



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2015-0204; FRL-9969-02-Region 9]

Approval and Promulgation of Implementation Plans; California; South Coast Moderate Area Plan for the 2006 PM_{2.5} Standards; Correction of Deficiency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve California's Reasonably Available Control Measures/Reasonably Available Control Technology and Reasonable Further Progress demonstrations for the 2006 24-hour fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS or "standards") in the Los Angeles - South Coast nonattainment area and to determine that the State has corrected the deficiency that formed the basis for the prior partial disapproval of the Moderate Area Plan submitted for these NAAQS. The proposed determination is based on the EPA's final approval of revisions to the South Coast Air Quality Management District's Regional Clean Air Incentives Market (RECLAIM) program and 2016 Reasonably Available Control Technology (RACT) Demonstration. If today's action is finalized as proposed, the sanctions clocks triggered by the partial disapproval will be terminated.

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-2015-0204 at <http://www.regulations.gov>, or via email to Wienke Tax, Air Planning Office, at tax.wienke@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions

for submitting comments. Once submitted, comments cannot be removed or edited from 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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Wienke Tax, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, (415) 947-4192, tax.wienke@epa.gov.

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

Table of Contents

- I. Background
- II. Proposed Action
- III. Request for Public Comment
- IV. Statutory and Executive Order Reviews

I. Background

On October 17, 2006, the EPA revised the 24-hour NAAQS for PM_{2.5}, particulate matter with a diameter of 2.5 microns or less or “fine particles,” to provide increased protection of public health by lowering its level from 65 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to 35 $\mu\text{g}/\text{m}^3$ (40

CFR 50.13). Epidemiological studies have shown statistically significant correlations between elevated PM_{2.5} levels and premature mortality. Other important health effects associated with PM_{2.5} exposure include aggravation of respiratory and cardiovascular disease (as indicated by increased hospital admissions, emergency room visits, absences from school or work, and restricted activity days), changes in lung function and increased respiratory symptoms.

Individuals particularly sensitive to PM_{2.5} exposure include older adults, people with heart and lung disease, and children (78 FR 3086 at 3088, January 15, 2013). Fine particles can be emitted directly into the atmosphere as a solid or liquid particle or can be formed in the atmosphere as a result of various chemical reactions among precursor pollutants such as nitrogen oxides, sulfur oxides, volatile organic compounds, and ammonia.

Following promulgation of a new or revised NAAQS, section 107(d) of the CAA requires the EPA to designate areas throughout the nation as attaining or not attaining the NAAQS. On November 13, 2009, the EPA designated the Los Angeles - South Coast Air Basin (“South Coast”) as nonattainment for the 2006 24-hour PM_{2.5} NAAQS of 35 µg/m³ (74 FR 58688). This designation became effective on December 14, 2009 (40 CFR 81.305). The South Coast nonattainment area is also designated nonattainment for the 1997 annual and 24-hour PM_{2.5} NAAQS and the 2012 annual PM_{2.5} NAAQS. Today’s proposed action addresses only requirements for the 2006 24-hour PM_{2.5} NAAQS in the South Coast nonattainment area.

On February 13, 2013 and March 4, 2015, California submitted SIP revisions to address planning requirements for the 2006 PM_{2.5} NAAQS in the South Coast nonattainment area. We refer to these submissions collectively as the “2012 PM_{2.5} Plan” or “Plan.” On April 14, 2016, we finalized a partial approval and partial disapproval of the 2012 PM_{2.5} Plan (81 FR 22025). Our partial disapproval of the 2012 PM_{2.5} Plan was based on deficiencies in the Plan with respect to

the Reasonably Available Control Measures/Reasonably Available Control Technology (RACM/RACT) and Reasonable Further Progress (RFP) requirements. Specifically, we found that the 2012 PM_{2.5} Plan failed to satisfy the RACM/RACT requirement in CAA sections 172(c)(1) and 189(a)(1)(C) because it did not provide a demonstration that the South Coast Air Quality Management District's (SCAQMD or "District") nitrogen oxides (NO_x) RECLAIM program ensures that the level of NO_x emissions reductions resulting from the RECLAIM program is equivalent, in the aggregate, to those NO_x emissions reductions expected from the direct application of RACT on all covered sources within the South Coast nonattainment area. We also found that the Plan failed to meet the requirement for RFP in CAA section 172(c)(2) because the deficiency with respect to RACM/RACT also meant that the State was not implementing all RACM/RACT as expeditiously as practicable. We noted in our final action on the 2012 PM_{2.5} Plan that the State could remedy these deficiencies by submitting revisions to the NO_x RECLAIM program together with documentation sufficient to demonstrate that the revised program ensures, in the aggregate, NO_x emission reductions equivalent to RACT-level controls for all covered facilities (81 FR at 22028, 22029).

Our April 14, 2016 partial disapproval of the 2012 PM_{2.5} Plan became effective on May 16, 2016, and started a sanctions clock for imposition of offset sanctions 18 months after May 16, 2016, and highway sanctions 6 months later, pursuant to CAA section 179 and our regulations at 40 CFR section 52.31. Accordingly, offset sanctions will apply on November 16, 2017, and highway sanctions will apply on May 16, 2018, unless the EPA determines that the State has corrected the deficiency forming the basis of the disapproval.

On March 17, 2017, the California Air Resources Board (CARB) submitted a SIP revision consisting of a series of amendments to the SCAQMD's NO_x RECLAIM program. The

submittal was intended to strengthen the program and correct the deficiencies identified in both the EPA's partial disapproval of the 2012 PM_{2.5} Plan (81 FR 22025, April 14, 2016) and in the EPA's separate proposal to partially disapprove the SCAQMD's "2016 AQMP Reasonably Available Control Technology (RACT) Demonstration" ("2016 AQMP RACT SIP") (81 FR 76547, November 3, 2016). Additionally, on May 22, 2017, CARB submitted the District's public draft version of the "Supplemental RACM/RACT Analysis for the 2006 24-Hour PM_{2.5} and 2008 8-Hour Ozone Standards" ("2017 RACT Supplement") to address these same deficiencies. On June 6, 2017, the EPA proposed to approve the submitted NO_x RECLAIM program amendments as satisfying general CAA requirements for SIP revisions (82 FR 25996). The EPA finalized this action on September 14, 2017 (82 FR 43176). On June 15, 2017, the EPA proposed to approve the 2016 AQMP RACT SIP and the 2017 RACT Supplement as satisfying the RACT requirements of CAA sections 182(b) and (f) and 40 CFR 51.1112 for the South Coast and Coachella Valley nonattainment areas for the 2008 ozone NAAQS (82 FR 27451). The EPA finalized this action on September 20, 2017 (82 FR 43850).¹

II. Proposed Action

We are proposing to determine that the RECLAIM program amendments submitted by CARB on March 17, 2017, and the 2017 RACT Supplement submitted by CARB on May 22, 2017, together correct the deficiency in the RACM/RACT element of the 2012 PM_{2.5} Plan that had provided the basis for the EPA's prior partial disapproval of the Plan. As explained in our June 6, 2017 proposed action on the RECLAIM program amendments, the revised program lowers the NO_x emission cap in the RECLAIM program and establishes requirements for removing RECLAIM trading credits (RTCs) from the trading market to prevent NO_x RTCs

¹ CARB submitted the final "Supplemental RACM/RACT Analysis for the 2006 24-Hour PM_{2.5} and 2008 8-Hour Ozone Standards" ("2017 RACT Supplement") on July 27, 2017. See letter dated July 27, 2017, from Richard Corey, Executive Officer, CARB, to Alexis Strauss, Acting Regional Administrator, EPA Region IX.

associated with facilities that have shut down from entering the RECLAIM market and potentially delaying the installation of pollution controls at other facilities (82 FR 25996, 25998, June 6, 2017). These revisions to the RECLAIM program strengthen the SIP by requiring major NO_x emission sources covered by the program to collectively achieve additional emission reductions,² and were fully approved into the California SIP on September 14, 2017 (*see* 82 FR 43176). Additionally, as explained in our June 15, 2017 proposed action on the 2016 AQMP RACT SIP and 2017 RACT Supplement, the 2017 RACT Supplement contains the District's demonstration of how the SIP-approved RECLAIM program has achieved and continues to achieve, in the aggregate, RACT level of control for major NO_x sources in the South Coast (82 FR at 27454-27455, June 15, 2017).³ As part of our September 20, 2017 final approval of the 2016 AQMP RACT SIP and 2017 RACT Supplement, we concluded that major NO_x sources covered by the RECLAIM program are now subject to RACT level control requirements (82 FR 43850, 43856). Implementation of RACT-level control requirements at major NO_x sources covered by the RECLAIM program satisfies the RACM/RACT requirement in CAA sections 172(c)(1) and 189(a)(1)(C) for these sources. We propose to determine that these SIP submissions correct the RACM/RACT deficiency that we identified in our partial disapproval of the 2012 PM_{2.5} Plan and to approve the RACM/RACT demonstration in the Plan, as revised.

In addition, we are proposing to determine that these SIP submissions correct the RFP deficiency that we identified in our partial disapproval of the Plan. Our partial disapproval of the 2012 PM_{2.5} Plan for failure to satisfy the RFP requirement in CAA section 172(c)(2) was

² The revisions to the RECLAIM program are projected to reduce NO_x emissions by 12 tons per day by 2023. *See* SCAQMD, Summary Minutes of the Board of the South Coast Air Quality Management District, December 4, 2015, at 15; *see also* U.S. EPA, Region IX Air Division, "Technical Support Document for EPA's Rulemaking for the California State Implementation Plan, South Coast Air Quality Management District Regional Clean Air Incentives Market Program Rules," May 2017, at 9, 10.

³ For more information on our evaluation of the RECLAIM program in accordance with CAA RACT requirements, *see* the Technical Support Document accompanying our June 15, 2017 proposed rule (82 FR 27451) and our responses to comments on that proposal (82 FR 43856, September 20, 2017).

predicated on our disapproval of the Plan with respect to the RACM/RACT requirement (81 FR at 22028, April 14, 2016). The Plan, as revised, demonstrates that the State is now implementing RACM/RACT for NO_x from covered sources in the South Coast nonattainment area. Therefore, based on our proposal to determine that the State has corrected the RACM/RACT deficiency, we also propose to determine that the State has corrected the RFP deficiency that we identified in our partial disapproval of the 2012 PM_{2.5} Plan and to approve the RFP demonstration in the Plan, as revised.

If finalized as proposed, these determinations will permanently stop the sanctions clocks triggered by our April 14, 2016 partial disapproval of the 2012 PM_{2.5} Plan.

III. Request for Public Comment

We will accept comments from the public on this proposal for the next 30 days. The deadline and instructions for submission of comments are provided in the **DATES** and **ADDRESSES** sections at the beginning of this preamble.

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 proposed 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);
- 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, Ammonia, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: September 26, 2017.

Alexis Strauss,
Acting Regional Administrator,
Region IX.

[FR Doc. 2017-21610 Filed: 10/6/2017 8:45 am; Publication Date: 10/10/2017]