



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2021-0135; FRL-9538-01-R9]

Air Quality Implementation Plans; California; San Diego County; 2008 and 2015 8-Hour Ozone Nonattainment Area Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve portions of two State implementation plan (SIP) revisions submitted by the State of California to meet Clean Air Act (CAA) requirements for the 2008 8-hour ozone national ambient air quality standards (NAAQS or “standards”) and the 2015 8-hour ozone NAAQS in the San Diego County ozone nonattainment area (“San Diego County area” or “area”). The first SIP revision, “2020 Plan for Attaining the National Ambient Air Quality Standards for Ozone in San Diego County” (“2020 San Diego County Ozone SIP” or “2020 Plan”), addresses most of the SIP requirements for the area. The second SIP revision, referred to as the “Smog Check Certification,” supplements the motor vehicle inspection and maintenance program portion of the 2020 Plan. The EPA is taking final action to approve the 2020 Plan, and the San Diego County area portion of the Smog Check Certification, as meeting all the applicable ozone nonattainment area requirements for the 2008 and 2015 8-hour ozone NAAQS addressed by the plan except for the emissions statement requirement that the EPA previously found to have been met and the contingency measure requirements, for which the EPA is deferring action.

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 Number EPA-R09-OAR-2021-0135. 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 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 disabilities 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: John J. Kelly, Air Planning Office (AIR-2-1), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; phone: (415) 947-4151; email: kelly.johnj@epa.gov.

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

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I. Summary of Proposed Action

On December 19, 2023 (88 FR 87850), the EPA proposed to approve all of the “2020 Plan for Attaining the National Ambient Air Quality Standards for Ozone in San Diego County,” submitted on January 12, 2021, with two exceptions, and the San Diego County area vehicle inspection and maintenance (I/M) SIP revision for the 2008 and 2015 ozone NAAQS, *i.e.*, the San Diego County area portion of the “California Smog Check Performance Standard Modeling and Program Certification for the 70 Parts Per Billion (ppb) 8-Hour Ozone Standard” (also referred to as the “Smog Check Certification”), submitted on April 26, 2023. The portions of the

2020 Plan on which we did not propose action are the portion addressing the emissions statement requirement, which we already approved in a separate rulemaking, and the portion addressing the contingency measures requirement, for which we are deferring action.

Our December 19, 2023 proposed rule contains more information on the plans, our evaluation, and our rationale for proposing approval.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. Environmental Justice Considerations

This document takes final action to approve certain SIP elements included in the 2020 Plan and the San Diego County area portion of the Smog Check Certification. Information on ozone and its relationship to negative health impacts can be found on the EPA's website. We expect that this action will generally be neutral or contribute to reduced environmental and health impacts on all populations in the San Diego County area, including people of color and low-income populations in the area. At a minimum, the action would not worsen any existing air quality and is expected to ensure the area is meeting requirements to attain air quality standards. Further, there is no information in the record indicating that this action is expected to have disproportionately high or adverse human health or environmental effects on a particular group of people. Lastly, although the San Diego County Air Pollution Control District ("District") did not perform an environmental justice review specifically for the 2020 Plan, the District does implement the State's "Community Air Protection Program" in San Diego County. This environmental justice program identifies specific communities based on environmental, health, and socioeconomic information in order to reduce their pollution exposure.

IV. EPA Action

No comments were submitted. Therefore, pursuant to section 110(k)(3) of the CAA, and for the reasons provided in our December 19, 2023 proposed rule, the EPA is taking final action

to approve into the California SIP all of the “2020 Plan for Attaining the National Ambient Air Quality Standards for Ozone in San Diego County,” submitted to the EPA on January 12, 2021, with two exceptions, and the San Diego County area I/M SIP revision for the 2008 and 2015 ozone NAAQS, i.e., the San Diego County area portion of the “Smog Check Certification,” submitted on April 26, 2023. More specifically, we are taking final action to approve the following portions of the 2020 Plan, as supplemented by the Smog Check Certification, as meeting the following requirements:

- Base year emissions inventory element as meeting the requirements of CAA sections 172(c)(3) and 182(a)(1) for the 2008 and 2015 ozone NAAQS, 40 CFR 51.1115 for the 2008 ozone NAAQS, and 40 CFR 51.1315 for the 2015 ozone NAAQS;
- Reasonably Available Control Measures (RACM) demonstration element as meeting the requirements of CAA section 172(c)(1) for the 2008 and 2015 ozone NAAQS, 40 CFR 51.1112(c) for the 2008 ozone NAAQS, and 40 CFR 51.1312(c) for the 2015 ozone NAAQS;
- Attainment demonstration element for the 2008 ozone NAAQS as meeting the requirements of CAA section 182(c)(2)(A) and 40 CFR 51.1108;
- Attainment demonstration element for the 2015 ozone NAAQS as meeting the requirements of CAA section 182(c)(2)(A) and 40 CFR 51.1308, and the related commitments by the California Air Resources Board (CARB) (through CARB Resolution 20-29) to achieve an aggregate emissions reduction of 4 tpd of NO_x by 2032 in the San Diego County area and by the District (through District Resolution 20-166) to achieve emissions reductions of 1.7 tpd of NO_x by 2032;
- Rate of Progress (ROP) demonstration element as meeting the requirements of CAA section 182(b)(1) for the 2008 and 2015 ozone NAAQS, 40 CFR 51.1110(a)(2) for the 2008 ozone NAAQS, and 40 CFR 51.1310(a)(2) for the 2015 ozone NAAQS;
- Reasonable Further Progress (RFP) demonstration element as meeting the requirements

of CAA sections 172(c)(2), 182(b)(1), and 182(c)(2)(B) for the 2008 and 2015 ozone NAAQS, 40 CFR 51.1110(a)(2)(i) and (ii) for the 2008 ozone NAAQS, and 40 CFR 51.1310(a)(2)(ii) for the 2015 ozone NAAQS;

- Vehicle Miles Traveled (VMT) emissions offset demonstration element as meeting the requirements of CAA section 182(d)(1)(A) for the 2008 and 2015 ozone NAAQS, 40 CFR 51.1102 for the 2008 ozone NAAQS, and 40 CFR 51.1302 for the 2015 ozone NAAQS;
- Motor vehicle emissions budgets for the 2020 and 2023 RFP milestone years and the 2026 attainment year (see Table 1) because they are consistent with the RFP and attainment demonstrations for the 2008 ozone NAAQS approved herein and meet the other criteria in 40 CFR 93.118(e)(4);

Table 1 – Motor Vehicle Emissions Budgets for the 2008 Ozone NAAQS in the San Diego County Area (summer planning inventory, tpd)

Budget Year	VOC	NO _x
2020	16.3	28.1
2023	13.6	19.3
2026	12.1	17.3

Source: 2020 Plan, Table 3-1.

- Motor vehicle emissions budgets for the 2023, 2026, and 2029 RFP milestone years and the 2032 attainment year (see Table 2) because they are consistent with the RFP and attainment demonstrations for the 2015 ozone NAAQS approved herein and meet the other criteria in 40 CFR 93.118(e)(4);

Table 2 – Motor Vehicle Emissions Budgets for the 2015 Ozone NAAQS in the San Diego County Area (summer planning inventory, tpd)

Budget Year	VOC	NO _x
2023	13.6	19.3
2026	12.1	17.3
2029	11.0	15.9
2032	10.0	15.1

Source: 2020 Plan, Table 4-1.

- General conformity budgets (or growth increments, in this case) for the Department of the Navy (DoN) and United States Marine Corps (USMC), and for the San Diego International Airport (SDIA), see Table 3, as meeting the requirements of CAA section

176(c) and 40 CFR 93.161;

Table 3. Facility-wide General Conformity Budgets (Increments of Growth) for the Department of the Navy and United States Marine Corps, and for the San Diego International Airport in San Diego County (summer planning inventory, tpd)

Facility	VOC	NO _x
DoN and USMC	1.08	8.34
SDIA	0.141	1.756

Source: 2020 Plan, pp. 18 and 19.

- Enhanced vehicle inspection and maintenance program element in the 2020 Plan, as supplemented by the San Diego County area portion of the Smog Check Certification, as meeting the requirements of CAA section 182(c)(3) for the 2008 and 2015 ozone NAAQS, 40 CFR 51.1102 for the 2008 ozone NAAQS, and 40 CFR 51.1302 for the 2015 ozone NAAQS;
- Clean fuels fleet program element as meeting the requirements of CAA sections 182(c)(4)(A) and 246 for the 2008 and 2015 ozone NAAQS, 40 CFR 51.1102 for the 2008 ozone NAAQS, and 40 CFR 51.1302 for the 2015 ozone NAAQS;
- New Source Review program element as meeting the requirements of CAA sections 172(c)(5), 173, and 182(a)(2)(C) for the 2008 and 2015 ozone NAAQS, 40 CFR 51.1114 for the 2008 ozone NAAQS, and 40 CFR 51.1314 for the 2015 ozone NAAQS; and
- Enhanced monitoring element as meeting the requirements of CAA section 182(c)(1) for the 2008 and 2015 ozone NAAQS, 40 CFR 51.1102 for the 2008 ozone NAAQS, and 40 CFR 51.1302 for the 2015 ozone NAAQS.

V. 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 14094 (88 FR 21879, April 11, 2023);
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- 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, 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 (65 FR 67249, November 9, 2000).

Furthermore, Executive Order 12898, “Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 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. However, as described in section III (Environmental Justice Considerations) of this document, the District does participate in the State’s environmental justice program. The EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of this action, this action is expected to have a neutral to positive impact on the air quality of San Diego County. 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 Executive Order 12898, to achieve environmental justice for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and the 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, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: February 21, 2024.

Martha Guzman Aceves
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. In § 52.220, add paragraphs (c)(581)(ii)(A)(2) through (5) and (c)(581)(ii)(B), reserved paragraph (c)(610), and paragraph (c)(611) to read as follows:

§ 52.220 Identification of plan - in part.

	*	*	*	*	*
(c)	*	*	*		
(581)	*	*	*		
(ii)	*	*	*		
(A)	*	*	*		

(2) “2020 Plan for Attaining the National Ambient Air Quality Standards for Ozone in San Diego County (October 2020),” adopted on October 14, 2020, excluding the “Emissions Statement Rule Certification,” and the contingency measure element.

(3) Resolution 20-166, dated October 14, 2020, adopting the “2020 Plan for Attaining the National Ambient Air Quality Standards for Ozone in San Diego County (October 2020),” including a commitment to achieve emissions reductions of 1.7 tons per day of NO_x by 2032 through adoption to amendments to San Diego County Air Pollution Control District Rules 69.4.1 and 69.2.1 and to the adoption of new San Diego County Air Pollution Control District Rule 69.2.2.

(4) Letter dated July 31, 2023, from Ted Anasis, Manager, Airport Planning, San Diego International Airport, to Nick Cormier, San Diego County Air Pollution Control District.

(5) Letter dated August 16, 2023, from J.C. Golumbskie-Jones, Fleet Environmental Director, Commander Navy Region Southwest, Department of the Navy, to Paula Forbis, Air Pollution

Control Officer, San Diego County Air Pollution Control District.

(B) California Air Resources Board.

(1) Resolution 20-29, dated November 19, 2020, adopting a commitment to achieve an aggregate emissions reduction of 4.0 tons per day of NO_x in San Diego County by 2032 and a commitment from the California Air Resources Board to propose to the Board the Heavy-Duty Engine and Vehicle Omnibus Regulation, Advanced Clean Trucks Regulation, and Heavy Duty Vehicle Inspection Program and Periodic Smoke Inspection Program.

(2) [Reserved]

* * * * *

(610) [Reserved]

(611) The following materials were submitted on April 26, 2023, by the Governor's designee.

(i) [Reserved]

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

(1) The San Diego County area portion of the "California Smog Check Performance Standard Modeling and Program Certification for the 70 Parts Per Billion (ppb) 8-Hour Ozone Standard," adopted on March 23, 2023.

(2) [Reserved]

(B) [Reserved]