



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2022-0936; FRL-10470-02-R9]

Clean Air Plans; 2015 8-Hour Ozone Nonattainment Area Requirements; Clean Fuels for Fleets; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the California State Implementation Plan (SIP) concerning the provisions for Clean Fuels for Fleets (CFF) for the 2015 ozone national ambient air quality standards (“2015 ozone NAAQS”) in the Riverside County (Coachella Valley), Sacramento Metro, San Joaquin Valley, Los Angeles – South Coast Air Basin (South Coast), Ventura County, and Los Angeles – San Bernardino Counties (West Mojave Desert) nonattainment areas (NAAs). The SIP revision includes the “California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard” (“Clean Fuels for Fleets Certification”), a multi-district certification that California’s Low-Emission Vehicle (LEV) program achieved emissions reductions at least equivalent to the reductions that would be achieved by the EPA’s Clean Fuels for Fleets Program, submitted on February 3, 2022. We are approving the revision under the Clean Air Act (CAA or “the Act”), which establishes clean fuels for fleets requirements for “Serious,” “Severe,” and “Extreme” ozone NAAs.

DATES: This rule is effective **[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-2022-0936. All documents in the docket are listed on the <https://www.regulations.gov> website. 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. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Andrew Ledezma, Planning Section (ARD-2-1), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. By phone: (415) 972-3985 or by email at Ledezma.Ernesto@epa.gov.

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

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I. Proposed Action

On March 3, 2023, the EPA proposed to approve a revision¹ to the California SIP concerning the provisions for CFF for the 2015 ozone NAAQS in the Coachella Valley, Sacramento Metro, San Joaquin Valley, South Coast, Ventura County, and West Mojave Desert NAAs.² In our March 3, 2023 proposed rulemaking, we provided background information on the

¹ In this final rulemaking, we are clarifying the terminology that we used to describe our proposed action regarding California’s Clean Fuels for Fleets Certification by changing it from “revisions” to the California SIP to “a revision” to the California SIP. This change more accurately reflects the contents of the submittal, which includes a single, multi-district certification. Our change in terminology does not reflect any change in our evaluation or action, rather, it is a clarification of the action we are taking.

² 88 FR 13392 (March 3, 2023).

2015 ozone standards, area designations in California, and classifications for the 2015 ozone NAAQS.

The proposed rulemaking describes the SIP revision the California Air Resources Board (CARB) submitted to the EPA to fulfill the CFF requirements under section 182(c)(4) and section 246 of the CAA that apply to the Coachella Valley, Sacramento Metro, San Joaquin Valley, South Coast, Ventura County, and West Mojave Desert NAAs. The proposed rulemaking explains that for Serious, Severe, and Extreme nonattainment areas with 1980 populations greater than 250,000, a minimum specified percentage of all new covered fleet vehicles in model year 1998 and thereafter, purchased by each covered fleet operator in each covered area, must be clean-fuel vehicles and must use clean alternative fuels when operating in the covered area. The proposed rulemaking also explains that section 182(c)(4)(B) of the CAA allows states to opt out of the Federal CFF Program by submitting a SIP revision consisting of a program or programs that will result in equivalent or greater long-term reductions in ozone precursors. Lastly, the proposed rulemaking notes that in 1994, CARB submitted a SIP revision to the EPA to opt out of the Federal CFF Program and included a demonstration that California's LEV program achieves emissions reductions at least as large as would be achieved by the Federal program. The EPA approved the California SIP revision to opt out of the CFF Program effective September 27, 1999.³

In this action we are approving CARB's certification that the State's LEV program meets the CFF requirements for the 2015 ozone NAAQS for the Coachella Valley, Sacramento Metro, San Joaquin Valley, South Coast, Ventura County, and West Mojave Desert NAAs. Please refer to our proposed rulemaking for more information concerning the background for this action and for a more detailed discussion of the rationale for approval.

II. Public Comments and EPA Responses

³ 64 FR 46849 (August 27, 1999).

The EPA's proposed action provided a 30-day public comment period. During this period, the EPA received one comment from a private individual and four anonymous comments related to the rulemaking. All five comments were supportive of our proposed action and do not require a response. The full text of these comments is available for viewing in the docket for this rulemaking.

III. EPA Action

No comments were submitted that change our assessment of the multi-district certification as described in our proposed action. Therefore, as authorized in sections 182(c)(4) and 246 of the CAA, the EPA is approving the revision to the California SIP concerning the provisions for CFF for the 2015 ozone NAAQS in the Coachella Valley, Sacramento Metro, San Joaquin Valley, South Coast, Ventura County, and West Mojave Desert NAAs.

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); and
- 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.

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).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks,

including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The State did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of EO 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. 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, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

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

Dated: May 18, 2023.

Martha Guzman Aceves,
Regional Administrator,
Region IX.

For the reasons stated in the preamble, the Environmental Protection Agency amends part 52, chapter I, title 40 of the Code of Federal Regulations 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 paragraph (c)(597) to read as follows:

§52.220 Identification of plan—in part.

* * * * *

(c) * * *

(597) The following multi-district certification was submitted on February 3, 2022, by the Governor’s designee, as an attachment to a letter dated February 3, 2022.

(i) [Reserved]

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

(1) “California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard,” adopted on January 27, 2022.

(2) [Reserved]

(B) [Reserved]