



## ENVIRONMENTAL PROTECTION AGENCY

6560-50-P

### 40 CFR Part 52

[EPA-R09-OAR-2016-0244; FRL-9962-54-Region 9]

### Approval and Promulgation of Implementation Plans; State of California; Coachella Valley; Attainment Plan for 1997 8-Hour Ozone Standards

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving state implementation plan (SIP) revisions submitted by the State of California to provide for attainment of the 1997 8-hour ozone national ambient air quality standards (NAAQS or “standards”) in the Coachella Valley nonattainment area. The EPA finds the emissions inventories to be acceptable and is approving the reasonably available control measures, transportation control strategies and measures, rate of progress and reasonable further progress demonstrations, attainment demonstration, and vehicle miles traveled offset demonstration. We have determined that motor vehicle emissions budgets are not required for the 1997 8-hour ozone standards so we are not taking final action on this portion of the plan.

**DATES:** *Effective Date:* This final rule is effective on **[insert date 30 days from the date of publication in the Federal Register]**.

**ADDRESSES:** The EPA has established docket number EPA-R09-OAR-2016-0244 for this action. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy

location (*e.g.*, copyrighted material, large maps, multi-volume reports), and some may not be available in either location (*e.g.*, confidential business information (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:** Tom Kelly, Air Planning Office (AIR-2), EPA Region IX, (415) 972-3856, kelly.thomasp@epa.gov.

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

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### **I. Summary of Proposed Action**

On November 1, 2016, the EPA proposed to approve, under section 110(k)(3) of the Clean Air Act (CAA), portions of several submittals from the California Air Resources Board (CARB) as revisions to the California SIP for the Coachella Valley ozone nonattainment area.<sup>1</sup> 81 FR 75764. The proposal identified the following SIP submittals addressing the CAA planning requirements for attaining the 1997 8-hour ozone NAAQS for the Coachella Valley (and other areas as noted):

- “Final 2007 Air Quality Management Plan,” South Coast Air Quality Management District, June 2007 (“2007 AQMP”);

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<sup>1</sup> For a precise description of the geographic boundaries of the Coachella Valley ozone nonattainment area, see 40 CFR 81.305.

- “2007 State Strategy for the California State Implementation Plan,” CARB, Release Date April 26, 2007, and Appendices A – G, CARB, Release Date May 7, 2007 (“2007 State Strategy”);
- “Status Report on the State Strategy for California’s 2007 State Implementation Plan (SIP) and Proposed Revision to the SIP Reflecting Implementation of the 2007 State Strategy,” CARB, Release Date March 24, 2009 (“2009 State Strategy Status Report”);
- “Progress Report on Implementation of PM2.5 State Implementation Plans (SIP) for the South Coast and San Joaquin Valley Air Basins and Proposed SIP Revisions,” CARB, Release Date March 29, 2011 (“2011 State Strategy Progress Report”); and
- “Staff Report, Proposed Updates to the 1997 8-Hour Ozone Standard, State Implementation Plans; Coachella Valley and Western Mojave Desert,” CARB, Release Date: September 22, 2014 (“2014 SIP Update”).

We refer to these submittals collectively as the “Coachella Valley Ozone Plan” or “Plan.”

The Coachella Valley is classified as Severe-15 with an attainment date no later than June 15, 2019. *See* 75 FR 24409 (May 5, 2010). The relevant CAA requirements appear at Title I, Part D of the CAA, under which states must implement the 1997 8-hour ozone (primary and secondary) standards.<sup>2</sup> The EPA codified rules for the 1997 8-hour ozone standards at 40 CFR part 51, subpart X. *See* 69 FR 23951 (April 30, 2004); 70 FR 71612 (November 29, 2005). The EPA revoked the 1997 8-hour ozone NAAQS in 2015;<sup>3</sup> notwithstanding this revocation, areas that were designated as nonattainment for the 1997 8-hour ozone NAAQS at the time the standards were revoked continue to be subject to certain SIP requirements that previously

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<sup>2</sup> Title I, Part D of the CAA includes section 172, “Nonattainment Plan Provisions in General,” and subpart 2, “Additional Provisions for Ozone Nonattainment Areas” (sections 181-185).

<sup>3</sup> 80 FR 12264 (March 6, 2015).

applied based on area classifications for the standards, under “anti-backsliding” regulations that the EPA promulgated to govern the transition from the 1-hour ozone standards to the 8-hour ozone standards. *Id.* at 12296; 40 CFR 51.1105 and 51.1100(o). Thus, in general, the Coachella Valley remains subject to the requirements of the 1997 8-hour ozone NAAQS applicable to “Severe” nonattainment areas.

In the November 1, 2016 proposed rule, we proposed to approve the following elements of the Coachella Valley Ozone Plan under applicable statutory and regulatory requirements: the reasonably available control measures (RACM) demonstration; the rate of progress (ROP) and reasonable further progress (RFP) demonstrations; the attainment demonstration; and the demonstration that the SIP provides for transportation control strategies and measures sufficient to offset any growth in emissions from growth in vehicle miles traveled (VMT) or the number of vehicle trips, and to provide for RFP and attainment. More specifically, we determined that:

- No additional RACM, beyond the controls identified in the 2007 AQMP and 2007 State Strategy as revised by the 2009 State Strategy Status Report and 2011 State Strategy Progress Report, would advance attainment of the 1997 8-hour ozone standards in the Coachella Valley to an attainment year of 2017. Therefore, the Coachella Valley Ozone Plan provides for the implementation of all RACM as required by CAA section 172(c)(1) and 40 CFR 51.1105(a)(1) and 51.1100(o)(17) (*see* 81 FR 75769-72 of the proposed rule).
- The ROP and RFP demonstrations in the 2014 SIP Update meet the requirements of CAA sections 172(c)(2) and 182(c)(2)(B) and 40 CFR 51.1105(a)(1) and 51.1100(o)(4) (*see* 81 FR 75774-76 of the proposed rule).

- The air quality modeling in the 2007 AQMP is adequate to support the attainment date of June 15, 2019 (attainment year 2018), and the 2007 AQMP's attainment demonstration meets the requirements of CAA section 182(c)(2)(A) and 40 CFR 51.1105(a)(1) and 51.100(o)(12) (*see* 81 FR 75772-73 of the proposed rule and the Technical Support Document (TSD) for the proposal<sup>4</sup>).
- Appendices D and E of the 2014 SIP Update demonstrate that the State has adopted sufficient transportation control strategies and measures to offset any growth in emissions from increasing VMT and vehicle trips in Coachella Valley, and complies with the VMT emissions offset requirement in CAA section 182(d)(1)(A) and 51.1105(a)(1) and 51.1100(o)(10) (*see* 81 FR 75777-79 of the proposed rule).

We also proposed to approve updated motor vehicle emission budgets (MVEBs) for transportation conformity included in the 2014 SIP Update. *See* 81 FR 75776-77 of the proposed rule. Additionally, although emissions inventories are not a specific requirement under the anti-backsliding provisions, we found that the baseline and milestone year emissions inventories were adequate to support the other elements of the Coachella Valley Ozone Plan, including the RACM, RFP, ROP and attainment demonstrations. *See* 81 FR 75768-69 of the proposed rule. We did not propose any action on the Coachella Valley Ozone Plan's contingency measures. The EPA's analysis and findings supporting our proposed actions are summarized in our proposal and are also discussed in the TSD for the proposal.

In today's action, the EPA is finalizing all actions from the proposal, with the sole exception that we are not finalizing approval of the MVEBs in the 2014 SIP Update. As discussed further below, the MVEBs are not a continuing applicable requirement for the

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<sup>4</sup> This document is available online at [www.regulations.gov](http://www.regulations.gov) in the docket EPA-R09-OAR-2016-0244, or from the EPA contact listed at the beginning of this notice.

Coachella Valley under the EPA's anti-backsliding regulations, and our approval of the MVEBs is therefore not required under the CAA.

## **II. Public Comments**

The EPA's proposed action provided a 30-day public comment period. We received no substantive adverse comments during this period.

## **III. Final Action**

For the reasons discussed in our November 1, 2016 proposal and summarized above, the EPA is approving, under CAA section 110(k)(3), most elements of the Coachella Valley Ozone Plan as proposed. Specifically, the EPA is taking final action to approve the following the following elements as meeting the specified requirements for the revoked 1997 8-hour ozone standards:

- the RACM demonstration as meeting the requirements of CAA section 172(c)(1) and 40 CFR 51.1105(a)(1) and 51.1100(o)(17)
- the ROP and RFP demonstrations as meeting the requirements of CAA sections 172(c)(2) and 182(c)(2)(B) and 40 CFR 51.1105(a)(1) and 51.1100(o)(4)
- the attainment demonstration as meeting the requirements of CAA section 182(c)(2)(A) and 40 CFR 51.1105(a)(1) and 51.1100(o)(12)
- the demonstration that the SIP provides for transportation control strategies and measures sufficient to offset any growth in emissions from growth in VMT or the number of vehicle trips, and to provide for RFP and attainment, as meeting the requirements of CAA section 182(d)(1)(A) and 40 CFR 51.1105(a)(1) and 51.1100(o)(10)

As noted in our proposal, we are not acting on the Plan's contingency measures.

Contingency measures are a distinct provision of the CAA that we may act on separately from the attainment requirements.

Upon further reflection, we are not finalizing our proposed approval of the MVEBs in the 2014 SIP Update. The CAA requires transportation conformity only in areas that are designated nonattainment or maintenance. Since the revocation of the 1997 8-hour ozone NAAQS, transportation conformity no longer applies to the Coachella Valley with respect to the revoked standards. 80 FR 12264, 12284 (March 6, 2015). Therefore, we have determined that it is not necessary to approve these budgets, given that they were developed for the now-revoked 1997 8-hour ozone NAAQS. However, consistent with the EPA's transportation conformity rule,<sup>5</sup> the MVEBs from CARB's 2008 Ozone Early Progress Plan<sup>6</sup> will remain in effect for the Coachella Valley until emission budgets are established and found adequate or are approved for the 2008 ozone NAAQS.

In this action, we are also amending 40 CFR 52.220 to clarify the scope of an earlier partial approval of the 2007 AQMP. In 2011, we approved portions of the 2007 AQMP as providing for attainment of the 1997 fine particulate matter NAAQS in the Los Angeles-South Coast area. 76 FR 69928 (November 9, 2011). However, the regulatory text that we adopted in that action did not specify that our approval extended only to those portions of the 2007 AQMP that CARB had submitted to us as SIP revisions,<sup>7</sup> and only to those portions of the submitted material specified for approval in the preamble to that rulemaking. Today's action corrects the

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<sup>5</sup> 40 CFR part 93, subpart A.

<sup>6</sup> "Early Progress Plans Demonstrating Progress Toward Attaining the 8-hour National Air Quality Standards for Ozone and Setting Transportation Conformity Budgets for Ventura County, Antelope Valley - Western Mojave Desert, Coachella Valley, Eastern Kern County, and Imperial County" (revised), CARB (February 27, 2008). The EPA previously determined that the budgets in the Ozone Early Progress Plan are adequate for transportation conformity purposes. *See* 73 FR 25694 (May 7, 2008).

<sup>7</sup> *See* CARB Resolution 07-41 (September 27, 2007).

regulatory text to reflect that portions of the 2007 AQMP were excluded from the 2011 approval, including a portion applicable to the Coachella Valley that we are approving in today's action, and does not affect the substance of our prior final action, 76 FR 69928 (November 9, 2011).

#### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 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, 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, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 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 **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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 regulations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

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Dated: April 20, 2017.

Alexis Strauss,  
Acting Regional Administrator,  
Region IX.

Part 52, 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 revising paragraph (c)(398)(ii)(A)(I) and adding paragraphs (c)(398)(ii)(A)(4) and (c)(486) to read as read as follows:

**§ 52.220 Identification of plan – in part.**

	*	*	*	*	*
(c)	*	*	*		
(398)	*	*	*		
(ii)	*	*	*		
(A)	*	*	*		

(I) Final South Coast 2007 Air Quality Management Plan (excluding those portions of Chapter 4 (“AQMP Control Strategy”) and Chapter 7 (“Implementation”) addressing District-recommended measures for adoption by CARB and references to those measures (pp. 4-43 through 4-54 and the section titled “Recommended Mobile Source and Clean Fuel Control Measures” in table 7-3, pp. 7-8 and 7-9); those portions of Chapter 6 (“Clean Air Act Requirements”) and Chapter 7 (“Implementation”) addressing California Clean Air Act Requirements (pp. 6-13 through 6-22 and page 7-3); those portions of Chapter 4 (“AQMP Control Strategy”) addressing emission and risk reduction goals identified in the AQMP’s

proposed control measure MOB-03 (“Proposed Backstop Measures for Indirect Sources of Emissions from Ports and Port-Related Facilities”) (p. 4-24); the motor vehicle emissions budgets in Chapter 6 (“Clean Air Act Requirements”) (pp. 6-24 through 6-26), and Chapter 8 (“Future Air Quality – Desert Nonattainment Areas”), adopted on June 1, 2007.

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(4) Final South Coast 2007 Air Quality Management Plan, Chapter 8 (“Future Air Quality – Desert Nonattainment Areas”) (excluding pp. 8-14 to 8-17 (regarding transportation conformity budgets)), adopted on June 1, 2007.a

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(486) The following plan was submitted on November 6, 2014, by the Governor’s designee.

(i) [Reserved]

(ii) *Additional materials.* (A) California Air Resources Board.

(1) California Air Resources Board, Staff Report, Proposed Updates to the 1997 8-Hour Ozone Standard, State Implementation Plans; Coachella Valley and Western Mojave Desert (excluding section III (pp. 8-12), Table A-2, Table B-2, Table C-2, the bottom row of Table E-1, Table E-3 and accompanying discussion of Western Mojave Desert ROG calculations on p. E-7, and Figure E-2 (regarding Western Mojave Desert); Table B-3 (regarding contingency measures); and Appendix D (regarding transportation conformity budgets)), adopted on October 24, 2014.

[FR Doc. 2017-12019 Filed: 6/9/2017 8:45 am; Publication Date: 6/12/2017]