Dated: September 8, 2017.

Cathy Stepp,

Acting Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

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 CC—Nebraska

■ 2. Amend § 52.1420(e) by adding entries ''(32)'', ''(33)'' and ''(34)'' in numerical order to read as follows:

§ 52.1420 Identification of Plan.

* * * * *

(e) * * *

EPA-APPROVED NEBRASKA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
*	*	*	*	* * *
(32) Section 110(a)(2) Infrastructure Requirements for the 2010 NO_2 NAAQS.	Statewide	2/7/13	9/20/17, [Insert **Federal Register** citation].	[EPA–R07–OAR–2017–0477; FRL–9967–95-Region 7]. This action addresses the following CAA elements 110(a)(2) (A) through (C), (D) (i) (I)—Prongs 1 and 2, (D)(i)(II)—prong 3, (D)(ii), (E) through (H), and (J) through (M).
(33) Section 110(a)(2) Infrastructure Requirements for the 2010 SO_2 NAAQS.	Statewide	8/22/13	9/20/17, [Insert **Federal Register** citation].	[EPA–R07–OAR–2017–0477; FRL–9967–95-Region 7]. This action addresses the following CAA elements 110(a)(2) (A) through (C), (D) (i) (II)—Prong 3, (D) (ii), (E) through (H), and (J) through (M).
(34) Section 110(a)(2) Infrastructure Requirements for the 2010 $PM_{2.5}$ NAAQS.	Statewide	2/22/16	9/20/17, [Insert **Federal Register** citation].	[EPA–R07–OAR–2017–0477; FRL–9967–95-Region 7]. This action addresses the following CAA elements 110(a)(2) (A) through (C), (D) (i) (II)—Prong 3, (D) (ii), (E) through (H), and (J) through (M).

[FR Doc. 2017–19931 Filed 9–19–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2016–0215; FRL–9967–45–Region 9]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action 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.

DATES: This rule will be effective on October 20, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket No. EPA–R09–OAR–2016–0215. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed on the Web site, 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 *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

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. Proposed Action

On June 15, 2017 (82 FR 27451), under section 110(k)(3) of the Clean Air Act (CAA or ''Act''), the EPA proposed to approve the ''2016 AQMP Reasonably Available Control Technology (RACT) Demonstration'' (''2016 AQMP RACT SIP''), submitted to the EPA by the California Air Resources Board (CARB) on July 18, 2014 [1] for approval as a revision to the California SIP, as supplemented by the public draft versions of the ''Supplemental RACM/RACT Analysis for the NO_X RECLAIM Program'' (''2017 RACT Supplement'') and two negative declarations submitted by CARB on May 22, 2017.[2] We had previously proposed a partial approval and partial disapproval of the 2016 Air

[1] The SCAQMD adopted its 2016 AQMP RACT SIP on June 4, 2014.

[2] CARB's May 22, 2017 submittal contained public draft versions of the 2017 RACT Supplement and negative declarations along with a request that the EPA provide parallel processing of the documents concurrently with the state's public process. See footnote 1 in our June 15, 2017 proposed rule. In our June 15, 2017 proposed rule, we erroneously described the 2017 RACT Supplement as including the two negative declarations. The 2017 RACT Supplement includes additional emissions analyses and two appendices that contain certain permit conditions for two specific stationary sources in Coachella Valley but does not include the negative declarations. The negative declarations were included in CARB's May 22, 2017 submittal but as a separate document.

Quality Management Plan (AQMP) RACT SIP,[3] but withdrew that proposal because we found that the 2017 RACT Supplement and recent amendments to certain District rules adequately addressed the deficiency that had been the basis for the earlier proposed partial disapproval. References herein to the ''proposed rule'' or ''proposed action'' refer to our proposed action published on June 15, 2017, unless otherwise stated.

Our proposed rule was based on our evaluation of the public draft versions of the 2017 RACT Supplement and negative declarations, and we indicated that we would not take final action until CARB submitted the final adopted versions to the EPA as a SIP revision. On July 7, 2017, the SCAQMD held a public hearing and approved the 2017 RACT Supplement and two negative declarations and submitted the approval package to CARB for adoption and submittal to the EPA. On July 26, 2017, the CARB Executive Officer adopted the 2017 RACT Supplement and negative declarations as a revision to the California SIP and, on July 27, 2017, submitted them to the EPA for approval, thereby satisfying the condition [4] for final EPA action.

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 published on November 3, 2016 (81 FR 76547).[5] The final versions of the 2017 RACT Supplement (which includes additional analyses and certain permit conditions for two specific stationary sources in Coachella Valley) and negative declarations include non-substantive changes from the public draft versions that were the basis for our June 15, 2017 proposed rule. Lastly, CARB's July 27, 2017 SIP revision submittal includes documentation of the public process followed by the SCAQMD to approve the 2017 RACT Supplement and related negative declarations and documentation of the adoption by CARB of the 2017 RACT Supplement and negative declarations as revisions to the California SIP.

On August 7, 2017, we found the 2017 RACT Supplement including certain conditions from permits for two specific stationary sources located in Coachella Valley, and two negative declarations met the completeness criteria in 40 CFR part 51, appendix V.[6] Today, we take final action on the 2016 AQMP RACT SIP submitted on July 18, 2014 as supplemented by the 2017 RACT Supplement and negative declarations submitted on July 27, 2017.

In our proposed rule, we explained that CAA sections 182(b)(2) and (f) require that SIPs for ozone nonattainment areas classified as Moderate or above implement RACT for any source covered by a Control Techniques Guidelines [7] (CTG) document and for any major source of volatile organic compounds (VOC) or nitrogen oxides (NO_X).[8] The EPA's implementing regulations for the 2008 ozone NAAQS explain how these RACT requirements will be applied in areas classified as Moderate or above for the 2008 ozone NAAQS. *See* 40 CFR 51.1112.

We further explained that the areas under discussion here are subject to the RACT requirement as the South Coast Air Basin (''South Coast'') is classified as an Extreme nonattainment area and the Coachella Valley portion of Riverside County (''Coachella Valley'') 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). SCAQMD implements the RACT requirements for South Coast and Coachella Valley because it is authorized under state law to regulate stationary sources in those areas. Therefore, the SCAQMD must, at a minimum, adopt requirements to achieve emissions reductions equivalent to 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)).

In our proposed rule, we evaluated the 2016 AQMP RACT Demonstration, 2017 RACT Supplement and negative declarations in light of the above requirements and concluded that, collectively, they meet the RACT requirements of CAA sections 182(b)(2) and (f) and 40 CFR 51.1112 for the South Coast and Coachella Valley nonattainment areas for the 2008 ozone standard. In this document, we provide a summary of our evaluation. For a more detailed discussion, please see the proposed rule at 82 FR 27451, pages 27453 through 27455.

First, based on our review of the documentation provided by the SCAQMD in the 2016 AQMP RACT SIP and the negative declarations, we agreed 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 or are covered by negative declarations for which we were proposing approval. In this action, we affirm the finding we made in the proposed rule with respect to the CTG portion of the RACT requirement and approve the two negative declarations as a revision to the California SIP.

Next, with respect to major stationary sources of VOC or NO_X emissions, we divided the evaluation into three parts: major non-CTG VOC and NO_X stationary sources that are subject to District's command-and-control VOC and NO_X rules, major sources located in the South Coast that are subject to the District's cap-and-trade program referred to as the Regional Clean Air Incentives Market (''RECLAIM'') program, and major sources located in Coachella Valley that are subject to RECLAIM.

With respect to the first part of the evaluation of RACT for major sources, we reviewed the information provided by the District regarding new major Title V sources receiving permits since the District's previous RACT SIP approval and agreed with the District 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. We affirm that finding in this final action.

In connection with the second part of the evaluation, we described RECLAIM as a program adopted by the District to reduce emissions from the largest stationary sources of NO_X and sulfur oxides (SO_X) emissions through a market-based trading program that

[3] *See* 81 FR 76547 (November 3, 2016).

[4] As explained in our June 15, 2017 proposed rulemaking, the EPA is following established procedures for parallel processing that allows us to approve a state provision so long as it was adopted as proposed with no significant changes.

[5] As noted above, we have withdrawn our November 3, 2016 proposed rule. See the summary section of our June 15, 2017 proposed rule at 82 FR 27451.

[6] As previously indicated in our June 15, 2017 proposed rulemaking, SCAQMD's 2016 AQMP RACT SIP was deemed complete by operation of law on January 18, 2015.

[7] CTGs provide the EPA's recommendations on how to control emissions of VOC from a specific type of product or process in an ozone nonattainment area. Each CTG includes emissions limitations based on RACT to address ozone nonattainment area requirements.

[8] VOC and NO_X together produce ground-level ozone, smog and particulate matter (PM), which harm human health and the environment.

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. We noted that 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; [9] that 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; [10] and that, 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.

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 expected from the direct application of RACT on all affected sources within the nonattainment area,[11] and, consistent with our longstanding interpretation of the CAA, we approved the RECLAIM program in 1998 and then, as amended, in 2006 and 2011, based in part on the conclusion that RECLAIM continued to satisfy RACT requirements.[12] More recently, in the Agency's 2008 Ozone SIP Requirements Rule, 80 FR 12264, at 12278–12283 (March 6, 2015), the EPA re-affirmed its longstanding interpretation that a market-based cap and trade program may satisfy RACT requirements by ensuring equal aggregate reductions; and in this action, we are approving SIP revisions that rely in part on such a program to meet the RACT requirement because we find the program consistent with our 2008 Ozone SIP Requirements Rule.

As noted above, state law 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, found that additional reduction opportunities existed due to the advancement of control technology, and amended the RECLAIM rules (*i.e.,* District Regulation XX) to reduce the facility annual allocations (in the aggregate) for NO_X from 34.2 tons per day (tpd) to 26.5 tpd. In 2015, the District conducted another reevaluation and amended the RECLAIM rules to further reduce the NO_X allocations (in the aggregate) from 26.5 tpd to 14.5 tpd to be achieved through downward incremental adjustments from 2017 through 2022. At the time of our proposed rule, the EPA had only proposed to approve the RECLAIM rules that reflect the 2015 amendments reducing the aggregate facility allocations to 14.5 tpd of NO_X, but the Agency has since taken final action, and the RECLAIM rules, as amended in 2015, are now approved into the California SIP.[13]

In the 2017 RACT Supplement, the District provided a demonstration of how the RECLAIM program, as amended in 2015, meets the RACT requirement in the aggregate. To do so, the District re-examined the BARCT reevaluation that it conducted in 2015 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 RECLAIM program in effect prior to the 2015 amendments. The District then re-calculated hypothetical facility annual allocations (in the aggregate) reflecting RACT implementation (rather than BARCT) of 14.8 tpd. Because the facility annual allocations (in the aggregate) for NO_X adopted by the District in 2015 (implementing BARCT) of 14.5 tpd is less than (*i.e.,* more stringent than) the hypothetical allocations (implementing RACT) of 14.8 tpd, the District concluded that the program as amended in 2015 meets the RACT requirement.

In our proposed rule, based on our review of the District's approach, assumptions, and methods to the updated RECLAIM program, we agreed that, as amended in 2015, the RECLAIM program provides for emissions reductions greater, 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 affirm that finding in this final action and approve the 2016 AQMP RACT SIP, as supplemented in the 2017 RACT Supplement.

Lastly, with respect to the two major NO_X sources in Coachella Valley that are not otherwise subject to District RACT-level command-and-control regulations, we proposed approval of certain permit conditions that were included in appendices A and B to the 2017 RACT Supplement. As described in the proposed rule, the permit conditions submitted by the District for these facilities (both of which are electric generating facilities) 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 indicated 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 reviewed the permit conditions (and SCAQMD's

[9] 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. For additional background, see the technical support document (TSD) associated with our June 15, 2017 proposed rule explaining how SCAQMD's RECLAIM program, as amended in 2015, fulfills the RACT requirement based on the District's re-evaluation of the 2015 BARCT reassessment in terms of RACT, rather than BARCT.

[10] *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).

[11] *See* 59 FR 16690 (April 7, 1994) and the EPA's, ''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).

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

[13] *See* pre-publication version of the final rule, approving the 2015 amended RECLAIM rules, that was signed on August 15, 2017 by the Acting Regional Administrator, EPA Region IX.

[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. The EPA recently approved RECLAIM amendments, including the October 2016 amendments, as a revision to the California SIP. See pre-publication version of the final rule approving the RECLAIM rule amendments signed on August 15, 2017.

analysis) and found that they provide for RACT level of control (or better) at the two subject facilities in Coachella Valley. In this action, we affirm that finding and are approving into the SIP the submitted permit conditions for the two specific major NO_X sources in Coachella Valley.

For more background information and a more extensive discussion of the 2016 AQMP RACT Demonstration, the 2017 RACT Supplement, and negative declarations and our evaluation of them for compliance with CAA RACT requirements, please see our proposed rule and related technical support document (TSD).

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period which ended on July 17, 2017. During this period, we received comments from Earthjustice, which submitted comments on behalf of the Sierra Club.[15] In the following paragraphs, we summarize the comments and provide our responses.

Comment #1: Earthjustice contends that a cap-and-trade program, such as RECLAIM, can never provide the basis for compliance with the RACT requirement in CAA sections 182(b)(2) and 182(f) based on the plain language of the CAA that, according to Earthjustice, requires all major sources to implement RACT, *i.e.,* RACT must be met by each individual major source and cannot be met by achieving equivalent levels of emission reductions across the nonattainment area. In support of this contention, Earthjustice highlights the word ''all'' in CAA section 182(b)(2) in connection with implementation of RACT at major sources and cites legislative history for the CAA Amendments of 1990 that purports to emphasize the applicability of the RACT requirement to all major sources of NO_X in an ozone nonattainment area.

Earthjustice also views the EPA's longstanding definition of RACT as supporting an interpretation of the RACT requirement as applicable to each and every major NO_X source, not a collective emission limitation for an entire class of sources located across a nonattainment area or an entire state or region. Earthjustice also claims that reliance on emissions trading to meet the RACT requirement for major NO_X sources is tantamount to creating a NO_X exemption that is inconsistent with the explicit NO_X exemptions found at CAA section 182(f). Lastly, Earthjustice cites the EPA's November 3, 2016 proposed rule as further support that emissions averaging in the South Coast does not actually provide RACT-level reductions.

Response #1: We disagree that a cap-and-trade program can never be approved as meeting the RACT requirement of CAA sections 182(b)(2) and 182(f). First, we note that our action today is consistent with our past approval actions on the RECLAIM rules and amendments as meeting the RACT requirement and, more recently, with our SIP requirements rule for the 2008 ozone standard (''2008 Ozone SIP Requirements Rule'') that indicates that a cap-and-trade approach remains a viable option to comply with the RACT requirement. More specifically, in our final 2008 Ozone SIP Requirements Rule, we indicated that states have the option of conducting a technical analysis for a nonattainment area considering the emissions controls required by a regional cap-and-trade program, and demonstrating that compliance by certain sources participating in the cap-and-trade program results in actual emission reductions in the particular nonattainment area that are equal to or greater than the emission reductions that would result if RACT were applied to an individual source or source category within the nonattainment area. See 80 FR 12264, at 12279 (March 6, 2015). For additional discussion of this option, please see our proposed 2008 Ozone SIP Requirements Rule at 78 FR 34178, at 34192–34193 (June 6, 2013).[16]

Second, CAA section 182(b)(2), in relevant part, provides that the state shall submit a revision to the SIP to include provisions to require the implementation of RACT under section 172(c)(1) of this title with respect to, among other categories, all other major stationary sources of VOC that are located in the area, and Section 182(f) extends the requirements for major stationary sources of VOC to major stationary sources of NO_X, unless exempted under the terms of section 182(f). As such, CAA section 172(c)(1) is explicitly brought into section 182(b)(2) and affects how it is interpreted. Specifically, section 172(c)(1), in relevant part, requires SIP revisions for nonattainment areas to ''provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology).''

The plain language of section 172(c)(1)—''such reductions . . . as may be obtained through the adoption, at a minimum, of reasonably available control technology''—does not require reductions from each individual source but rather only requires areas to achieve the same level of emissions reductions from stationary sources that installing reasonably available control technology would yield. In other words, as long as the level of emissions reductions obtained in the area from stationary sources equals or exceeds the level of emissions reductions that would be achieved through implementation of RACT at existing sources, then the RACT requirement of section 172(c)(1) are met. *See NRDC* v. *EPA,* 571 F.3d 1245, 1256–58 (D.C. Cir. 2009).

Section 182(b)(2) simply prescribes a more specific bar for the required level of emissions reductions that must be obtained. With respect to major stationary sources of NO_X, the bar for the required level of emissions reductions that must be obtained is calculated based on the emissions reductions that can be achieved through implementation of RACT at major stationary sources of NO_X. Consistent with section 172(c)(1), the emissions reductions need not come from the major NO_X sources themselves so long as an equal or greater level of emissions reductions are obtained within the area. As such, the plain language of sections 172(c)(1) and 182(b)(2) allows a cap-and-trade program to meet the RACT requirements of those sections for major NO_X sources so long as the overall emissions reductions that are obtained equal or exceed that level of emissions reductions that would have been obtained through implementation of RACT at the major NO_X sources themselves. The plain language of the CAA supporting the EPA's interpretation negates the need to consult the legislative history cited by Earthjustice in its comment.

The area-wide—rather than individual, source-specific—nature of the RACT requirement is reinforced by

[15] Earthjustice submitted a letter dated July 17, 2017, on behalf of the Sierra Club. These comments are in the docket at *www.regulations.gov,* docket ID EPA–R09–OAR–2016–0215.

[16] The EPA's position that states may comply with the RACT requirement in the aggregate through a cap-and-trade program is part of the ongoing legal challenge to our 2008 ozone implementation rule filed in the D.C. Circuit Court of Appeals. In the consolidated case, *South Coast Air Quality Management District* v. *EPA,* D.C. Cir., No. 15–1115, the environmental petitioners object to reliance on cap-and-trade programs to meet the section 182 RACT requirement. The Agency's arguments in support of its interpretation of the RACT requirement with respect to cap-and-trade programs are found in the respondent's brief dated September 13, 2016. Oral argument in the D.C. Circuit for the national case is scheduled for September 14, 2017.

CAA section 182(b)(2), which requires states to revise their SIPs to adopt RACT ''with respect to'' specified categories of VOC sources. The plain language of that provision does not mandate emission reductions from each individual source. In contrast, the next subsection of that same provision imposes individual, source-specific requirements by mandating that State Implementation Plans ''require all owners or operators of gasoline dispensing systems to install and operate . . . a system for gasoline vapor recovery. . . .'' *See* CAA section 182(b)(3).

Third, Earthjustice cites the EPA's longstanding definition of RACT as support for its position, however, the definition cited in the comment does not require an individual, source-specific application of control technology. Instead, it is used solely as the beginning point for the extrapolation of the total reductions that each nonattainment area must achieve to satisfy the section 172(c)(1) RACT requirement.

Fourth, we also disagree with the claim that reliance on emissions trading to meet the RACT requirement for major NO_X sources is tantamount to creating a NO_X exemption and that such an exemption is inconsistent with the explicit NO_X exemptions found at CAA section 182(f). The RECLAIM program in the South Coast provides no exemption per se for major NO_X sources. Each such source must install controls or purchase credits sufficient to meet their annual allocation.

Lastly, we acknowledge Earthjustice's comment that our November 3, 2016 rulemaking proposed to partially disapprove the 2016 AQMP RACT SIP because of deficiencies in the RECLAIM rules. However, our proposed partial disapproval was not based on the fact that RECLAIM is an emissions averaging program but rather on the evidence at hand that suggested that the then-current SIP RECLAIM program did not actually provide for the emissions reductions necessary to achieve RACT-level reductions. Since then, the District has amended, and the EPA has approved, the RECLAIM rules to achieve greater aggregate emissions reductions from the sources in the program, and based on the District's evaluation of the amended program as set forth in the 2017 RACT Supplement, we have concluded that the RECLAIM rules, as amended, meet the RACT requirement in sections 182(b)(2) and 182(f) with respect to major stationary sources of NO_X in the South Coast.

Comment #2: Earthjustice contends that approval of the South Coast RACT demonstration would be arbitrary and capricious because the RECLAIM rules, as amended in 2015, do not achieve aggregate emissions reductions of NO_X equivalent to those that would be achieved through implementation of RACT level of control at each major NO_X source in the South Coast. Earthjustice summarized that, as a part of the District's rule development process culminating in the 2015 RECLAIM amendments, SCAQMD analyzed whether its program achieved Best Available Retrofit Control Technology (BARCT) controls. The commenter points out that the District's analysis identified refineries as having the largest total NO_X emissions and as holding the largest percentage of RTCs, but that the RECLAIM program had excess RTCs that resulted in refinery facilities not needing to achieve actual emission reductions.

Earthjustice points out that SCAQMD's BARCT assessment concluded that a 14 tpd ''shave'' from the program was needed to be equivalent to a traditional command-and-control regulatory approach. Earthjustice further asserts that if readily available BARCT equipment were applied to sources of pollution in the program, emissions would have been at 9.5 tpd instead of 20.7 tpd. Earthjustice comments that, although the SCAQMD staff recommended a 14 tpd shave, the Governing Board adopted a 12 tpd shave instead. Earthjustice further states that the record shows that the 12 tpd shave does not sufficiently result in RACT level controls for the NO_X RECLAIM universe and that the EPA has a record before it showing that at least a 14 tpd shave is necessary to achieve what the District confirmed was necessary to assure implementation of RACT-equivalent level of controls that the BARCT assessment demonstrated was necessary. Moreover, Earthjustice states that the record shows that the pace of the shave interferes with attainment of the 2006 $PM_{2.5}$ standard.

Response #2: We disagree with Earthjustice's implication that the terms RACT and BARCT are interchangeable and its assertion that the record shows a 14 tpd shave is needed to meet RACT.

BARCT is a term used by the State of California and 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.'' [17] [Emphasis added.] By 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). The EPA has historically not treated these terms interchangeably and has generally found that BARCT level of control meets or exceeds RACT level of control.[18]

We note that SCAQMD determined in its December 4, 2015 Draft Final Staff Report that only four out of an estimated 51 boilers/heaters were retrofitted with selective catalytic reduction to reduce NO_X emissions to comply with BARCT.[19] The staff report does not discuss RACT in the context of the RECLAIM program. Therefore, we disagree with the commenter that the December 4, 2015 Draft Final Staff Report or elsewhere in the record that SCAQMD had determined that the 2015 amendments to the RECLAIM program fail to implement RACT. The TSD associated with our June 15, 2017 proposed rule explains how the RECLAIM program, as amended in 2015, fulfills the RACT requirement based on the District's re-evaluation of the 2015 BARCT reassessment in terms of RACT, rather than BARCT. We find the District evaluation of the amended RECLAIM program to be acceptable as the basis to conclude that the amended program provides equivalent emissions reductions in the aggregate to those that would be achieved through implementation of RACT at all major NO_X sources in the South Coast.

Lastly, we disagree with Earthjustice's assertion that the EPA should not approve the South Coast RACT demonstration because the pace of the NO_X shave would interfere with

[17] California Health and Safety Code section 40406. Available at: *https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=40406.&lawCode=HSC.*

[18] See for example, 68 FR 52512 (September 4, 2003, comment #14: ''What is the difference between BARCT and RACT? . . . BARCT is defined under California state law and not under the CAA. This is a state-only requirement. As it happens, BARCT is more stringent than RACT'', available at *https://www.gpo.gov/fdsys/pkg/FR-2003-09-04/pdf/03-22444.pdf;* and 77 FR 31200 (May 25, 2012), response to comment 26: ''A review of both terms [Federal best available control technology (BACT) and California BARCT] shows that the definition of BARCT contains the same key elements of the Federal BACT definition . . . An air emission limitation that applies to existing sources and is based on the maximum degree of reduction achievable, taking into account environmental, energy, and economic impacts by each class or category of sources'', available at *https://www.gpo.gov/fdsys/pkg/FR-2012-05-25/pdf/2012-12500.pdf.* A BACT level of control is a more stringent than a RACT level of control.

[19] *See* Draft Final Staff Report, Proposed Amendments to Regulation XX Regional Clean Air Incentives Market (RECLAIM)—NO_X RECLAIM, dated December 4, 2015, (page 78) available at: *https://www.regulations.gov/document?D=EPA-R09-OAR-2017-0259-0021.*

attainment of the 2006 $PM_{2.5}$ standard. This final rule addresses a requirement applicable to ozone nonattainment areas, not $PM_{2.5}$ areas. With respect to the latter pollutant, the EPA will consider the pace of NO_X reductions in the 2015 RECLAIM rule amendments in the context of our evaluation of the reasonable further progress (RFP) and attainment demonstrations in the $PM_{2.5}$ portion of the recently submitted 2016 South Coast Air Quality Management Plan.

Comment #3: Earthjustice contends that the District has failed to remedy the problem of credits from shutdowns that have occurred prior to 2016 and notes that such credits have had the effect of depressing credit prices and thereby allowing major sources, particularly refineries, to avoid installation of BARCT/RACT controls like SCRs. Earthjustice identifies California Portland Cement as one of the most significant shutdown facilities whose credits (2.5 tons per day) have led to this problem and contends that refineries and other facilities continue to use credits from that shutdown facility to avoid installation of BARCT/RACT controls. To remedy this problem, Earthjustice asserts that the pre-2016 credits, including those from California Portland Cement, must be removed to achieve BARCT/RACT level of control.

Response #3: The RECLAIM rule amendments adopted by the District in 2016 were enacted specifically to avoid the effect of shutdown credits depressing credit prices and allowing sources to avoid installation of pollution controls, but we recognize that the 2016 amendments act prospectively and do not address credits from shutdowns that occurred prior to the amendments. Nonetheless, the 12-tpd shave in the NO_X annual allotments enacted by the District in 2015 discounts RTCs to a much greater extent than necessary to simply address the significant market effect of credits from pre-2016 shutdowns. As such, the problem has been adequately addressed and the associated disincentive to install controls has been removed.[20]

Comment #4: Earthjustice contends that, while in some cases BARCT may exceed RACT, BARCT does not exceed RACT with respect to the District's 2015 BARCT assessment controls because the BARCT level controls established in the 2015 BARCT analysis are cost-effective and have been achieved in practice. Earthjustice objects to the District's general approach to distinguishing between BARCT and RACT-level controls in the 2017 RACT Supplement as artificially narrow on the grounds that the analysis only focuses on regulations that are adopted by either SCAQMD or other California Air Districts. Earthjustice objects to this approach because the District itself has generally abandoned adopting command-and-control regulations for NO_X RECLAIM facilities and the limited geographic focus of the evaluation on California-only air districts for more stringent controls is not supported by the Clean Air Act. The focus on rules, Earthjustice contends, distracts from the actual technology, which the District has determined are cost effective and have been used in practice. More specifically, Earthjustice states that the District ''has not articulated how the seven of ten BARCT level controls fail to meet the RACT determination.'' Lastly, Earthjustice asserts that the RECLAIM program has a number of features that together keep credit prices low, which inhibits the installation of controls.

Response #4: We agree that, in its 2015 BARCT reassessment, the District identified 10 equipment categories as capable of further emissions reductions (beyond the 2005 NO_X emission factors) and that the District's analysis was based on retrofit technologies that the District had concluded were cost-effective and achieved in practice. However, the District's determinations in this regard were for BARCT, not RACT, *i.e.,* the emission limitations and associated retrofit technologies were found by the District to be cost-effective and achieved in practice to reduce emissions to the *maximum* degree of reduction achievable, not to the degree of reduction achievable through *reasonably available* controls.

There is no universal method for evaluating a cap-and-trade program for RACT equivalence, and we find the District's approach, *i.e.,* distinguishing between BARCT and RACT on the basis of whether the BARCT controls have been adopted by the District itself or any other California Air District, to be reasonable. The commenter objects to the District's basic approach as too narrow because the District should have considered the rules adopted by air agencies in other states. However, we believe that the SCAQMD's approach is reasonable because the SCAQMD has, for the purposes of meeting other CAA requirements such as demonstrating attainment, continued to tighten emission limits in its own command-and-control rules to reduce emissions from many of the same types of sources that are included in the RECLAIM program,[21] and the emission limits in its own command-and-control rules thus provide a basis for comparison with RECLAIM emissions factors. Also, the larger California Air Districts, such as the San Joaquin Valley Unified Air Pollution Control District, are similar to the SCAQMD in that they have been designated nonattainment for the ozone NAAQS for several decades and have conducted several rounds of RACT review for their rules, which, therefore, provide another appropriate basis of comparison with RECLAIM emissions factors.

Nonetheless, while we believe the SCAQMD's approach in the 2017 RACT Supplement is reasonable, we have provided additional review of the seven RECLAIM categories for which the District concluded that the 2005 RECLAIM factors represent RACT level of control. The seven categories include four from the refinery sector: Fluid catalytic cracking units (FCCUs), boilers and heaters, coke calciners, and sulfur recovery unit/tail gas (SRU/TG) incinerators, and three from the non-refinery sector: Glass melting furnaces, sodium silicate furnaces, and metal heating treating.

At the outset, we note that, while the EPA has not established a simple cost-effectiveness threshold to determine RACT in all applications, the incremental cost effectiveness estimates for three of the seven categories (refinery boilers and heaters, coke calciners, and SRU/TG incinerators) to achieve 2015 BARCT (relative to the 2005 BARCT) exceed $22,000 per ton [22] and are well above any such estimates that the Agency has generally considered appropriate for determining RACT.[23] As such, we agree with the

[20] *See* 2017 RACT Supplement, page 19: ''Facilities, such as refineries, that typically purchased RTCs in the past to offset emissions will now be required to install pollution controls due to a greater shift of the shave to the refinery sector (*i.e.,* 56% shave for the refinery sector). The 2016 RECLAIM amendments, which addressed RECLAIM facility shutdowns, would prevent an excess amount of RTCs resulting from shutdowns from being introduced into the market.''

[21] *See,* for example, Rule 1146 (Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters), which was amended most recently on September 5, 2008 to reduce NO_X limits. (The District has further amended Rule 1146 in 2013 but the 2013 amendments did not affect the NO_X limits.)

[22] The incremental cost estimates are found in table 1 (page 6) of agenda item number 30 (Proposed Amendments to NO_X RECLAIM Program (Regulation XX)) for the SCAQMD's board meeting on December 4, 2015. This table was also included on page 5 of Earthjustice's July 17, 2017 comment letter.

[23] For EPA statements on cost effectiveness in the RACT context, please see the EPA's final implementation rule for the 1997 8-hour ozone NAAQS at 70 FR 71612, at 71654–71655 (November 29, 2005). The RACT discussion in the final implementation rule for the 2008 ozone NAAQS is

Continued

District that the 2005 RECLAIM factors for these three categories represent at least RACT level of control. We provide our review of the four other categories in the following paragraphs.

First, with respect to FCCUs, the District's 2015 BARCT staff report compiled and evaluated emissions limits adopted throughout the U.S. and internationally.[24] The most stringent limits for FCCUs identified therein are in the 8–10 ppm range, which is equivalent to the 85% reduction that was included in the 2005 RECLAIM amendments for this category.[25] As such, we find that the 2005 RECLAIM factors for refinery FCCUs reflect RACT level of control. For comparison purposes, the 2015 BARCT RECLAIM factor for FCCUs is 2 ppm.

Second, with respect to glass melting furnaces, the RECLAIM NO_X factor for the container glass melting category prior to the 2015 RECLAIM amendments was 1.2 pound of NO_X per ton of glass pulled.[26] The EPA agrees that this limit meets RACT since it is consistent with the 1.5 pound of NO_X per ton of glass limit [27] we approved for San Joaquin Valley Unified Air Pollution Control District's Rule 4354 (''Glass Melting Furnaces'') as implementing RACT for an Extreme ozone nonattainment area. For comparison purposes, the 2015 BARCT RECLAIM factor for glass melting furnaces is 80% reduction (or 0.24 lb/ton glass produced).

Third, with respect to metal heat treating furnaces, the 2005 RECLAIM BARCT emission factor for this category is 45 ppm.[28] We find that this limit is consistent with the 60 ppm limit for metal melting furnaces in the District's corresponding command-and-control rule, Rule 1147 (''NO_X Reductions from Miscellaneous Sources'').[29] The 2015 BARCT RECLAIM factor for metal heat treating furnaces >150 MMBtu/hr is 9 ppm.

Fourth, with respect to sodium silicate furnaces, we note that the incremental emissions reductions (0.09 tons per day) are too small to affect the conclusion of the analysis because the SCAQMD's ending allocation under the 2015 RECLAIM amendments of 14.5 tons per day is 0.3 tons per day less (*i.e.,* more stringent) than the hypothetical ending allocation reflecting RACT level of control (*i.e.,* 14.8 tons per day). Thus, even if we were to assume that the 2015 RECLAIM factor for this category (80% reduction) represents RACT, the SCAQMD's 2015 ending allocation (14.5 tons per day) would still be less than the hypothetical ending allocation reflecting RACT level of control (14.8 minus 0.09 or 14.71 tons per day).

Therefore, we do not believe that the comment has demonstrated that controls that SCAQMD labels BARCT, can be assumed to also be RACT. Rather, we think it is appropriate to generally rely on the more involved RACT analysis performed by different agencies at the time of rule adoption or preparation of a RACT SIP. As such, we believe it is reasonable to assume that a control is beyond RACT if it has not yet been adopted by air districts in California.

Lastly, with respect to the issue of excess credits in the RECLAIM market and related delays in the installation of controls, please see our response to comment #3.[30]

Comment #5: Citing CAA section 110(a)(2)(E), Earthjustice asserts that the EPA can only approve a SIP revision if it determines that the provision is not inconsistent with state law. Earthjustice contends that the current proposal violates California law because it is not equivalent to BARCT and does not achieve command-and-control equivalence as mandated by California's Health and Safety Code. As such, Earthjustice contends that the EPA cannot make the determination required in section 110 of the Act that the approval not interfere with compliance with state law.

Response #5: We disagree that we must determine under CAA section 110 that a SIP or SIP revision is not inconsistent with state law, or that the approval would not interfere with compliance with state law, prior to approval. Rather, in reviewing SIPs and SIP revisions, the EPA must determine that the SIP or SIP revision is supported by necessary assurances that the state or relevant local or regional agency has adequate legal authority under state and local law to carry out the SIP or SIP revision (and is not prohibited by any provision of federal or state law from carrying out such SIP or portion thereof).[31]

First, alleged inconsistency with state law is relevant to the EPA in the context of our SIP review only if it undermines the legal authority under state or local law to carry out the SIP. In this instance, compliance with the RACT requirement in the South Coast depends in part on the legal authority of the SCAQMD to carry out the RECLAIM rules, as amended in 2015 and 2016,[32] and as to the amended RECLAIM rules, the EPA has been provided the necessary assurances by CARB that the District has the legal authority to carry out the rules. *See* CARB Executive Order S–17–002 (dated March 16, 2017) adopting the amended 2015 and 2016 RECLAIM rules as a revision to the California SIP.[33] For that reason, we find that the 2016 AQMP RACT SIP, as supplemented by the 2017 RACT Supplement and negative declarations, is supported by adequate legal authority and, thus, meets the corresponding requirements in CAA section 110(a)(2)(E).

III. Final Action

Under section 110(k)(3) of the Act, and for the reasons set forth in the proposed rule and summarized above, the EPA is taking final action to approve certain revisions to the California SIP submitted by CARB to address the RACT requirements for the 2008 ozone standard for the South Coast and Coachella Valley nonattainment areas. More specifically, we are approving the RACT demonstration in the 2016 AQMP RACT SIP, as supplemented in the 2017 RACT Supplement, certain permit conditions for two power plants in Coachella Valley included with the 2017 RACT Supplement, and two

found at 80 FR 12264, at 12278–12283 (March 6, 2015).

[24] See appendix A to the SCAQMD staff report, which is attachment H to agenda item number 30 (Proposed Amendments to NO_X RECLAIM Program (Regulation XX)) for the December 4, 2015 SCAQMD board meeting.

[25] Email from Kevin Orellana, Air Quality Specialist, Planning, Rule Development, and Area Sources, SCAQMD, August 22, 2017.

[26] See SCAQMD Rule 2002, Table 1.

[27] See our TSD supporting approval of Rule 4354 amended September 16, 2010, 76 FR 53640 (August 29, 2011) which includes a review of NO_X limits for glass melting furnaces in other states and in the RACT/BACT/Lowest Available Emission Rate clearinghouse available at *https://www.regulations.gov/contentStreamer?documentId=EPA-R09-OAR-2011-0412-0004&contentType=pdf.*

[28] See SCAQMD Rule 2002, Table 3.

[29] Rule 1147 was first adopted by SCAQMD on December 5, 2008 and amended on September 9, 2011. These amendments were approved into the SIP in 75 FR 46845 (August 4, 2010), and 81 FR 95472 (December 28, 2016) respectively. SCAQMD's July 7, 2017 amendments to Rule 1147 have not been submitted to EPA for SIP approval.

[30] We note also that the 2016 South Coast Air Quality Management Plan provides for further NO_X reductions from RECLAIM sources. More specifically, in adopting the plan, the District committed to modify the RECLAIM program to achieve an additional 5 tpd NO_X emission reduction as soon as feasible, but no later than 2025, and to transition the RECLAIM program to a command-and-control regulatory structure. *See* footnote 14 of our proposed rule.

[31] *See* CAA section 110(a)(2)(E).

[32] As noted previously, the EPA has approved the 2015 and 2016 amended RECLAIM rules in a separate rulemaking.

[33] The Executive Order states the District is authorized by California Health and Safety Code (H&SC) section 40001 to adopt and enforce the rules identified in Enclosure A (*i.e.,* the amended RECLAIM rules).

negative declarations (for the CTG for shipbuilding and repair operations and for the paper coating portion of the CTG for paper, film and film coatings) because collectively they fulfill 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.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of certain permit conditions for two stationary sources in Coachella Valley described in the amendments to 40 CFR part 52 set forth below. The EPA, has made, and will continue to make, these documents 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).

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 SIP revisions 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 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, this 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).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. 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 November 20, 2017. 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 dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: August 29, 2017.

Alexis Strauss,

Acting Regional Administrator, Region IX.

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

■ 2. Section 52.220 is amended by adding paragraphs (c)(449)(ii)(C) and (c)(492) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(449) * * *

(ii) * * *

(C) South Coast Air Quality Management District.

(*1*) South Coast Air Quality Management District, ''2016 AQMP Reasonably Available Control Technology (RACT) Demonstration,'' dated May 22, 2014.

* * * * *

(492) The following plan revisions were submitted on July 27, 2017 by the Governor's designee.

(i) *Incorporation by reference.* (A) South Coast Air Quality Management District.

(*1*) Appendix A to the Supplemental RACM/RACT Analysis for the NO_X RECLAIM Program, Facility Permit to Operate, 63500 19th Ave., North Palm Springs, CA 92258, title page, table of contents, section A (page 1), and section D (pages 1–21), adopted on July 7, 2017.

(*2*) Appendix B to the Supplemental RACM/RACT Analysis for the NO_X RECLAIM Program, Facility Permit to Operate, 15775 Melissa Land Rd, North Palm Springs, CA 92258, title page, table of contents, section A (page 1), and section D (pages 1–49), adopted on July 7, 2017.

(ii) *Additional materials.* (A) South Coast Air Quality Management District.

(*1*) Attachment B (''Supplemental RACM/RACT Analysis for the NO_X RECLAIM Program (May 2017)''), excluding Appendices A and B.

(*2*) Attachment C (''Negative Declaration for Control Techniques Guidelines of Surface Coating Operations at Shipbuilding and Repair Facilities, and Paper, Film and Foil Coatings (May 2017)'').

■ 3. Section 52.222 is amended by adding paragraph (a)(13) to read as follows:

§ 52.222 Negative declarations.

(a) * * *

(13) South Coast Air Quality Management District.

(i) Negative declarations for the 2008 ozone standard: Control Techniques Guidelines for Shipbuilding and Ship Repair Operations (Surface Coating) including (published on August 27, 1996) and EPA 453/R–94–032 Alternative Control Techniques Document: Surface Coating Operations at Shipbuilding and Ship Repair Facilities; paper coating portion of EPA 453/R–07–003 Control Techniques Guidelines for Paper, Film, and Foil Coatings.

(ii) [Reserved]

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[FR Doc. 2017–19693 Filed 9–19–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 67

[USCG–2016–0531]

Vessel Documentation Regulations—Technical Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is making technical amendments to its vessel documentation regulations. A Certificate of Documentation, which is required for the operation of a vessel in certain trades, serves as evidence of vessel nationality, and permits a vessel to be subject to preferred mortgages. The amendments make non-substantive edits to align Coast Guard regulations with current vessel documentation statutes, correct typographical errors, and align procedural requirements with current Coast Guard practice.

DATES: This final rule is effective September 20, 2017.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Ms. Andrea Heck, National Vessel Documentation Center, U.S. Coast Guard; telephone 304–271–2461, email *Andrea.M.Heck@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations

CFR Code of Federal Regulations
COD Certificate of Documentation
NVDC National Vessel Documentation Center
OMB Office of Management and Budget
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Basis, Purpose, and Good Cause Exception to Notice and Comment Requirements

The legal basis of this rulemaking is provided by Title 46 of United States Code (U.S.C.), section 2103. Section 2103 gives the Secretary of the department in which the Coast Guard is operating regulatory authority to carry out the provisions of Title 46, subtitle II (Vessels and Seamen) of the U.S.C., in which vessel documentation statutes are located. The Secretary's authority is delegated to the Coast Guard by Department of Homeland Security Delegation No. 0170.1, para. II (92.a). The purpose of this rule is to make non-substantive edits to: (1) Align the Coast Guard's vessel documentation regulations with current statutes on that subject; (2) correct typographical errors; and (3) align procedural requirements with current Coast Guard practice.

We did not publish a notice of proposed rulemaking for this rule. Under Title 5 of United States Code (U.S.C.) section 553(b)(A), the Coast Guard finds that this rule is exempt from notice and public comment rulemaking requirements, because these changes involve rules of agency organization, procedure, or practice. In addition, the Coast Guard finds that notice and comment procedures are unnecessary under 5 U.S.C. 553(b)(B), as this rule consists only of technical and editorial corrections, organizational, and conforming amendments, and that these changes will have no substantive effect on the public. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this final rule effective upon publication in the **Federal Register**.

III. Petition for Rulemaking

On October 18, 2013, the Maritime Law Association, a private group consisting primarily of maritime lawyers, petitioned the Coast Guard to open a rulemaking to make numerous changes to our vessel documentation regulations.[1] The Coast Guard granted the petition on November 6, 2013, and shortly thereafter, began working with members of the Maritime Law Association to identify specifically what changes should be made. Many of the changes the group requested involve significant substantive changes that may be the subject of future regulatory action. However, part of the review process also revealed several instances where the Coast Guard could currently make non-substantive technical corrections.

IV. Discussion of the Rule

''Vessel documentation'' refers to the system under which a vessel receives a Government certificate of documentation (COD). This certificate is required for the operation of a vessel of at least 5 net tons in certain trades including: (1) Fisheries on the navigable waters of the United States or its Exclusive Economic Zone; (2) foreign trade or trade with U.S. overseas territories; and (3) coastwise trade (trade between U.S. ports without leaving U.S. territorial waters) as described in 46 U.S.C. 12102 and 46 U.S.C. chapter 121, subchapter II. The COD is also a required element, in 46 U.S.C. 31322, to establish a vessel's entitlement to preferred mortgage status. Under 46 U.S.C. 31326, preferred mortgages have priority over other liens on vessels, and they offer an enhancement to the security available to lenders.

This final rule makes 35 non-substantive changes to 19 sections in 46 CFR part 67. The changes correct omissions, misspellings, or inaccurate references caused by unintentional typographical errors and make small edits for additional clarity. The changes also update referenced material, such as

[1] Docket ID: USCG–2013–0942, available at *https://www.regulations.gov/docket?D=USCG–2013–0942.*