



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2022-0955; FRL-10549-02-R9]

Approval of Implementation Plans for Air Quality Planning Purposes; State of Nevada; Clark County Second 10-Year Maintenance Plan for the 1997 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve, as a revision of the Nevada state implementation plan (SIP), the State’s second 10-year plan for maintaining the 1997 8-hour ozone standard in Clark County (“Clark County Second Maintenance Plan” or “Plan”). The Clark County Second Maintenance Plan includes, among other elements, a base year emissions inventory, a maintenance demonstration, contingency provisions, and motor vehicle emissions budgets for use in transportation conformity determinations to ensure the continued maintenance of the 1997 National Ambient Air Quality Standards for ozone (“1997 ozone NAAQS” or “1997 8-hour ozone standard”). With this action, the EPA is approving the motor vehicle emissions budgets for 2017, 2023, and 2033. The EPA is taking this final action because the SIP revision meets the applicable statutory and regulatory requirements for such plans and motor vehicle emissions budgets.

DATES: This 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–2022–0955. 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 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, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3985 or by email at Ledezma.Andrew@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 21, 2023, the EPA proposed to approve two submittals from the Nevada Division of Environmental Protection (NDEP) as a revision to the Nevada SIP: the Clark County Second Maintenance Plan dated December 21, 2021, and a supplement to the Clark County Second Maintenance Plan (“Contingency Provision Supplement”) dated August 16, 2023.¹ We refer to the Clark County Second Maintenance Plan and the Contingency Provision Supplement collectively as the “Clark County Second Maintenance Plan.” We proposed to find that the Clark County Second Maintenance Plan adequately demonstrates that the Clark County area will maintain the 1997 ozone NAAQS through 2033 (i.e., for more than 10 years beyond the first 10-year maintenance period), with the maintenance period ending on February 7, 2033. We also

¹ 88 FR 88300.

proposed to find that the Plan includes sufficient contingency provisions to promptly correct any violation of the 1997 ozone NAAQS that may occur. Lastly, we proposed to find that the motor vehicle emissions budgets (“budgets”) for volatile organic compounds (VOC) and nitrogen oxides (NO_x) for 2017, 2023, and 2033 were adequate.

Please see our proposed rule for a detailed discussion of the background for this action and substantive review of the Clark County Second Maintenance Plan and associated budgets.

II. Public Comments and EPA Responses

Our December 21, 2023 proposed rule provided a 30-day public comment period that closed on January 22, 2024. During this comment period we received no comments on our proposal.

III. Final Action

Under CAA section 110(k)(3), and for reasons set forth in our December 21, 2023 proposed rule, the EPA is taking final action to approve the Clark County Second Maintenance submittal as a revision to the Nevada SIP. The EPA finds that the maintenance demonstration showing the area will continue to maintain the 1997 ozone NAAQS for an additional 10 years beyond the first maintenance period, and the contingency provisions describing the actions that NDEP will take in the event of a future monitored violation, meet all applicable requirements for maintenance plans and related contingency provisions in CAA section 175A. The EPA is also approving the budgets for VOC and NO_x for 2017, 2023, and 2033 because they are derived from an approvable maintenance demonstration and are adequate and meet the applicable transportation conformity requirements under 40 CFR 93.118(e).

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 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 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 (Pub. L. 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
- Will not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994), as discussed in section VI of the proposed rule.

In addition, there are no areas of Indian country within the planning area, and the state plan for which the EPA is approving does not 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 Clark County Second Maintenance Plan does not apply, and therefore, this action does not have tribal implications and would 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 air agency did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA's evaluation of environmental justice is described in the proposed rule titled, “Environmental Justice Considerations.” The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the 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. In addition, there is no information in the record upon which this decision is based that is inconsistent with the stated goal of E.O.

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 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, Nitrogen dioxide, Particulate Matter, Sulfur Dioxide, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: March 29, 2024.

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 DD — Nevada

2. In § 52.1470 in paragraph (e), amend the table by adding an entry for “Revision to Motor Vehicle Emissions Budgets in Ozone Redesignation Request and Maintenance Plan: Clark County, Nevada (October 2018)” after the entry for “Ozone Redesignation Request and Maintenance Plan, Clark County, Nevada (March 2011)” to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(e) * * *

EPA-Approved Nevada Nonregulatory and Quasi-Regulatory Measures

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Air Quality Implementation Plan for the State of Nevada¹				
** * * *				
Second Maintenance Plan for the 1997 8-hour Ozone NAAQS, Clark County, Nevada (December 2021), and Revision to	Las Vegas, Nevada: that portion of Clark County that lies in hydrogeographic areas 164A, 164B, 165, 166, 167, 212, 213, 214, 216, 217, and 218, but excluding the Moapa River	Clark County Second Maintenance Plan: 1/24/2022 Contingency Measure Revision: 8/16/2023	[INSERT FEDERAL REGISTER CITATION], [INSERT DATE OF PUBLICATION]	Fulfills requirement for second ten-year maintenance plan.

Contingency Measures Plan in the Second Maintenance Plan for the 1997 8-hour Ozone NAAQS (July 2023)	Indian Reservation and the Fort Mohave Indian Reservation.			
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¹ The organization of this table generally follows from the organization of the State of Nevada’s original 1972 SIP, which was divided into 12 sections. Nonattainment and maintenance plans, among other types of plans, are listed under Section 5 (Control Strategy). Lead SIPs and Small Business Stationary Source Technical and Environmental Compliance Assistance SIPs are listed after Section 12 followed by nonregulatory or quasi-regulatory statutory provisions approved into the SIP. Regulatory statutory provisions are listed in 40 CFR 52.1470(c).