



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R09-OAR-2018-0535; FRL-9988-40-Region 9]**

**Clean Air Plans; 2008 8-Hour Ozone Nonattainment Area Requirements; San Joaquin Valley, California**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve portions of three state implementation plan (SIP) revisions submitted by the State of California to meet Clean Air Act (CAA or “the Act”) requirements for the 2008 8-hour ozone national ambient air quality standards (NAAQS or “standards”) in the San Joaquin Valley, California ozone nonattainment area. First, the EPA is approving the portions of the “2016 Ozone Plan for the 2008 8-Hour Ozone Standard” (“2016 Ozone Plan”) that address the requirements to demonstrate attainment by the applicable attainment date and implementation of reasonably available control measures, among other requirements. Second, the EPA is approving the portions of the “Revised Proposed 2016 State Strategy for the State Implementation Plan” (“2016 State Strategy”) related to the ozone control strategy for the San Joaquin Valley for the 2008 ozone standards, including a specific aggregate emissions reduction commitment. Lastly, the EPA is approving an air district rule addressing the emission statement requirement for ozone nonattainment areas.

**DATES:** This rule will be 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-2018-0535. 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, (415) 972-3856, [kelly.thomasp@epa.gov](mailto:kelly.thomasp@epa.gov).

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

## **Table of Contents**

- I. Summary of the Proposed Action
- II. Public Comments
- III. Final Action
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

### **I. Summary of the Proposed Action**

On August 31, 2018 (83 FR 44528), the EPA proposed to approve, under CAA section 110(k)(3), portions of submittals from the California Air Resources Board (CARB or “State”) as revisions to the California SIP for the San Joaquin Valley 2008 ozone nonattainment area.<sup>1</sup> The

---

<sup>1</sup> The San Joaquin Valley nonattainment area for the 2008 ozone standards generally covers the southern half of California’s Central Valley and consists of San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare, and Kings

relevant SIP revisions include an emissions statement rule (Rule 1160), the 2016 Ozone Plan, and the 2016 State Strategy, which were submitted on January 11, 1993, August 24, 2016, and April 27, 2017, respectively. The San Joaquin Valley Air Pollution Control District (SJVUAPCD or “District”) adopted Rule 1160 (“Emission Statement”) on November 18, 1992, to comply with the CAA’s SIP revision requirement for emission statement rules. The 2016 State Strategy submittal consists of documents originating from the District (e.g., the 2016 Ozone Plan with Appendices and the District Governing Board Resolution) and from CARB (e.g., the CARB Staff Report and Appendices). The 2016 State Strategy includes CARB’s commitments for rulemaking over the next several years and aggregate emission reduction commitments for the South Coast Air Basin and San Joaquin Valley. Each of these SIP revisions includes documentation of public notice, comment, and opportunity for public hearing prior to adoption by CARB or the District.

In our August 31, 2018 proposed rule, we provided background material on the ozone standards,<sup>2</sup> area designations, and related SIP revision requirements under the CAA, and the EPA’s implementing regulations for the 2008 ozone standards, referred to as the SIP Requirements Rule (SRR). In short, the San Joaquin Valley nonattainment area is classified as Extreme for the 2008 ozone standards, and the 2016 Ozone Plan was developed to address the requirements for this area. The 2016 Ozone Plan relies on District Rule 1160 to meet the CAA requirements for emissions statement rules and is supported by the 2016 State Strategy, which

---

counties, and the western portion of Kern County. A precise description of the San Joaquin Valley ozone nonattainment area is contained in 40 CFR 81.305.

<sup>2</sup> Ground-level ozone pollution is formed from the reaction of volatile organic compounds (VOC) and oxides of nitrogen (NO<sub>x</sub>) in the presence of sunlight. The 2008 ozone standard is 0.075 parts per million (ppm) average over an 8-hour period. 73 FR 16436 (March 27, 2008).

includes commitments by CARB for rulemaking and for achievement of aggregate emission reductions of eight tons per day (tpd) of oxides of nitrogen (NO<sub>x</sub>) in the San Joaquin Valley by 2031 to accelerate progress towards meeting the 2008 ozone standards in that area.

In our proposed rule, we also discussed a 2018 Circuit Court decision issued by the D.C. Circuit in *South Coast Air Quality Management Dist. v. EPA*, (“*South Coast II*”)<sup>3</sup> that vacated certain portions of our 2008 ozone SRR. We indicated that, in response to *South Coast II*, the EPA would be proposing action on certain elements of the 2016 Ozone Plan (i.e., those elements affected by *South Coast II*) in a subsequent and separate rulemaking. These elements include the base year emissions inventory, the demonstration of reasonable further progress (RFP), the RFP motor vehicle emissions budgets, and the contingency measures. We proposed action on the SIP elements that are affected by *South Coast II* and that were not included in our August 31, 2018 proposed rule at 83 FR 61346 (November 29, 2018).

For our August 31, 2018 proposed rule, we reviewed the various SIP elements contained in the 2016 Ozone Plan (i.e., except for those affected by *South Coast II*), District Rule 1160, and the relevant portions of the 2016 State Strategy, evaluated them for compliance with statutory and regulatory requirements, and concluded that they meet all applicable requirements. More specifically, we determined the following:

- The 2012 base year emission inventory from the 2016 Ozone Plan is comprehensive, accurate, and current, and that future year emissions inventories that are derived therefrom provide an acceptable basis for the attainment demonstration and vehicle miles

---

<sup>3</sup> *South Coast Air Quality Management Dist. v. EPA*, 882 F.3d 1138 (D.C. Cir. 2018). The term “*South Coast II*” is used in reference to the 2018 court decision to distinguish it from a decision published in 2006 also referred to as “*South Coast*.” The earlier decision involved a challenge to the EPA’s Phase 1 implementation rule for the 1997 ozone standard. *South Coast Air Quality Management Dist. v. EPA*, 472 F.3d 882 (D.C. Cir. 2006).

traveled (VMT) offset demonstration in the 2016 Ozone Plan (see 83 FR 44531-44532 from the proposed rule);

- District Rule 1160 (“Emission Statements”), which requires, with certain allowable exceptions, all owners and operators of any stationary source category that emits or may emit volatile organic compounds (VOC) or NO<sub>x</sub> to provide a written statement on an annual basis showing actual emissions of VOC and NO<sub>x</sub> from that source, meets the requirements for emission statements under CAA section 182(a)(3)(B) for 2008 ozone nonattainment areas (see 83 FR 44532-44533 from the proposed rule);
- The process followed by the District to identify reasonably available control measures (RACM) is generally consistent with the EPA’s recommendations and that the District’s rules provide for the implementation of RACM for stationary and area sources of NO<sub>x</sub> and VOC;<sup>4</sup> CARB and the metropolitan planning organizations provide for the implementation of RACM for mobile sources of NO<sub>x</sub> and VOC; that there are no additional RACM that would advance attainment of the 2008 ozone standards in the San Joaquin Valley by at least one year; and that, therefore, the 2016 Ozone Plan provides for the implementation of all RACM as required by CAA section 172(c)(1) and 40 CFR 51.1112(c) for the 2008 ozone standards (see 83 FR 44533-44535 from the proposed rule);
- The photochemical modeling in the 2016 Ozone Plan shows that existing CARB and District control measures are sufficient to attain the 2008 ozone standards by 2031 at all

---

<sup>4</sup> For our proposed action, we also considered our previous evaluations of the District’s rules in connection with our approval of the San Joaquin Valley Reasonably Available Control Technology (RACT) SIP demonstration for the 2008 ozone standards. See 83 FR 41006 (August 17, 2018).

monitoring sites in the San Joaquin Valley; that, given the extensive discussion in the 2016 Ozone Plan of modeling procedures, test and performance analyses called for in the modeling protocol and the good model performance, the modeling is adequate to support the attainment demonstration; and that, therefore, the 2016 Ozone Plan meets the attainment demonstration requirements of CAA section 182(c)(2)(A) and 40 CFR 51.1108 for the 2008 ozone standards (see 83 FR 44535-44539 from the proposed rule);

- As provided in our SRR, the previously-approved 15 percent Rate-of-Progress (ROP) demonstration for the 1-hour ozone NAAQS for the San Joaquin Valley meets the ROP requirements of CAA section 182(b)(1) for the San Joaquin Valley for the 2008 ozone standards because the boundaries of the San Joaquin Valley nonattainment area for the 1-hour ozone standards and the 2008 ozone standards are the same (see 83 FR 44539 from the proposed rule);
- The 2016 Ozone Plan (particularly, section D.3 (“VMT Offsets”) of appendix D (“Mobile Source Control Strategy”) demonstrates that CARB has adopted sufficient transportation control strategies (TCSs) to offset the growth in emissions from growth in VMT and vehicle trips in the San Joaquin Valley for the purposes of the 2008 ozone standards and thereby complies with the VMT emissions offset requirement in CAA section 182(d)(1)(A) and 40 CFR 51.1102 (see 83 FR 44540-44542 from the proposed rule);
- Through EPA-approved District Rules 2201 (“New and Modified Stationary Source Review”), 4306 (“Boilers, Steam Generators, and Process Heaters – Phase 3”), and 4352 (“Solid Fuel-Fired Boilers, Steam Generators, and Process Heaters”), the 2016 Ozone Plan meets the clean fuels or advanced control technology for boilers requirement in

CAA section 182(e)(3) and 40 CFR 51.1102 for the 2008 ozone standards (see 83 FR 44543 from the proposed rule);

- The 2031 budgets from the 2016 Ozone Plan are consistent with the attainment demonstration, are clearly identified and precisely quantified, and meet all other applicable statutory and regulatory requirements, including the adequacy criteria in 40 CFR 93.118(e)(4) and (5) (see 83 FR 44543-44545 from the proposed rule); and
- The 2016 Ozone Plan adequately addresses the enhanced vehicle inspection and maintenance (I/M) requirements in CAA 182(c)(3) and 40 CFR 51.1102 and the enhanced ambient air monitoring requirements in CAA section 182(c)(1) and 40 CFR 51.1102 through previous EPA approvals of California's I/M program, Photochemical Assessment Monitoring Station network, and the most recent annual monitoring network plan for the San Joaquin Valley (see 83 FR 44545-44547 from the proposed rule).

Finally, we proposed to approve two committal measures because they strengthen the SIP: (1) CARB's commitments, in the 2016 State Strategy and related resolution, to a rulemaking schedule and an aggregate emission reduction of eight tpd of NO<sub>x</sub> in the San Joaquin Valley by 2031, and (2) the District's commitments, in the 2016 Ozone Plan, to revise District Rules 4311 ("Flares") and 4694 ("Wine Fermentation and Storage") to include additional controls to the extent such controls are technologically achievable and economically feasible.

Please see our August 31, 2018 proposed rule and the related Technical Support Document for more information concerning the background for this action and for a more detailed discussion of the rationale for approval of the above listed elements of the 2016 Ozone Plan, District Rule 1160, and the ozone-related commitments in the 2016 State Strategy for San Joaquin Valley.

## **II. Public Comments**

The public comment period on the proposed rule opened on August 31, 2018, the date of its publication in the *Federal Register*, and closed on October 1, 2018. During this period, the EPA received two anonymous comments. One commenter expressed overall support for the proposed action. The second commenter raised issues that are outside the scope of this rulemaking, including forest management practices and the greenhouse gas emission impacts from wildfires. Such comments do not concern any of the specific issues raised in the proposal, nor do they address the EPA's rationale for the proposed action. Therefore, the EPA is not responding to these comments and is finalizing the action as proposed. All the comments received are included in the docket for this action.

## **III. Final Action**

For the reasons discussed in our proposed action and summarized above, the EPA is taking final action under CAA section 110(k)(3) to approve as a revision to the California SIP the following portions of the San Joaquin Valley 2016 Ozone Plan.<sup>5</sup>

- RACM demonstration as meeting the requirements of CAA section 172(c)(1) and 40 CFR 51.1112(c).
- ROP demonstration as meeting the requirements of CAA section 182(b)(1).
- Attainment demonstration as meeting the requirements of CAA section 182(c)(2)(A) and 40 CFR 51.1108.

---

<sup>5</sup> The EPA has already approved the portions of the 2016 Ozone Plan (subchapter 3.4 (“Reasonably Available Control Technology (RACT) Demonstration”) and appendix C (“Stationary and Area Source Control Strategy Evaluations”) that relate to the RACT requirements under CAA section 182(b)(2) and 40 CFR 51.1112.



- Enhanced monitoring as meeting the requirements of CAA section 182(c)(1) and 40 CFR 51.1102.
- Enhanced vehicle inspection and maintenance programs as meeting the requirements of CAA section 182(c)(3) and 40 CFR 51.1102.
- Provisions for clean fuels or advanced control technology for boilers as meeting the requirements of CAA section 182(e)(3) and 40 CFR 51.1102.
- VMT emissions offset demonstration as meeting the requirements of CAA section 182(d)(1)(A) and 40 CFR 51.1102, and
- Motor vehicle emissions budgets for the attainment year of 2031 because they are consistent with the attainment demonstration proposed for approval herein and meet the other criteria in 40 CFR 93.118(e).<sup>6</sup> The approved motor vehicle emissions budgets (in tpd, average summer weekday) are as follows:

<b>Table 1. Motor Vehicle Budgets for 2031 (tpd)</b>		
<b>County</b>	<b>VOC</b>	<b>NO<sub>x</sub></b>
Fresno	4.3	12.5
Kern (SJV)	4.1	10.8
Kings	0.8	2.3
Madera	0.9	2.0
Merced	1.3	4.1
San Joaquin	3.3	5.5
Stanislaus	2.0	4.7
Tulare	1.9	3.7

In addition, we are taking final action to approve District Rule 1160 titled “Emission Statements” as a revision to the California SIP because it meets all the applicable requirements

---

<sup>6</sup> On November 29, 2018 (83 FR 61346), the EPA proposed, among other things, to approve revised motor vehicle emissions budgets for year 2031 for San Joaquin Valley for the 2008 ozone standards. If we finalize the approval of the revised budgets as proposed, then the revised budgets will replace those that we are approving in today’s action.

for emission statements. We are also approving the Emission Statement section of the 2016 Ozone Plan as meeting the requirements of CAA section 182(a)(3)(B) and 40 CFR 51.1102.

Finally, we are taking final action to approve, as additional measures that strengthen the SIP, CARB's commitments in the 2016 State Strategy to a rulemaking schedule and an aggregate emission reduction of eight tpd of NO<sub>x</sub> by 2031 and District's commitments in the 2016 Ozone Plan to amend Rules 4311 (Flares) and 4694 (Wine Fermentation and Storage) to include additional controls to the extent such controls are technologically achievable and economically feasible.

As discussed in the August 31, 2018 proposed rule, we are not taking final action at this time on the base year emissions inventory, the RFP demonstration, the motor vehicle emissions budgets for RFP milestone years, and the contingency measures portions of the 2016 Ozone Plan. We proposed action on these remaining elements of the 2016 Ozone Plan on November 29, 2018 (83 FR 61346).

#### **IV. Incorporation by Reference**

In this action, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of a San Joaquin Valley Unified Air Pollution Control District rule (i.e., Rule 1160) described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, this document available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

#### **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 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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, as appropriate, disproportionate human health or environmental effects, using practicable 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, this final 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).

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, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: December 12, 2018.

Alexis Strauss,  
Acting Regional Administrator,  
Region IX.

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. Section 52.220 is amended by adding paragraphs (c)(191)(i)(E), (c)(496)(ii)(B)(2) and (3), and (c)(513) to read as follows:

**§ 52.220 Identification of plan - in part.**

\* \* \* \* \*

(c) \* \* \*

(191) \* \* \*

(i) \* \* \*

(E) San Joaquin Valley Unified Air Pollution Control District.

(I) Rule 1160, “Emission Statements,” adopted on November 18, 1992.

\* \* \* \* \*

(496) \* \* \*

(ii) \* \* \*

(B) \* \* \*

(2) Resolution 16-6-20, In the Matter of: Adopting the San Joaquin Valley Unified Air Pollution Control District 2016 Ozone Plan for the 2008 8-Hour Ozone Standard, June 16, 2016, commitment to adopt, implement and submit measures committed to in the 2016 Ozone Plan for the 2008 8-Hour Ozone Standard, only.

(3) 2016 Ozone Plan for 2008 8-Hour Ozone Standard, adopted June 16, 2016, excluding

subchapters 3.4 (“Reasonably Available Control Technology”), 3.11.1 (“Emission Inventory Requirements”), 6.3.2 (“Reasonable Further Progress Requirements”), and 6.4 (“Contingency for Attainment”); appendix C (“Stationary and Area Source Control Strategy Evaluations”); and tables D-1 and D-4 through D-8 in attachment B (“San Joaquin Valley 8-Hr Ozone Motor Vehicle Emissions Budgets”) of appendix D (“Mobile Source Control Strategy”).

\* \* \* \* \*

(513) The following plan was submitted on April 27, 2017, by the Governor’s designee.

(i) [Reserved]

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

(1) Resolution 17-7, 2016 State Strategy for the State Implementation Plan, March 23, 2017, commitments to a rulemaking schedule and to achieve aggregate emission reductions of 8 tons per day of NO<sub>x</sub> in San Joaquin Valley by 2031, and the rulemaking schedule included in attachment A to Resolution 17-7, only.

(2) Revised Proposed 2016 State Strategy for the State Implementation Plan, adopted on March 23, 2017, except for the subchapter titled “South Coast Commitment” in chapter 3 (“Proposed SIP Commitment”).

[FR Doc. 2019-01686 Filed: 2/11/2019 8:45 am; Publication Date: 2/12/2019]