

case of *South Coast Air Quality Management Dist. v. EPA* (472 F.3d 882 (D.C. Cir. 2006)), EPA will be reevaluating the classification of ozone nonattainment areas that were formerly classified as "basic" (*i.e.* under subpart 1) for the .08 ppm standard. One possible outcome could be the reestablishment of a requirement for I/M for the Cincinnati area.<sup>5</sup> However, for the reasons stated above, EPA believes that Ohio has satisfied currently applicable criteria for discontinuing I/M in the Cincinnati and Dayton areas.

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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 (Pub. L. 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 EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Ozone, Particulate matter, Volatile organic compounds.

Dated: July 16, 2008.

Walter W. Kovalick Jr.,

Acting Regional Administrator, Region 5.

[FR Doc. E8-16987 Filed 7-23-08; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2008-0537; FRL-8697-5]

### Revisions to the California State Implementation Plan, Approval of the South Coast Air Quality Management District—Reasonably Available Control Technology Analysis

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern 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 approving 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 August 25, 2008.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-

OAR-2008-0537, 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.

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<sup>5</sup> Because the Dayton area is designated attainment for the 0.08 ppm 8-hour ozone standard, EPA's future classification rule for that standard would not apply to that area.

C. EPA Recommendation To Strengthen the SIP  
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III. Statutory and Executive Order Reviews

## I. The State's Submittal

### A. What document did the State submit?

Table 1 lists the document addressed by this proposal with the date that it

TABLE 1.—SUBMITTED DOCUMENT

Local agency	Document	Adopted	Submitted
SCAQMD .....	Reasonably Available Control Technology Analysis .....	07/14/06	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. Section 172(c)(1) and 182 require areas that are designated at moderate or above for ozone non-attainment to adopt RACT. The SCAQMD falls under this requirement as it is designated as a severe ozone non-attainment area under the 8-hour NAAQS for ozone (40 CFR 81.305). Therefore, the SCAQMD 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, State SIPs implementing the 8-hour 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 SCAQMD's analysis of why their rules meet RACT for the 8-hour NAAQS for ozone. EPA's technical support document (TSD) has more information about SCAQMD's RACT analysis.

## II. EPA's Evaluation and Action

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

Guidance and policy documents that we use to help 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.

6. Comment letter dated June 28, 2006 from EPA Region IX (Andrew Steckel) to SCAQMD (Joe Cassmassi) on the 8-hour Ozone Reasonably Available Control Technology—State Implementation Plan (RACT SIP) Analysis, draft staff report dated May 2006.

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

SCAQMD's staff report included a listing of all CTG source categories and cross matched those CTG categories against the corresponding District rule which implemented RACT. Given its designation as a severe ozone non-attainment area, SCAQMD was also required to analyze RACT for all sources that emit or have the potential to emit at least 25 tons per year (tpy) of VOC or NO<sub>x</sub>. SCAQMD staff searched their permitting database for all facilities that emitted at least 10 tpy of VOC or NO<sub>x</sub> and identified approximately 1,311 such facilities. The staff report states these facilities have a total of 17,607 permits. SCAQMD's staff report provides a listing of the Title V facilities along with an example of how each permitted source in a Title V facility is associated with a district rule and then those rules are compared to the applicable CTGs

was adopted by the local air agency and submitted by the California Air Resources Board.

and ACTs. SCAQMD's RACT SIP analysis was made available for public comment prior to being adopted by the District. No public comments were received by the SCAQMD during the public workshop or during their 45-day comment period. We propose to find that the RACT SIP analysis performed by the SCAQMD is reasonable and demonstrates their rules meet RACT. We also propose to find that the analysis is consistent with the CAA, EPA regulations and the relevant policy and guidance documents listed above. The TSD has more information on our evaluation.

### C. EPA Recommendation To Strengthen the SIP

The TSD describes recommendations for strengthening the SCAQMD SIP by amending and submitting Rules 1146.1 and 1110.2. SCAQMD's amendments to Rule 1146.1, "Emissions of NO<sub>x</sub> from Small Industrial, Institutional, and Commercial Boilers", are planned for a Board hearing in the fall of 2008. We believe the emission limits in the existing SIP-approved Rule 1146.1 meets RACT and the anticipated amendments will further strengthen it. Rule 1110.2, "Emissions from Gaseous and Liquid Fueled Internal Combustion Engines", was amended on February 1, 2008. In a separate action, Rule 1110.2 will be proposed for approval into the SIP.

### D. Public Comment and Final Action

Because EPA believes the submitted analysis fulfills all relevant requirements, we are proposing to fully approve it as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate this document into the federally enforceable SIP.

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
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- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
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- 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 EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

## 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:** July 3, 2008.

**Kathleen H. Johnson,**

*Acting Regional Administrator, Region IX.*

[FR Doc. E8-16980 Filed 7-23-08; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 08-1588; MB Docket No. 08-133; RM-11465]

### Television Broadcasting Services; Greenville, NC

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a channel substitution proposed by Esteem Broadcasting of North Carolina, LLC ("Esteem"), licensee of WYDO-DT, DTV channel 14, Greenville, North Carolina. Esteem requests the substitution of DTV channel 47 for channel 14 at Greenville.

**DATES:** Comments must be filed on or before August 25, 2008, and reply comments on or before September 8, 2008.

**ADDRESSES:** Federal Communications Commission, Office of the Secretary 445 12th Street, SW., TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Howard M. Liberman, Esq., Drinker Biddle & Reath, LLP, 1500 K Street, NW., Suite 1100, Washington, DC 20005.

**FOR FURTHER INFORMATION CONTACT:** David Brown, [david.brown@fcc.gov](mailto:david.brown@fcc.gov), Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rulemaking, MB Docket No. 08-133, adopted July 1, 2008, and released July 3, 2008. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC, 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-478-3160 or via e-mail [www.BCPIWEB.com](mailto:www.BCPIWEB.com). To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

### List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

#### § 73.202 [Amended]

2. Section 73.622(i), the DTV Table of Allotments under North Carolina, is amended by substituting channel 47 for channel 14 at Greenville.