FR 24033). In that rulemaking action, we evaluated Rule 1151.1 for RACT-level stringency, and stated in our proposal that Rule 1151.1 regulates activities covered by the CTG document “Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings” (EPA-453/R-08-006, September 2008).<sup>1</sup>

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<sup>1</sup> 83 FR 11944 (March 19, 2018). In the District’s commitment letter to CARB (dated 06/26/2017) and CARB’s forwarded letter to the EPA (dated 06/27/2017), AVAQMD stated that rather than adopt a modification to Rule 1151 to address the RACT deficiency, it would adopt a new rule, Rule 1151.1, to correct the identified deficiency. They also stated their commitment to revise and correct identified deficiencies within Rule 1110.2.

Our approval of Rule 1151.1 as establishing RACT for this CTG cured the identified deficiencies associated with our conditional approval of the portion of the District's RACT SIP associated with Rule 1151 in 40 CFR 52.248(b)(3).

Additionally, we finalized approval of Rule 1110.2 on September 10, 2021 (86 FR 50645). In that rulemaking action, we evaluated Rule 1110.2 for RACT-level stringency, and stated in our proposal that Rule 1110.2 was submitted in order to address the RACT deficiencies identified in our previous conditional approval for major source NO<sub>x</sub> RACT.<sup>2</sup> Our approval of Rule 1110.2 as establishing RACT for the major stationary sources regulated by this rule cured the identified deficiency associated with our conditional approval of the portion of the District's RACT SIP associated with Rule 1110.2 in 40 CFR 52.248(b)(2).

Due to an administrative oversight, our notices approving these new revisions neglected to remove the conditional approval language from 40 CFR 52.248(b)(2), 40 CFR 52.248(b)(3), and, consequently, 40 CFR 52.248(b). This action addresses this administrative oversight.

Separately, the EPA conditionally approved a revision to the ICAPCD portion of the California SIP on February 13, 2020 (85 FR 8181). This revision concerned ICAPCD's demonstration regarding RACT requirements for the 2008 8-hour ozone NAAQS in the Imperial County ozone nonattainment area. In the February 13, 2020 action, we added paragraph (i) to 40 CFR 52.248, addressing RACT demonstrations for Rule 415, and stating that if the State failed to meet its commitment to address these identified deficiencies by one year from the date of the conditional approval, the conditional approval would be treated as a disapproval.<sup>3</sup> The State submitted a revised Rule 415, addressing these deficiencies in advance of this deadline.

We finalized approval of the revised Rule 415 on September 2, 2021 (86 FR 49248). In that rulemaking action, we evaluated Rule 415 for RACT-level stringency, and stated in our proposal that Rule 415 regulates activities covered by the CTG document "Control of

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<sup>2</sup> 86 FR 17567 (April 5, 2021).

<sup>3</sup> In the District's commitment letter to CARB (dated 05/08/2019) and CARB's forwarded letter to the EPA (dated 05/28/2019), ICAPCD stated their commitment to revise and correct identified deficiencies within Rule 415.

Hydrocarbons from Tank Truck Gasoline Loading Terminals” (EPA-450/2-77-026, October 1977).<sup>4</sup> That proposal stated that Rule 415 was revised in response to the EPA’s previous conditional approval and that the updated version of Rule 415 corrected the identified deficiencies. Therefore, our approval of Rule 415 as establishing RACT for this CTG cured the identified deficiency associated with our conditional approval of the portion of the District’s RACT SIP associated with Rule 415 in 40 CFR 52.248(i). Due to an administrative oversight, our notice approving Rule 415 neglected to remove the conditional approval language from 40 CFR 52.248(i). This action addresses this administrative oversight.

For the reasons described above, this action corrects the regulatory text to reflect the current status of AVAQMD’s RACT SIP demonstration for the 1997 and 2008 8-hour ozone NAAQS. The EPA is removing Rule 1110.2, “Emission from Stationary, Non-road & Portable Internal Combustion Engines,” and Rule 1151, “Motor Vehicle and Mobile Equipment Coating Operations,” from the regulatory text at 40 CFR 52.248(b)(2) and 40 CFR 52.248(b)(3), respectively. Consequently, AVAQMD has met its RACT SIP obligations for these 1997 and 2008 8-hour NAAQS and, therefore, the EPA is removing the prior conditional approvals for these RACT SIP demonstrations from the Code of Federal Regulations (40 CFR 52.248(b)), leaving only the subsequently approved rules in the California SIP. This action also corrects the regulatory text to reflect the current status of ICAPCD’s RACT SIP demonstration for the 2008 8-hour ozone NAAQS. ICAPCD has met its RACT SIP obligations for this NAAQS and, therefore, the EPA will remove the prior conditional approval for this RACT SIP demonstration from the Code of Federal Regulations (40 CFR 52.248(i)), leaving only the subsequently approved rule in the California SIP.

The EPA has determined that this action falls under the “good cause” exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation where public notice and

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<sup>4</sup> 86 FR 24835 (May 10, 2021).

comment procedures are impracticable, unnecessary, or contrary to public interest. Public notice and comment for this action is unnecessary because the underlying rules and RACT evaluations were already subject to a 30-day comment period, and this action is merely making administrative changes and updating the regulatory text accordingly. Further, this action is consistent with the purpose and rationale of the final rules. Because this action does not change the EPA's analyses or overall actions, no purpose would be served by additional public notice and comment. Consequently, additional public notice and comment are unnecessary.

The EPA also finds that there is good cause under APA section 553(d)(3) for these amendments to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date of less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. This action merely corrects incomplete amendatory instructions in previous rulemakings. For these reasons, the EPA finds good cause under APA section 553(d)(3) for these changes to become effective on the date of publication of this action.

#### **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.

Dated: October 19, 2023.

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

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended 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**

**§ 52.248 [Amended]**

2. Section 52.248 is amended by removing and reserving paragraphs (b) and (i).

[FR Doc. 2023-23740 Filed: 11/1/2023 8:45 am; Publication Date: 11/2/2023]