



6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R09-OAR-2017-0383; FRL-9968-31-Region 9]**

### **Approval of California Air Plan Revisions; Anti-Idling Regulations**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the California State Implementation Plan (SIP). This revision concerns emissions of volatile organic compounds (VOCs), oxides of nitrogen (NO<sub>x</sub>) and particulate matter (PM) from the idling of diesel-powered trucks. We are proposing to approve portions of a state rule to regulate these emission sources under the Clean Air Act (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 **[Insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2017-0383 at <https://www.regulations.gov>, or via email to Jeffrey Buss, Rulemaking Office at [Buss.Jeffrey@epa.gov](mailto:Buss.Jeffrey@epa.gov). For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from [Regulations.gov](https://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by

statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment.

The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system).

For additional submission methods, please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Buss, EPA Region IX, (415) 947-4152, [buss.jeffrey@epa.gov](mailto:buss.jeffrey@epa.gov).

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

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##### I. The State's Submittal

###### A. *What rule did the State submit?*

This proposal addresses subsections (c)(1)(A) and (c)(1)(B) of Title 13 California Code of Regulations (CCR) Section 2485, “Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling” (collectively, “Idling Restrictions”). The California Air Resources Board (CARB) adopted Section 2485 on September 1, 2006, and submitted the Idling Restrictions and other portions of Section 2485 to the EPA on December 9, 2011. On May 9, 2012, this submittal was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

###### B. *Are there other versions of this rule?*

There are no previous versions of the Idling Restrictions. However, other portions of 13 CCR 2485 were subject to a CAA section 209 waiver requirement,<sup>1</sup> and were previously approved into the California SIP.<sup>2</sup>

###### C. *What is the purpose of the submitted rule?*

The Idling Restrictions were adopted to reduce emissions of NO<sub>x</sub>, reactive organic gases<sup>3</sup>

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<sup>1</sup> See 77 FR 9239 (February 16, 2012).

<sup>2</sup> See 81 FR 39423, 39443 (June 16, 2016).

<sup>3</sup> CARB uses the term ROG to refer to a class of VOCs that are sufficiently reactive with sources of oxygen molecules such as NO<sub>x</sub>, and carbon monoxide (CO) in the atmosphere in the presence of sunlight. In contrast, the EPA uses the term VOCs, but exempts certain VOCs that are non-reactive or of negligible reactivity in our regulations. See 40 CFR 51.100(s).

(ROG) and PM.<sup>4</sup> NO<sub>x</sub> and VOCs help produce ground-level ozone, smog and PM, which harm human health and the environment. In addition, PM, including PM equal to or less than 2.5 microns in diameter (PM<sub>2.5</sub>) and PM equal to or less than 10 microns in diameter (PM<sub>10</sub>), contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires states to submit regulations that control these pollutants. The Idling Restrictions reduce emissions of these pollutants by limiting the idling of commercial diesel trucks. The EPA's technical support document (TSD) contains more information about these provisions.

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

### *A. How is the EPA evaluating the rule?*

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193). Lastly, in reviewing submittals of state/local prohibitory rules, EPA routinely evaluates whether they satisfy applicable CAA control requirements, including the CAA section 172 requirement for Reasonable Available Control Measures (RACM).

### *B. Does the rule meet the evaluation criteria?*

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<sup>4</sup> See California Air Resources Board, Staff Report, "Initial Statement of Reasons: Notice of Public Hearing to Consider Requirements to Reduce Idling Emissions from New and In-Use Trucks, Beginning in 2008," September 1, 2005, at page 7.

The Idling Restrictions contain clear, specific and enforceable standards for the operation of covered vehicles, and satisfy the enforceability criterion in CAA section 110(a)(2). These provisions strengthen the SIP by establishing new operating standards that complement the previously approved technology requirements in Section 2485. The Idling Restrictions do not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements, as set forth in CAA section 110(l), and do not modify any existing SIP control requirement in a nonattainment area, in accordance with CAA section 193.

With respect to CAA section 172 RACM requirements, we generally evaluate RACM in the context of a specific SIP, but we have determined that the vehicle operator requirements in the Idling Restrictions constitute RACM-level controls because they limit idling from the primary vehicle engine to 5 minutes. We are unaware of any idling restriction in place in another area that is fewer than 5 minutes. The TSD has more information on our evaluation.

*C. Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule because we believe it fulfills all relevant requirements. We will accept comments from the public on this proposal until **[Insert date 30 days after date of publication in the Federal Register]**. If we take final action to approve the submitted rule, our final action will incorporate this rule into the federally enforceable SIP.

### **III. Incorporation by Reference**

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the portions of title 13 CCR 2485 described above. The

EPA has made, and will continue to make, these materials available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region IX Office (please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section of this preamble for more information).

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

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

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive 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 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

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

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

Dated: September 7, 2017.

Deborah Jordan,  
Acting Regional Administrator,  
Region IX.

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