



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2016-0215; FRL-9963-78-Region 9]

Approval of California Air Plan Revisions, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the South Coast Air Quality Management District (SCAQMD or District) portion of the California State Implementation Plan (SIP). These revisions concern the District's demonstration regarding Reasonably Available Control Technology (RACT) requirements for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS) in the South Coast Air Basin and Coachella Valley ozone nonattainment areas. The EPA had previously proposed to partially approve and partially disapprove SCAQMD's RACT SIP demonstration. However, since publication of the proposed rule, SCAQMD has addressed the identified deficiency that was the basis for the proposed partial disapproval by completing additional analysis and by submitting the analysis to the EPA as a supplement to the RACT demonstration. Because the supplemental analysis adequately addresses the deficiency, the EPA is withdrawing the previous proposed action and is now proposing full approval of SCAQMD's RACT SIP demonstration for the 2008 ozone NAAQS, as recently supplemented. The action proposed herein is based on a public draft version of the SCAQMD RACT supplement, and the EPA will not take final action until submittal of the final version of the SCAQMD RACT supplement as a revision of the California

SIP.

DATE: Any comments must arrive by [**Insert date 30 days after the date of publication in the Federal Register**].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2016-0215 at <https://www.regulations.gov/>, or via email to Andrew Steckel, Rulemaking Office Chief at Steckel.Andrew@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Stanley Tong, EPA Region IX, (415) 947-4122, tong.stanley@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State’s Submittal

A. What documents did the State submit?

On June 6, 2014, the SCAQMD adopted the “2016 AQMP) Reasonably Available Control Technology (RACT) Demonstration” (“2016 AQMP RACT SIP”), and on July 18, 2014, the California Air Resources Board (CARB) submitted it to the EPA for approval as a revision to the California SIP. On January 18, 2015, the submittal of the 2016 AQMP RACT SIP was deemed complete by operation of law.

On May 22, 2017, CARB submitted the District’s public draft version of the “Supplemental RACM/RACT Analysis for the NO_x RECLAIM Program” (“2017 RACT

Supplement”) along with a request for parallel processing.¹ The District prepared the 2017 RACT Supplement to address a deficiency that the EPA had identified in the 2016 AQMP RACT SIP and that was the basis for the EPA’s proposed partial disapproval of that submittal published on November 3, 2016 (81 FR 76547). The 2017 RACT Supplement includes additional emissions analysis, two negative declarations, and certain conditions from permits for two specific stationary sources located in Coachella Valley. As noted in footnote 1 of this document, under our parallel processing procedure, the EPA proposes action on a public draft version of a SIP revision but will take final action only after the final version is adopted and submitted to the EPA for approval. In this instance, we are proposing action based on the public draft version of the 2017 RACT Supplement submitted by CARB on May 22, 2017 and will not take final action until the final version of the 2017 RACT Supplement is adopted and submitted to the EPA. CARB’s May 22, 2017 letter indicates that the District Board is scheduled to consider approval of the 2017 RACT Supplement and associated documents on July 7, 2017, and if it is approved, CARB will submit the final package to the EPA.

B. *Are there other versions of these documents?*

There are no previous versions of the documents described above in the SCAQMD portion of the California SIP for the 2008 8-hour ozone NAAQS.

C. *What is the purpose of the submitted documents?*

Volatile Organic Compounds (VOC) and nitrogen oxides (NO_x) together produce

¹ Under the EPA’s “parallel processing” procedure, the EPA proposes rulemaking action concurrently with the state’s proposed rulemaking. If the state’s proposed rule is changed, the EPA will evaluate that subsequent change and may publish another notice of proposed rulemaking. If no significant change is made, the EPA will publish a final rulemaking on the rule after responding to any submitted comments. Final rulemaking action by the EPA will occur only after the rule has been fully adopted by California and submitted formally to the EPA for incorporation into the SIP. See 40 CFR part 51, appendix V.

ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. Section 110(a) of the Clean Air Act (CAA or “Act”) requires states to submit regulations that control VOC and NO_x emissions. CAA sections 182(b)(2) and (f) require that SIPs for 1-hour ozone nonattainment areas classified as moderate or above implement RACT for any source covered by a Control Techniques Guidelines² (CTG) document and for any major source of VOC or NO_x. The EPA’s implementing regulations for the 2008 ozone NAAQS extend the same RACT requirement to areas classified as moderate or above for the 2008 ozone NAAQS. *See* 40 CFR 51.1112.

The SCAQMD is subject to the RACT requirement as it is authorized under state law to regulate stationary sources in the South Coast Air Basin (“South Coast”), which is classified as an extreme nonattainment area, and in the Coachella Valley portion of Riverside County (“Coachella Valley”), which is classified as a severe-15 nonattainment area for the 2008 8-hour ozone NAAQS (40 CFR 81.305); 77 FR 30088 at 30101 and 30103 (May 21, 2012). Therefore, the SCAQMD must, at a minimum, adopt RACT-level controls for all sources covered by a CTG document and for all major non-CTG sources of VOC or NO_x within the two nonattainment areas. Any stationary source that emits or has the potential to emit at least 10 tons per year of VOC or NO_x is a major stationary source in an extreme ozone nonattainment area (CAA section 182(e) and (f)), and any stationary source that emits or has the potential to emit at least 25 tons per year of VOC or NO_x is a major stationary source in a severe ozone nonattainment area (CAA section 182(d) and (f)).

Section III.D of the preamble to the EPA’s final rule to implement the 2008 ozone

² CTGs are used to help define VOC RACT.

NAAQS (80 FR 12264, March 6, 2015) discusses RACT requirements. It states, in part, that RACT SIPs must contain adopted RACT regulations, certifications where appropriate that existing provisions are RACT, and/or negative declarations that no sources in the nonattainment area are covered by a specific CTG source category, and that states must submit appropriate supporting information for their RACT submissions as described in the EPA's implementation rule for the 1997 ozone NAAQS. *See id.*, at 12278; 70 FR 71612, at 71652 (November 29, 2005).

The submitted documents provide SCAQMD's analyses of its compliance with the CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS. CARB also intends the 2017 RACT Supplement to address the EPA's April 14, 2016 (81 FR 22025) disapproval of the reasonably available control measures/RACT (RACM/RACT) demonstration for the South Coast for the 2006 fine PM (PM_{2.5}) NAAQS. Today's rulemaking addresses the RACT requirement for the 2008 ozone standard, not the RACM/RACT requirement for the PM_{2.5} NAAQS. The EPA will address the latter requirement in a separate rulemaking. The EPA's technical support documents (TSDs) evaluating the 2016 AQMP RACT SIP and the 2017 RACT Supplement have more information about the District's submissions and the EPA's evaluation thereof.

II. The EPA's Evaluation and Proposed Action

A. How is the EPA evaluating submitted documents?

SIP rules must be enforceable (*see* CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (*see* CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (*see* CAA

section 193). Generally, SIP rules must require RACT for each category of sources covered by a CTG document as well as each major source of VOC or NO_x in ozone nonattainment areas classified as moderate or above (see CAA section 182(b)(2) and (f), and 40 CFR 51.1112). The SCAQMD regulates an extreme ozone nonattainment area (i.e., the South Coast Air Basin) and a severe ozone nonattainment area (i.e., Coachella Valley) (see 40 CFR 81.305), so the District's rules must implement RACT.

Guidance and policy documents that we use to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992);
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990);
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook);
4. "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO_x Supplement), 57 FR 55620, November 25, 1992;
5. Memorandum from William T. Harnett to Regional Air Division Directors, (May 18, 2006), "RACT Qs & As—Reasonably Available Control Technology (RACT) Questions and Answers";

6. “Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements” (80 FR 12264; March 6, 2015); and
7. “Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard – Phase 2” (70 FR 71612; November 29, 2005).

B. *Do the documents meet the evaluation criteria?*

The 2016 AQMP RACT SIP and 2017 RACT Supplement build on the District’s previous RACT SIP demonstrations: the 2006 RACT SIP (73 FR 76947, December 18, 2008), the 2007 AQMP (77 FR 12674, March 1, 2012) and the 2012 AQMP (79 FR 52526, September 3, 2014). The 2016 AQMP RACT SIP concludes, after a review and evaluation of more than 30 rules recently developed by other ozone nonattainment air districts, that SCAQMD’s current rules meet the EPA’s criteria for RACT acceptability and inclusion in the SIP for the 2008 8-hour ozone NAAQS. The 2017 RACT Supplement adds to the 2016 AQMP RACT SIP by including two negative declarations, and by including certain permit conditions for two major NO_x sources in Coachella Valley, and by providing a demonstration for how District rules meet the RACT requirement for major NO_x sources in the South Coast.

1. CTG Source Categories – South Coast and Coachella Valley

With regards to CTG source categories, based on its research of the District’s permit databases and telephone directories for sources in the District for the 2007 AQMP, the 2012 AQMP, and the 2016 AQMP RACT SIP, the SCAQMD concluded that all identified sources subject to a CTG are subject to District rules that establish control requirements meeting or exceeding RACT. Because District rules apply in both the South Coast and Coachella Valley, the District’s conclusion in this regard extends to both nonattainment areas.

Where there are no existing sources covered by a particular CTG document, states may, in lieu of adopting RACT requirements for those sources, adopt negative declarations certifying that there are no such sources in the relevant nonattainment area. The SCAQMD did not include any negative declarations in the 2016 AQMP RACT SIP; however, subsequent to its 2016 AQMP RACT SIP submittal, the EPA had several discussions with the SCAQMD and concluded there may be two CTG categories where the District has no sources applicable to the CTGs: (1) Surface Coating Operations at Shipbuilding and Ship Repair Facilities CTG; and (2) the paper coating portion of the 2007 Paper, Film, and Foil Coatings CTG. Based on further investigation, the District has agreed that negative declarations for the two CTG categories are warranted and has included them in the 2017 RACT Supplement.³

Based on our review and evaluation of the documentation provided by the SCAQMD in the 2016 AQMP RACT SIP (and earlier plans) and in the 2017 RACT Supplement, we agree that existing District rules approved in the SIP meet or are more stringent than the corresponding CTG limits and applicability thresholds for each category of VOC sources covered by a CTG document, other than the two CTG documents discussed above. As discussed in our TSD, we conclude that existing District rules require the implementation of RACT for each category of VOC sources covered by a CTG document (other than the two discussed above) located in the South Coast and Coachella Valley. For the Surface Coating Operations at Shipbuilding and Ship Repair Facilities CTG and the paper coating portion of the 2007 Paper, Film, and Foil Coatings CTG, we have reviewed the District's evaluation of its sources as described in the 2017 RACT

³ SCAQMD, "Negative Declaration for Control Techniques Guidelines of Surface Coating Operations at Shipbuilding and Ship Repair Facilities, and Paper, Film, and Foil Coatings," May 2017, included at the back of the 2017 RACT Supplement.

Supplement and concur with the District's findings. As such, we propose approval of the District's two negative declarations included in the 2017 RACT Supplement.

2. Major Stationary Sources of VOC or NO_x Emissions (Other than RECLAIM Facilities) – South Coast and Coachella Valley

With respect to major stationary sources of VOC or NO_x emissions, the District provided supplemental information identifying 21 new major Title V sources since its 2006 RACT SIP certification and provided a list of equipment at these facilities that emit greater than 5 tons per year. The District concluded that all the identified equipment were covered by command-and-control VOC or NO_x rules that implement RACT. The District's efforts to identify all new major sources appears to be thorough, and we agree that the District's command-and-control VOC and NO_x rules approved in the SIP require implementation of RACT for all major non-CTG VOC and NO_x sources in the South Coast and Coachella Valley to which those rules apply. Generally, major NO_x sources in the South Coast and two major NO_x sources in Coachella Valley are not subject to the District's command-and-control rules, but are subject to a set of rules establishing a cap-and-trade program.⁴ Our evaluation of these sources for compliance with the RACT requirement is covered in the following sections of this document.

3. RECLAIM Facilities in the South Coast

Within the South Coast, major NO_x sources are included in SCAQMD's Regulation XX ("Regional Clean Air Incentives Market (RECLAIM)") program. The District adopted the RECLAIM program in 1993 to reduce emissions from the largest stationary sources of NO_x and

⁴ Certain sources such as fire-fighting facilities, police facilities, and public transit remain covered under SCAQMD's command-and-control rules and are exempted from the cap-and-trade program. *See* Rule 2001.

sulfur oxides (SO_x) emissions through a market-based trading program that establishes annual declining NO_x and SO_x allocations (also called “facility caps”) and allows covered facilities to comply with their facility caps by installing pollution control equipment, changing operations, or purchasing RECLAIM trading credits (RTCs) from the RECLAIM market. Section 40440 of the California Health and Safety Code (CH&SC) requires the District to monitor advances in best available retrofit control technology (BARCT) and periodically to reassess the overall facility caps to ensure that the facility caps are equivalent, in the aggregate, to BARCT emission levels imposed on affected sources.⁵ Facilities subject to RECLAIM are exempted from a number of District command-and-control (also referred to as “prohibitory”) rules that otherwise apply to sources of NO_x and SO_x emissions in the South Coast.⁶ With certain exceptions, facilities located outside of the South Coast but within SCAQMD jurisdiction (e.g., facilities in Coachella Valley) are not included in the RECLAIM program. As of the 2015 compliance year, the most recent compliance year fully audited, there are approximately 268 facilities in the RECLAIM NO_x program.⁷

Under longstanding EPA interpretation of the CAA, a market-based cap and trade program may satisfy RACT requirements by ensuring that the level of emission reductions resulting from implementation of the program will be equal, in the aggregate, to those reductions

⁵ BARCT is defined as “an emission limitation that is based on the maximum degree of reduction achievable taking into account environmental, energy, and economic impacts by each class or category of source.” CH&SC section 40406. For the purposes of comparison, the EPA defines RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. 44 FR 53762 (September 17, 1979). As such, we generally find that BARCT level of control meets or exceeds RACT level of control.

⁶ See District Rule 2001 (“Applicability”), as amended May 6, 2005. Exemptions from RECLAIM, such as the exemption for certain facilities located in Coachella Valley, are listed in Rule 2001(i).

⁷ See page 4 of the 2017 RACT Supplement.

expected from the direct application of RACT on all affected sources within the nonattainment area.⁸ The EPA approved the RECLAIM program into the California SIP in June 1998 based in part on a conclusion that the NO_x emission caps in the program satisfied the RACT requirements of CAA section 182(b)(2) and (f) for covered NO_x emission sources in the aggregate.⁹ In 2005 and 2010, the District adopted revisions to the RECLAIM program, which the EPA approved in 2006 and 2011, respectively, based in part on conclusions that the revisions continued to satisfy RACT requirements.¹⁰ We refer to the current NO_x RECLAIM program as approved into the SIP as the “2010 RECLAIM program.”¹¹

The 2016 AQMP RACT SIP relies on the 2010 RECLAIM program to satisfy the RACT requirements for major NO_x sources in the South Coast. With respect to such sources, we initially concluded, as described in our November 3, 2016 proposed rule, 81 FR 76547, at 76549, that the 2016 AQMP RACT SIP had failed to demonstrate that the 2010 RECLAIM program had achieved NO_x emissions reductions equal, in the aggregate, to those reductions expected from the direct application of RACT on all major NO_x sources in the South Coast. We based our initial conclusion on information contained in SCAQMD’s December 2015 Draft Final Staff Report (“2015 staff report”) revising Regulation XX that indicated that further reductions in the NO_x

⁸ 59 FR 16690 (April 7, 1994) and the EPA, “Improving Air Quality with Economic Incentive Programs,” EPA-452/R-01-001 (January 2001), at Section 16.7 and 80 FR 12264, 12279 (March 6, 2015).

⁹ 61 FR 57834 (November 8, 1996) and 63 FR 32621 (June 15, 1998).

¹⁰ 71 FR 51120 (August 29, 2006) and 76 FR 50128 (August 12, 2011).

¹¹ The RECLAIM program is codified by the District in Regulation XX, which includes a number of individual rules, such as Rule 2001 (“Applicability”) and Rule 2002 (“Allocations for Oxides of Nitrogen (NO_x) and Oxides of Sulfur (SO_x)” and many others. Herein, we refer to the “2010 RECLAIM program,” because the most recent SIP-approved RECLAIM rule amendments were adopted by the District on November 5, 2010. The 2010 amendments only affected certain sections of Rule 2002 pertaining to SO_x emissions, and thus, the “2010 RECLAIM program” reflects other amendments by the District that we approved prior to that time and that were unaffected by the 2010 amendments. For instance, with respect to NO_x allocations, the most recent SIP-approved amendments that are part of the “2010 RECLAIM program” were adopted by the District on January 7, 2005.

RECLAIM emissions cap were needed to achieve BARCT.¹² Given that BARCT level of control by definition meets or exceeds RACT level of control, we could have safely concluded that the 2010 RECLAIM program meets RACT level of control if it had been demonstrated to meet, in the aggregate, BARCT level of control. In light of the information in the 2015 staff report, however, there was evidence that the RECLAIM program had not achieved BARCT level of control, and thus we had inadequate basis to conclude that the 2010 RECLAIM program had achieved RACT level of control. The use of the BARCT level of control, rather than RACT, as the criterion for approval or disapproval was necessary for the purposes of the November 3, 2016 proposed rule because no specific demonstration of RECLAIM as meeting the RACT requirement had been submitted as part of the 2016 AQMP RACT SIP.

In response to our November 3, 2016 proposed partial disapproval of the South Coast RACT demonstration, and also to respond to the EPA's April 14, 2016 disapproval of the South Coast RACM/RACT demonstration for the 2006 PM_{2.5} NAAQS, both of which were premised on the same deficient showing with respect to major NO_x sources in the South Coast that are subject to RECLAIM, the District has provided, in the 2017 RACT Supplement, a specific demonstration of how the 2010 RECLAIM program has achieved, in the aggregate, RACT level of control for major NO_x sources in the South Coast. In the 2017 RACT Supplement, the District has also evaluated the amendments in the RECLAIM program adopted by the District in 2015 and 2016 for compliance with the RACT requirement.¹³

¹² Draft Final Staff Report, Proposed Amendments to Regulation XX Regional Clean Air Initiatives Market (RECLAIM) NO_x RECLAIM, December 4, 2015 <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2015/2015-dec4-030.pdf?sfvrsn=9>.

¹³ On March 17, 2017, CARB submitted amended RECLAIM rules reflecting revisions adopted by the District on

When the NO_x RECLAIM program was first adopted, RECLAIM facilities were issued NO_x annual allocations that declined annually from 1993 until 2003 and remained constant after 2003. The ending RTC allocation (for all program sources) in 2003 was set at 34.2 tons per day (tpd). The annual allocations reflected the levels of BARCT to be in place at the RECLAIM facilities, and were the result of a BARCT analysis conducted in 1993.

As noted above, state law also requires the District to monitor advances in BARCT and to periodically reassess the overall facility caps to ensure that RECLAIM facilities achieve the same or greater emission reductions that would have occurred under a command-and-control approach. In 2005, the District examined the RECLAIM program and found that additional reduction opportunities existed due to the advancement of control technology.

As part of the 2005 NO_x BARCT reassessment, the District examined the most stringent emission limits in other air pollution control district rules and other requirements for equipment categories in the RECLAIM program in an effort to determine the appropriate mass emission reductions to reflect BARCT. District staff also examined types of retrofit technologies that had been achieved in practice regardless of whether these controls are required in SIP approved rules. As a result, the District identified new BARCT levels for six source categories in the NO_x RECLAIM program and established a new ending RTC allocation of 26.5 tpd, which represented the allowable programmatic emissions after BARCT implementation. The methodology for determining the ending RTC allocation relied on using actual emissions that are adjusted for

December 4, 2015 (significant revisions reducing total NO_x RTC holdings by 12 tpd by 2022), February 5, 2016 (minor revisions to certain definitions), and October 7, 2016 (new provisions intended to prevent the majority of facility shutdown credits from entering the market) to the EPA as a revision to the California SIP. The EPA has recently proposed to approve the amended rules. *See* 82 FR 25996 (June 6, 2017).

growth and BARCT. Under amended rules adopted by the District in 2005, the facility annual allocations (in the aggregate) were reduced in annual increments from 34.2 tpd to 26.5 tpd between 2007 and 2011.

To demonstrate that the 2010 RECLAIM program (reflecting 2005 NO_x RECLAIM rule amendments) implemented RACT, the District re-examined the BARCT reevaluation that it conducted in 2005 and determined that, for certain source categories, the BARCT allocation level was essentially equivalent to RACT, but that, for certain other source categories, the BARCT allocation level was beyond RACT because there were no other rules in the District itself or any other California air district for these specific categories that were more stringent than the limits established under the original RECLAIM program in 1993 (and fully implemented by 2003). The District re-calculated a hypothetical ending annual RTC allocation (of 30.9 tpd) reflecting RACT implementation (rather than BARCT) and determined that, based on audited actual NO_x emissions in 2012, the 2010 RECLAIM program achieved a 16% reduction in actual NO_x emissions from RECLAIM sources from 2006 to 2012 whereas only a 9.6% reduction (i.e., 34.2 tpd down to 30.9 tpd) was necessary to meet the RACT requirement. On that basis, the District concludes, in the 2017 RACT Supplement, that the 2010 RECLAIM program met the RACT requirement for major NO_x sources in the South Coast.

We have reviewed the District's evaluation of the 2010 RECLAIM program for compliance with the RACT requirement and find that the District's approach, assumptions, and calculation methods are reasonable. Based on the District's analysis, we conclude that the NO_x RECLAIM program, as amended in 2005, provided for NO_x reductions equivalent, in the aggregate, to those reductions expected from the direct application of RACT on all major NO_x

sources in the South Coast.

However, the emissions limits that form the basis for the District's re-examination of the RECLAIM program as described above are predicated on the 2005 BARCT reevaluation of the program. To comply with the RACT requirement for the 2008 ozone standard, for which designations were promulgated in 2012, the RECLAIM program had to be re-evaluated post-2012 for potential improvements in control technology since 2005. In 2015, the District conducted such a reevaluation and amended the RECLAIM rules to establish a new ending RTC allocation of 14.5 tpd (reflecting BARCT implementation) to be achieved incrementally from 2017 through 2022.

In the 2017 RACT Supplement, the District also provides a demonstration of how the RECLAIM program, as amended in 2015, meets the RACT requirement in the aggregate. To do so, the District performed a similar type of analysis as that described above for the 2005 RECLAIM amendments to determine a hypothetical ending RTC allocation reflecting RACT implementation (rather than BARCT) of 14.8 tpd. Because the ending RTC allocation (adopted by the District in 2015 and implementing BARCT) of 14.5 tpd is less than (i.e., more stringent than) the hypothetical RTC allocation (implementing RACT) of 14.8 tpd, the District concludes that the program as amended in 2015 meets the RACT requirement.

We have reviewed the District's approach, assumptions, and methods to the updated RECLAIM program and agree that, as amended in 2015, the RECLAIM program provides for emissions reductions equivalent, in the aggregate, to those reductions expected from the direct application of RACT on all major NO_x sources in the South Coast and thereby meets the RACT

requirement for such sources for the purposes of the 2008 ozone standard.¹⁴

We also agree with the District that RECLAIM rule amendments in October 2016 help to ensure the success of the program in achieving BARCT-equivalent (and RACT-equivalent) reductions by preventing the majority of facility shutdown RTCs from entering the market and delaying the installation of pollution controls at other NO_x RECLAIM facilities.

4. RECLAIM Facilities in Coachella Valley

As noted above, unlike major NO_x sources in the South Coast, major NO_x sources in Coachella Valley are generally not eligible to participate in the RECLAIM program but rather are subject to the District's prohibitory rules.¹⁵ The RECLAIM rules, however, establish an exception for electric generating facilities in Coachella Valley that submit complete permit applications on or after January 1, 2001. Such facilities may elect to enter the RECLAIM program, and to date, two facilities in Coachella Valley have elected to enter the program.

In our November 3, 2016 proposed rule, we did not extend the deficiency we identified in the RACT demonstration for the South Coast to Coachella Valley because we found that the two RECLAIM facilities that are located there were both equipped with control technology that

¹⁴ While not required for our evaluation of the 2016 AQMP RACT SIP and 2017 RACT Supplement for compliance with the RACT requirement for the South Coast and Coachella Valley for the 2008 ozone standard, we also take note of several recent developments that pertain to the RECLAIM program. On March 3, 2017, the District adopted the 2016 Air Quality Management Plan and in so doing directed staff to modify the 2016 AQMP NO_x RECLAIM measure to achieve an additional 5 tpd NO_x emission reduction as soon as feasible, and not later than 2025, to transition the RECLAIM program to a command-and-control regulatory structure requiring BARCT level controls as soon as practicable. *See* SCAQMD, Resolution No. 17-2 ("A Resolution of the South Coast Air Quality Management District (SCAQMD or District) Governing Board certifying the Final Program Environmental Impact Report (PEIR) for the 2016 Air Quality Management Plan (AQMP or Plan), and adopting the 2016 AQMP, which is to be submitted into the California State Implementation Plan (SIP)"), March 3, 2017, page 17.

¹⁵ District Regulation XX ("Regional Clean Air Incentives Market (RECLAIM)", Rule 2001 ("Applicability"), paragraph (i)(1)(I).

meets or exceeds RACT level of control.¹⁶ The basic premise for our proposed conclusion in this regard was that the RACT requirement was met through permit conditions requiring RACT level of control because such permit conditions are enforceable because they were issued under SIP-approved New Source Review (NSR) rules. However, our rationale was mistaken. Generally, NSR permit conditions alone are not sufficient to meet the RACT requirement even where the conditions require control technology that represent RACT level of control because permit conditions are subject to revision outside of the SIP revision process and because permits can expire whereas SIP limits must be permanent until revised or rescinded through a SIP revision. On the other hand, permit conditions that require RACT level of control at a given facility may suffice to meet the RACT requirement if they are submitted as a SIP revision and approved into the SIP.

In subsequent communications with the District, we noted our mistaken rationale with respect to RACT compliance and the two Coachella Valley facilities. In response, the District reviewed the permits for the facilities and included the relevant permit conditions for each as appendices A and B to the 2017 RACT Supplement. The permit conditions submitted by the District pertain to specified NO_x emission limits ranging from 2.5 to 5 parts per million (ppm) for the gas turbines, control technology (selective catalytic reduction (SCR)), and monitoring, among other elements. The District's analysis indicates that SCR is generally identified as an emission control technology to achieve "best available control technology" emission limits in the range of 2 to 5 ppm for gas turbines, and thus the controls meet or exceed the requirements for RACT. We have reviewed the permit conditions (and SCAQMD's analysis) and find that they

¹⁶ See footnote 8 of our November 3, 2016 proposed rule at 81 FR 76547, at 76549.

provide for RACT level of control (or better) at the two RECLAIM facilities in Coachella Valley. As such, we propose to approve the permit conditions as part of the SIP.

C. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, and based on the rationale discussed above, the EPA proposes to approve the 2016 AQMP RACT SIP and 2017 RACT Supplement, including the RACT demonstrations provided in the two documents, negative declarations for two CTG source categories, and certain permit conditions for two power plants in Coachella Valley, because we believe they fulfill the RACT SIP requirements under CAA sections 182(b) and (f) and 40 CFR 51.1112 for the South Coast and Coachella Valley for the 2008 ozone NAAQS. As noted above, our proposed action relies upon our evaluation of the public draft version of the 2017 RACT Supplement and we will not take final action until it is adopted and submitted to us as a revision to the California SIP. If the 2017 RACT Supplement that we have evaluated were to be revised significantly prior to adoption and submittal, we will need to reconsider our proposed action accordingly. We are withdrawing our previous proposal (61 FR 76547, November 3, 2016) to partially approve and partially disapprove the 2016 AQMP RACT SIP and are now proposing full approval because we have concluded that the 2016 AQMP RACT SIP, as supplemented by the 2017 RACT Supplement, now meets the relevant CAA requirements.¹⁷ If you submitted comments on our previous proposed action and believe that those comments remain relevant, you will need to resubmit your comments within the public comment period for today's proposed action.

¹⁷ Although we are withdrawing our November 3, 2016 proposed action, our TSD associated with that proposed action still contains pertinent information that summarizes our evaluation of SCAQMD's 2016 AQMP RACT SIP.

We will accept comments from the public on this proposal until [**Insert date 30 days after date of publication in the Federal Register**]. If we take final action to approve the submitted documents, our final action will incorporate them into the federally-enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference certain permit conditions for two stationary sources in Coachella Valley as described above in preamble. The EPA has made, and will continue to make, these materials available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section of this preamble for more information).

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

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- 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 Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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 proposed 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).

List of Subjects in 40 CFR Part 52

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

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

Dated: June 7, 2017.

Alexis Strauss,
Acting Regional Administrator,
Region IX.

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