



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2019-0240; FRL-10003-97-Region 9]

Extreme Area Submission Requirements, Coachella Valley Nonattainment Area;

California Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a schedule for California to submit an “Extreme” ozone nonattainment area plan addressing the requirements of CAA section 182(e) and revised title V and new source review (NSR) rules for the 1997 8-hour ozone national ambient air quality standards (NAAQS). The EPA is approving a deadline of one year from the effective date of this rule for the State to submit a state implementation plan (SIP) revision addressing these requirements and to implement the related control requirements.

DATES: This final action is effective on [**Insert date 30 days after date of publication in the *Federal Register***].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2019-0240. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, 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 <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Tom Kelly, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3856 or by email at kelly.thomasp@epa.gov.

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

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I. Proposed Action

On July 10, 2019, the EPA granted¹ a request by the California Air Resources Board (CARB) to voluntarily reclassify the Coachella Valley portion of Riverside County, California (“Coachella Valley”) from “Severe-15” to “Extreme” for the 1997 ozone NAAQS.² On August 27, 2019 (84 FR 44801), the EPA proposed to require CARB and the South Coast Air Quality Management District (SCAQMD or “District”) to submit SIP revisions addressing the requirements resulting from the EPA’s reclassification by no later than July 10, 2020, one year

¹ 84 FR 32841; see also 84 FR 50760 (September 26, 2019) correcting the docket number. As explained in the July 10, 2019 notice, the EPA’s reclassification to Extreme nonattainment applies only to the portions of the Coachella Valley subject to the State’s jurisdiction, and the EPA did not reclassify any areas of Indian country within the boundaries of the nonattainment area.

²The EPA revoked the 1997 ozone NAAQS with the promulgation of the 2008 ozone NAAQS, 80 FR 12263 (March 6, 2015). Following revocation, certain requirements of the 1997 ozone NAAQS continue to apply as anti-backsliding measures under CAA section 172(e).

from the effective date of the reclassification. Our proposal specified that the State's submittal must include an Extreme area plan that addresses the requirements of CAA section 182(e), including but not limited to: (1) an attainment demonstration showing attainment of the 1997 ozone NAAQS as expeditiously as practicable but no later than June 15, 2024; (2) a reasonable further progress (RFP) demonstration showing ozone precursor reductions of at least 3 percent per year until the attainment date; (3) additional reasonably available control technology (RACT) rules to address sources subject to the lower Extreme area major source threshold; (4) use of clean fuels or advanced control technology for boilers as described at CAA section 182(e)(3); and (5) contingency measures.³ In addition, as explained in the proposal, California must submit revised title V and NSR rules for the Coachella Valley that reflect the Extreme area definitions for new major sources and modifications, as well as increase the offset ratios for these sources and modifications consistent with CAA section 182(e)(1) and (2).⁴

Please see our August 27, 2019 proposed rule for additional background and a more detailed explanation of our proposed action.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received three comments, including one not relevant to the proposed action. The full

³ *Id.* at 44802.

⁴ Under CAA section 182(e), the major source threshold for an Extreme nonattainment area is 10 tons per year (tpy), which is lower than the 25 tpy threshold for a Severe-15 area. Under CAA section 182(e)(1), the permitting offset ratios for volatile organic compound and oxides of nitrogen for major sources and modifications in an Extreme nonattainment area must be at least 1.5 to 1, or at least 1.2 to 1 if the plan requires all existing major sources in the nonattainment area to use the best available control technology. Under CAA section 182(e)(2), any change at a major stationary source that results in an increase in emissions from any discrete operation, unit, or other pollutant emitting activity at the source is generally considered a modification, subject to additional provisions for emissions increases offset through internal reductions and for equipment that is installed to comply with CAA requirements. *See* 42 USC § 7511a(e).

text of these comments is available in the docket for this action.⁵ Below, we provide summaries of the two relevant comments and our responses.

Comment #1: One anonymous commenter supported the reclassification of the Coachella Valley, but asked how the reclassification will improve air quality. The commenter stated that air quality in the area calls for drastic action from the state, and cited other environmental hazards of concern, such as pesticide application, failing septic systems, illegal waste dumps, inadequate housing, unpaved streets and contaminated bodies of water. The commenter also emphasized the need for action on the part of public agencies, elected officials, foundations, businesses, advocates and residents.

Response #1: The EPA granted the reclassification request, effective July 10, 2019. This action specifies the schedule for CARB to submit the elements necessary to meet the Extreme requirements for the 1997 ozone NAAQS, including new rules to lower the major source threshold from 25 tons per year to 10 tons per year. The SCAQMD and CARB must identify and implement the control measures necessary to improve air quality sufficiently to attain the standards, and the EPA will take action on the submitted measures and elements in a separate action, with another opportunity for public comment.

Comment #2: The SCAQMD requested additional time to submit a plan addressing the Extreme nonattainment requirements for the Coachella Valley. The District explained that the public process for amending the NSR and title V permitting rules is expected to take at least 9 months, and that the development of contingency measures would take at least one year to allow for sufficient public process. Based on these estimates and considering the time needed to

⁵ See <http://www.regulations.gov> under docket ID number EPA-R09-OAR-2019-0240.

develop the other SIP requirements, the District states that the proposed July 10, 2020 deadline is not adequate to satisfy the applicable requirements. The District requests that the EPA extend the submittal deadline to one year from the effective date of the action.

Response #2: We recognize that the District and CARB will require adequate time to develop and implement new measures and strategies, revise local rules, complete necessary analysis and demonstrations, and to provide adequate opportunities for public involvement. The State must ensure that all required planning elements for an Extreme nonattainment area are satisfied, that public processes are completed, and that the resulting plan is sufficient to demonstrate attainment of the 1997 ozone NAAQS in the Coachella Valley as expeditiously as practicable but no later than June 15, 2024. Because we find the District's request for additional time reasonable, and we believe the additional time will not impede the area's attainment of the standard by the attainment date, we agree with the commenter's proposed extension of the submittal deadline to one year from the effective date of this rule.

III. EPA Action

For the reasons discussed in detail in the proposed rule and Section II of this document, the EPA is setting a deadline for submittal of SIP revisions to address the Extreme area requirements for the Coachella Valley as no later than one year from the effective date of this rule.

IV. Statutory and Executive Order Reviews

Under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. Because the statutory requirements are

clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classification, the timing of the submittal of the Extreme area requirements does not impose a materially adverse impact under Executive Order 12866. For these reasons, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). Furthermore, this action is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because it is not significant under Executive Order 12866.

In addition, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), because the action addresses only the timing of submittals required by the Clean Air Act. For the same reason, this action does not have regulatory requirements that might significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

Executive Order 13175 (65 FR 67249, November 9, 2000) requires the EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.” Because this action addresses only the timing of submittals required by the State and would not affect areas of Indian Country, this action 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.

This action also does not have federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action does not alter the relationship, or the distribution of power and responsibilities established in the Clean Air Act.

This rule also is not subject to Executive Order 13045. The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks such that the analysis required under section 5–501 of the Executive order has the potential to influence the regulation. This action does not concern an environmental health risk or safety risk.

As this action would set a deadline for the submittal of CAA required plans and information, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or

environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. This action addresses the timing for the submittal of Extreme area ozone planning requirements, and we find that it does not have disproportionately high and adverse human health or environmental health effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898.

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, Incorporation by reference, Ozone.

Dated: December 18, 2019.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

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