



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2023-0590; FRL-11615-02-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 approve state implementation plan (SIP) revisions to the Yolo-Solano Air Quality Management District (YSAQMD) portion of the California SIP. These revisions concern emissions of oxides of nitrogen (NO_x) from biomass boilers, and address reasonably available control technology (RACT) requirements for major sources of NO_x in the portion of the Sacramento Metro, CA, nonattainment area that is subject to YSAQMD jurisdiction.

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-2023-0590. 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.

FOR FURTHER INFORMATION CONTACT: Eugene Chen, EPA Region IX, 75

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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 December 27, 2023, the EPA proposed to approve, through parallel processing, the California Air Resources Board’s (CARB) submittal of a public draft version of the YSAQMD’s amendments to Rule 2.43, “Biomass Boilers.”¹ As discussed in our proposed action, the YSAQMD relies upon Rule 2.43 to implement RACT for major sources of NO_x, and we proposed to determine that Rule 2.43, as amended, would comply with the EPA’s Startup, Shutdown, and Malfunction (SSM) policy and other applicable Clean Air Act (CAA or “Act”) requirements. Based on our review, we proposed to determine that the rule would implement RACT for biomass boilers, and therefore also proposed to approve the major source NO_x RACT element of the 2017 RACT SIP.²

Consistent with the EPA’s procedures for parallel processing set out at section 2.3 of Appendix V to 40 CFR part 51, our December 27, 2023 proposed approval relied upon our evaluation of the public draft version of the Rule 2.43 amendments that were adopted by the YSAQMD on December 13, 2023, but which were not yet formally submitted by CARB to the EPA at the time of our proposed action. The Rule 2.43 amendments were submitted by CARB to

¹ 88 FR 89351.

² We have previously taken final action to approve all other elements of the District’s 2017 RACT SIP on April 6, 2018 (83 FR 14754) and June 30, 2023 (88 FR 42252).

the EPA on February 14, 2024.³ We have reviewed this submittal, and have determined that it does not differ from the public draft version of Rule 2.43 (submitted November 27, 2023) that we evaluated for our proposed approval.

TABLE 1 - SUBMITTED DOCUMENTS

Local Agency	Document/ Rule No.	Document Title	Revised	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
YSAQMD	2.43	Biomass Boilers	12/13/2023	02/14/2024

II. Public Comments and EPA Responses

The EPA’s proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted on the proposed action, and there is no change to our assessment of the rule as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is approving this rule into the California SIP. In addition, we are approving the major source NO_x element of YSAQMD’s 2017 RACT SIP submittal for the 2008 ozone NAAQS.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of YSAQMD Rule 2.43, “Biomass Boilers,” revised on December 13, 2023, which regulates NO_x emissions from biomass-fired boilers. The EPA has made, and will continue to make, these documents available through www.regulations.gov and at the EPA Region IX Office

³ Submitted electronically as an attachment to a letter dated February 9, 2024.

(please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. 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, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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.

This action is subject to the Congressional Review Act (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).

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.

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

Dated: March 6, 2024.

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 paragraphs (c)(388)(i)(H)(2), (c)(505)(ii)(A)(3), and (c)(612) to read as follows:

§52.220 Identification of plan-in part.

* * * * *

(c) * * *

(388) * * *

(i) * * *

(H) * * *

(2) Previously approved on July 2, 2012, in paragraph (c)(388)(i)(H)(1) of this section and now deleted with replacement in (c)(612)(i)(A)(1) of this section: Rule 2.43, “Biomass Boilers,” adopted on November 10, 2010.

* * * * *

(505) * * *

(ii) * * *

(A) * * *

(3) The RACT determination for non-CTG major sources of NO_x as contained in the 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.

* * * * *

(612) The following regulations were submitted electronically on February 14, 2024, by the Governor's designee as an attachment to a letter dated February 9, 2024.

(i) *Incorporation by reference*

(A) Yolo-Solano Air Quality Management District.

(1) Rule 2.43, "Biomass Boilers," amended on December 13, 2023.

(2) [Reserved]

(B) [Reserved]

(ii) [Reserved]

* * * * *

§52.237 [Amended]

3. Section 52.237 is amended by removing and reserving paragraph (b)(6)(ii).

[FR Doc. 2024-05259 Filed: 3/13/2024 8:45 am; Publication Date: 3/14/2024]