

**SUMMARY:** EPA is proposing to approve a revision to the State Implementation Plan (SIP) submitted by the State of Tennessee on October 19, 2007. The revision affects the Nashville/Davidson County portion of the Tennessee SIP. Specifically the revision pertains to the Metropolitan Public Health Department, Pollution Control Division's Regulation Number 8, "Inspection and Maintenance of Light-Duty Motor Vehicles." This revision is part of Nashville/Davidson County's strategy to meet the requirements of EPA's 1997 8-hour ozone standard. Regulation Number 8 is amended by reducing the vehicle emission inspection fee to \$9.00, and updating the definitions section. This revision is considered by the Tennessee Department of Environment and Conservation (TDEC) to be at least as stringent as the State of Tennessee's preexisting requirements. This action is being taken pursuant to section 110 of the Clean Air Act.

In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** Written comments must be received on or before September 17, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2008-0051, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail*: [hou.james@epa.gov](mailto:hou.james@epa.gov).
3. *Fax*: (404) 562-9019.
4. *Mail*: "EPA-R04-OAR-2008-0051," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.
5. *Hand Delivery or Courier*: Mr. James Hou, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management

Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Hou, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8965. Mr. Hou can also be reached via electronic mail at [hou.james@epa.gov](mailto:hou.james@epa.gov).

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: July 30, 2008.

**Russell L. Wright Jr.,**

*Acting Regional Administrator, Region 4.*

[FR Doc. E8-18966 Filed 8-15-08; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2008-0612; FRL-8705-7]

#### Disapproval of State Implementation Plan Revision, Yolo Solano Air Quality Management District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to disapprove a revision to the Yolo Solano Air Quality Management District (YSAQMD) portion of the California State Implementation Plan (SIP) concerning the District's analysis of whether its rules meet Reasonably Available Control Technology (RACT) under the 8-hour ozone National Ambient Air Quality Standard (NAAQS). We are proposing to disapprove the analysis under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by September 17, 2008.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2008-0612, by one of the following methods:

1. *Federal eRulemaking Portal*: [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.

2. *E-mail*: [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

3. *Mail or deliver*: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail.

[www.regulations.gov](http://www.regulations.gov) is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us," and "our" refer to EPA.

#### Table of Contents

- I. The State's Submittal
  - A. What document did the State submit?
  - B. Are there other versions of this document?
  - C. What is the purpose of the submitted RACT SIP analysis?
- II. EPA's Evaluation and Action
  - A. How is EPA evaluating the RACT SIP analysis?

- B. Does the analysis meet the evaluation criteria?
  - C. What are the deficiencies?
  - D. EPA Recommendations to Further Improve the RACT SIP Analysis
  - E. Proposed Action and Public Comment
- III. Statutory and Executive Order Reviews

**I. The State's Submittal**

*A. What document did the State submit?*

Table 1 lists the document proposed for disapproval with the date that it was

adopted and submitted by the California Air Resources Board.

TABLE 1—SUBMITTED DOCUMENT

Local agency	Document	Adopted	Submitted
YSAQMD .....	Reasonably Available Control Technology .....	09/13/06	01/31/07

This submittal became complete by operation of law on July 31, 2007.

*B. Are there other versions of this document?*

There is no previous version of this document in the SIP.

*C. What is the purpose of the submitted RACT SIP analysis?*

VOCs and NO<sub>x</sub> help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC and NO<sub>x</sub> emissions. Sections 172(c)(1) and 182 require areas that are designated as moderate or above for ozone non-attainment to adopt RACT. The YSAQMD is subject to this requirement as it is designated as a serious ozone non-attainment area under the 8-hour NAAQS for ozone (40 CFR 81.305). Therefore, the YSAQMD must, at a minimum, adopt RACT level controls for sources covered by a Control Technique Guidelines (CTG) document and for any major non-CTG source.

Section IV.G. of EPA's final rule to implement the 8-hour ozone NAAQS (70 FR 71612, November 29, 2005) discusses RACT requirements. It states in part that where a RACT SIP is required, States implementing the 8-hour ozone standard generally must assure that RACT is met, either through a certification that previously required RACT controls represent RACT for 8-hour implementation purposes or through a new RACT determination. The submitted document provides YSAQMD's analysis of their RACT rules for the 8-hour NAAQS for ozone. EPA's technical support document (TSD) has more information about YSAQMD's RACT analysis.

**II. EPA's Evaluation and Action**

*A. How is EPA evaluating the RACT SIP analysis?*

The rules and guidance documents that we use to evaluate whether the analysis fulfills RACT include the following:

1. Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard (70 FR 71612; November 29, 2005).
2. Letter from William T. Harnett to Regional Air Division Directors, (May 18, 2006), "RACT Qs & As—Reasonably Available Control Technology (RACT) Questions and Answers".
3. 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).
4. RACT SIPs, Letter dated March 9, 2006 from EPA Region IX (Andrew Steckel) to CARB (Kurt Karperos) describing Region IX's understanding of what constitutes a minimally acceptable RACT SIP.
5. RACT SIPs, Letter dated April 4, 2006 from EPA Region IX (Andrew Steckel) to CARB (Kurt Karperos) listing EPA's current CTGs, ACTs, and other documents which may help to establish RACT.

*B. Does the analysis meet the evaluation criteria?*

YSAQMD's staff report included a table (Table A) listing all CTG source categories and matching those CTG categories with the corresponding District rule which implements RACT. Given its designation as a serious ozone non-attainment area, YSAQMD was also required to analyze RACT for all sources that emit or have the potential to emit at least 50 tons per year of NO<sub>x</sub> or VOCs (CAA 182(c)). YSAQMD staff searched

for all sources that would be subject to a CTG and for sources that emitted or have the potential to emit at least 25 tpy of VOC or NO<sub>x</sub>. YSAQMD identified three sources, Agrium U.S., Inc, Premier Industries (now Insulfoam), and Woodland Biomass Power Ltd., as major sources not subject to a District RACT rule.

YSAQMD points out that under Section 110(k)(4) of the CAA, the District can submit a plan revision based on a commitment to adopt specific enforceable measures up to one year after the date of approval of the plan revision. YSAQMD generally committed to submitting the required RACT rules for these sources within one year of approval of the plan revision. Under CAA Section 110(k)(4), however, EPA may approve a plan revision only where the State commits to adopt "specific enforceable measures by a date certain", not later than one year after the approval of the plan revision. YSAQMD's generalized commitment to submit RACT rules within a year for the sources and source categories that are currently not subject to RACT rules fails to provide the "specific enforceable measures by a date certain" required by CAA Section 110(k)(4). Accordingly, EPA concludes it is not appropriate to grant a conditional approval of the District's RACT certification.

The RACT certification provisions which do not meet the evaluation criteria are summarized in the next section and discussed further in the TSD.

YSAQMD's staff report also includes a negative declaration listing 13 CTG categories for which there are no sources in the District subject to the CTGs and no District rules covering those categories. These categories are provided in Table 2.

TABLE 2—NEGATIVE DECLARATIONS

CTG source category	CTG reference document
Aerospace .....	EPA-453/R-97-004—Aerospace Manufacturing and Rework Operations.

TABLE 2—NEGATIVE DECLARATIONS—Continued

CTG source category	CTG reference document
Ships ..... Metal Coil Container and Closure .....	61 FR 44050 Shipbuilding and Ship Repair. EPA-450/2-77-008—Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.
Magnetic Wire ..... Natural Gas/Gasoline Processing Plants, Equipment Leaks .....	EPA-450/2-77-033—Surface Coating of Insulation of Magnet Wire. EPA-450/2-83-007—Equipment Leaks from Natural Gas/Gasoline Processing Plants.
Refineries .....	EPA-450/2-77-025—Refinery Vacuum Producing Systems, Waste-water Separators, and Process Unit Turnarounds. EPA-450/2-78-036—VOC Leaks from Petroleum Refinery Equipment.
Paper and Fabric .....	EPA-450/2-77-008—Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.
Dry Cleaning ..... Rubber Tires .....	EPA-450/3-82-009—Large Petroleum Dry Cleaners. EPA-450/2-78-030—Manufacture of Pneumatic Rubber Tires.
Large Appliances, Surface Coating ..... Wood Coating .....	EPA-450/2-77-034—Surface Coating of Large Appliances. EPA-450/2-78-032—Factory Surface of Flat Wood Paneling.
Synthetic Organic Chemical .....	Possible error—YSAQMD listed the polymer/Resin CTG under this category. EPA-450/3-83-006—Fugitive Emissions from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment.
Polyester Resin.	EPA-450/3-83-006—Fugitive Emissions from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment. EPA-450/3-83-008—Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins.

C. What are the deficiencies?

The following deficiencies prevent full approval of YSAQMD’s RACT certification.

1. YSAQMD identified three major non-CTG sources in the District that are not covered by RACT rules or SIP approved permits. Such rules or permits should be submitted to EPA for approval.

2. YSAQMD’s pharmaceutical manufacturing rule may be less stringent than the CTG. Rule 2.35 should be revised and submitted to EPA for approval.

3. On May 14, 2008, YSAQMD amended the solvent cleaning provisions in several rules to address RACT requirements. These rules need to be submitted to, and approved by, EPA.

4. YSAQMD should submit a negative declaration for the Wood Furniture CTG or submit Rule 2.39 for SIP approval.

D. EPA Recommendations To Further Improve the RACT SIP Analysis

The TSD describes additional revisions that do not affect EPA’s current action but are recommended to strengthen the RACT analysis.

E. Proposed Action and Public Comment

As authorized in Section 110(k)(3) of the Act, we are proposing a disapproval of the submitted YSAQMD RACT SIP analysis. If finalized, sanctions would be imposed unless EPA approves a revised RACT SIP analysis and the required rules that correct the deficiencies discussed above within 18

months of the disapproval. These sanctions would be imposed as described in CAA section 179 and 40 CFR 52.30–52.32. A final disapproval would also trigger the 2 year clock for the federal implementation plan (FIP) requirement under section 110(c)(1).

We will accept comments from the public on the proposed disapproval for the next 30 days.

III. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled “Regulatory Planning and Review.”

B. Paperwork Reduction Act

This rulemaking does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rulemaking will not have a significant impact on a substantial number of small entities because SIP disapproval actions under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply disapproves for inclusion into the SIP requirements that the State is already imposing. Therefore, because the Federal SIP disapproval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (“Unfunded Mandates Act”), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives

of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the disapproval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to disapprove a pre-existing analysis under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### *E. Executive Order 13132, Federalism*

*Federalism* (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (*Federalism*) and 12875 (*Enhancing the Intergovernmental Partnership*). Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that 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.” Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rulemaking 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, as specified in Executive Order 13132, because it merely disapproves a state analysis, and does not alter the relationship or the

distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rulemaking.

#### *F. Executive Order 13175, Coordination With Indian Tribal Governments*

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This proposed rule disapproval does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this rule disapproval.

EPA specifically solicits additional comment on this proposed rule disapproval from tribal officials.

#### *G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rulemaking is not subject to Executive Order 13045, because it disapproves a state analysis.

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

This rulemaking is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

#### *I. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing

programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today’s action does not require the public to perform activities conducive to the use of VCS.

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

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

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

Dated: August 7, 2008.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

[FR Doc. E8–19073 Filed 8–15–08; 8:45 am]

**BILLING CODE 6560–50–P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Federal Emergency Management Agency**

#### **44 CFR Part 67**

**[Docket No. B–7795]**

#### **Proposed Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Proposed rule; correction.

**SUMMARY:** On July 23, 2008, FEMA published in the **Federal Register** a proposed rule that contained an erroneous table. This notice provides corrections to that table, to be used in lieu of the information published at 73 FR 42755. The table provided here represents the flooding source, location of referenced elevation, effective and modified elevation, and communities affected for Alameda County, California. Specifically, it addresses Castro Valley Creek (Line J).

**FOR FURTHER INFORMATION CONTACT:** William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151 or (e-mail) [bill.blanton@dhs.gov](mailto:bill.blanton@dhs.gov).

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) publishes proposed determinations of Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs for communities