



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2017-0490; FRL-9988-60-Region 9]

Approval and Promulgation of Implementation Plans; California; South Coast Serious Area Plan for the 2006 PM_{2.5} NAAQS

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving portions of a state implementation plan (SIP) revision submitted by California to address Clean Air Act (CAA or “Act”) requirements 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 air basin (South Coast) Serious PM_{2.5} nonattainment area. The EPA is also approving 2017 and 2019 motor vehicle emissions budgets for transportation conformity purposes and inter-pollutant trading ratios for use in transportation conformity analyses.

DATES: This final rule 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-2017-0490. 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: Ginger Vagenas, EPA Region IX, 415-972-3964, Vagenas.Ginger@epa.gov.

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

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I. Background

Epidemiological studies have shown statistically significant correlations between elevated levels of PM_{2.5} (particulate matter with a diameter of 2.5 microns or less) and premature mortality. Other important health effects associated with PM_{2.5} exposure include aggravation of respiratory and cardiovascular disease, 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.¹ PM_{2.5} can be emitted directly into the atmosphere as a solid or liquid particle (“primary PM_{2.5}” or “direct PM_{2.5}”) 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 (“secondary PM_{2.5}”).²

¹ 78 FR 3086, 3088 (January 15, 2013).

² 72 FR 20586, 20589 (April 25, 2007).

The EPA first established NAAQS for PM_{2.5} on July 18, 1997.³ On October 17, 2006, the EPA revised the 24-hour NAAQS for PM_{2.5} to provide increased protection of public health by lowering the level from 65 micrograms per cubic meter (µg/m³) to 35 µg/m³.⁴

Following promulgation of a new or revised NAAQS, the EPA is required by CAA section 107(d) to designate areas throughout the nation as attaining or not attaining the NAAQS. On November 13, 2009, the EPA designated the South Coast as nonattainment for the 2006 24-hour PM_{2.5} standards.⁵ This designation became effective on December 14, 2009.⁶ On June 2, 2014, the EPA classified the South Coast area as “Moderate” nonattainment for both the 1997 PM_{2.5} standards and the 2006 PM_{2.5} standards under subpart 4 of part D, title I of the Act.⁷

On January 13, 2016, the EPA published a final rule reclassifying the South Coast area as “Serious” nonattainment under subpart 4, based on the EPA’s determination that the area could not practicably attain the 2006 PM_{2.5} standards by the Moderate area attainment date, which was December 31, 2015.⁸ This reclassification became effective on February 12, 2016.

The local air district with primary responsibility for developing a plan to attain the 2006 PM_{2.5} NAAQS in this area is the South Coast Air Quality Management District (“District” or SCAQMD). The District works cooperatively with the California Air Resources Board (CARB) in preparing these plans. State authority for regulating sources in the South Coast is split between

³ 62 FR 38652. The initial NAAQS for PM_{2.5} included annual standards of 15.0 µg/m³ based on a 3-year average of annual mean PM_{2.5} concentrations and 24-hour (daily) standards of 65 µg/m³ based on a 3-year average of 98th percentile 24-hour concentrations (40 CFR 50.7).

⁴ 40 CFR 50.13 and 71 FR 61144. In 2012, the EPA revised the annual standards to lower them to 12 µg/m³ (78 FR 3086 (January 15, 2013), codified at 40 CFR 50.18). Unless otherwise noted, all references to the PM_{2.5} standards in this notice are to the 2006 24-hour NAAQS of 35 µg/m³ codified at 40 CFR 50.13.

⁵ 74 FR 58688.

⁶ 40 CFR 81.305.

⁷ 79 FR 31566. The EPA took this action in response to a decision of the Court of Appeals for the D.C. Circuit finding that the EPA had erred in implementing the PM_{2.5} NAAQS pursuant solely to the general implementation provisions of subpart 1 of Part D, Title I of the Act, without also considering the particulate matter-specific provisions of subpart 4 of Part D. *Natural Resources Defense Council (NRDC) v. EPA*, 706 F.3d 428 (D.C. Cir. 2013).

⁸ 81 FR 1514.

the District, which has responsibility for regulating stationary and most area sources, and CARB, which has responsibility for regulating most mobile sources and some categories of consumer products.

As a consequence of its reclassification as a Serious PM_{2.5} nonattainment area, the South Coast became subject to a new attainment date under CAA section 188(c)(2) and to the requirement to submit a Serious area plan that satisfies the requirements of part D of title I of the Act, including the requirements of subpart 4, for the 2006 PM_{2.5} NAAQS.⁹ As explained in the EPA's final reclassification action, the Serious area plan for the South Coast must include provisions to assure that the best available control measures (BACM) for the control of direct PM_{2.5} and PM_{2.5} precursors will be implemented no later than 4 years after the area is reclassified (CAA section 189(b)(1)(B)), and a demonstration (including air quality modeling) that the plan provides for attainment as expeditiously as practicable but no later than December 31, 2019, which is the latest permissible attainment date under CAA section 188(c)(2).¹⁰

On October 3, 2018, we proposed to approve portions of a SIP revision submitted by California to address CAA requirements for the 2006 24-hour PM_{2.5} NAAQS in South Coast Serious nonattainment area.¹¹ The submitted SIP revision is the "Final 2016 Air Quality Management Plan (March 2017)," adopted by the SCAQMD Governing Board on March 3, 2017 ("2016 PM_{2.5} Plan" or "Plan"). CARB submitted the 2016 PM_{2.5} Plan to the EPA on April 27, 2017.¹²

⁹ 81 FR 1514, 1518 (January 13, 2016).

¹⁰ *Id.*

¹¹ 83 FR 49872.

¹² Letter dated April 27, 2017, from Richard Corey, Executive Officer, CARB, to Alexis Strauss, Acting Regional Administrator, EPA Region IX, with enclosures. Our proposed rule erroneously stated that we were also proposing to act on CARB's "2016 State Strategy for the State Implementation Plan (March 2017)," also submitted on April 27, 2017. That submission, however, is not a necessary component of the 2016 PM_{2.5} Plan. See email dated

The EPA proposed to approve the following portions of the 2016 PM_{2.5} Plan under CAA section 110(k)(3): the 2012 base year emissions inventory, provisions assuring that BACM, including best available control technology (BACT), for the control of direct PM_{2.5} and PM_{2.5} precursors will be implemented no later than 4 years after the area was reclassified, the demonstration (including air quality modeling) that the plan provides for attainment as expeditiously as practicable but no later than December 31, 2019, provisions that require reasonable further progress (RFP) toward attainment by the applicable attainment date, quantitative milestones that are to be achieved every 3 years until the area is redesignated attainment and that demonstrate RFP, and 2017 and 2019 motor vehicle emissions budgets.¹³

The EPA also proposed to approve the inter-pollutant trading mechanism provided in the 2016 PM_{2.5} Plan and clarified in a March 14, 2018 letter from the District, for use in transportation conformity analyses for the 2006 PM_{2.5} NAAQS, in accordance with 40 CFR 93.124. Finally, the EPA proposed to find that the requirement for contingency measures to be undertaken if the area fails to make reasonable further progress under CAA section 172(c)(9) is moot as applied to the 2017 milestone year because the State and District have demonstrated to the EPA's satisfaction that the 2017 milestones have been met. The rationale for our proposed action is included in the proposal and will not be restated here. We did not propose any action on the attainment contingency measure component of the 2016 PM_{2.5} Plan.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period that ended on November 2, 2018. During this comment period, we received three anonymous comments. Two

November 15, 2018, from Scott King, CARB, to Ginger Vagenas, EPA Region IX, Subject: "RE: question about SC 2006 PM2.5 plan."

¹³ 83 FR 49872.

of these commenters expressed criticism of a political nature unrelated to this action specifically or to environmental protection generally. The third commenter raised concerns about the damage and risks associated with hydraulic fracturing (commonly referred to as “fracking”). Hydraulic fracturing is not addressed in this action. After reviewing these comments, we have concluded that they are outside the scope of our proposed action and fail to identify any material issue necessitating a response. The comments have been added to the docket for this action and are accessible at <https://www.regulations.gov/docket?D=EPA-R09-OAR-2017-0490>.

III. Final Action

The EPA is taking final action to approve portions of the 2016 PM_{2.5} Plan submitted by the State of California to address attainment of the 2006 PM_{2.5} NAAQS in the South Coast PM_{2.5} Serious nonattainment area. We are finalizing approval of the following elements of the 2016 PM_{2.5} Plan under CAA section 110(k)(3):

1. the 2012 base year emission inventories (CAA section 172(c)(3));
2. the demonstration that BACM, including BACT, for the control of direct PM_{2.5} and PM_{2.5} precursors will be implemented no later than 4 years after the area was reclassified (CAA section 189(b)(1)(B));
3. the demonstration (including air quality modeling) that the Plan provides for attainment as expeditiously as practicable but no later than December 31, 2019 (CAA sections 188(c)(2) and 189(b)(1)(A));
4. Plan provisions that require RFP toward attainment by the applicable date (CAA section 172(c)(2));

5. quantitative milestones that are to be achieved every 3 years until the area is redesignated attainment and that demonstrate RFP toward attainment by the applicable date (CAA section 189(c));
6. motor vehicle emissions budgets for 2017 and 2019, as shown in Table 1 (CAA section 176(c) and 40 CFR part 93, subpart A); and
7. the inter-pollutant trading mechanism provided in the 2016 PM_{2.5} Plan and clarified in a March 14, 2018 letter from the District, for use in transportation conformity analyses for the 2006 PM_{2.5} NAAQS, in accordance with 40 CFR 93.124.

Table 1. Budgets for the South Coast for the 2006 PM_{2.5} Standard (average annual tons per day)

	2017 (RFP year)			2019 (attainment year)		
	PM _{2.5}	NO _x	VOC	PM _{2.5}	NO _x	VOC
Budgets	21	200	99	20	169	83

We are also finalizing our proposal to determine that the requirement for contingency measures to be undertaken if the area fails to make reasonable further progress under CAA section 172(c)(9) is moot as applied to the 2017 milestone year because CARB and the District have demonstrated to the EPA's satisfaction that the 2017 milestones have been met.

IV. Statutory and Executive Order Reviews

Under the CAA, 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 CAA. 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 CAA; 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).

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, Ammonia, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 12, 2018.

Alexis Strauss,
Acting 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. Section 52.220 is amended by adding paragraph (c)(513)(ii)(B) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(513) * * *

(ii) * * *

(B) *South Coast Air Quality Management District.* (1) The following portions of the “Final 2016 Air Quality Management Plan (March 2017),” adopted March 3, 2017: Chapter 5 (“PM_{2.5} Modeling Approach”), pages 5-17 through 5-27; Appendix III (“Base and Future Emission Inventory”), Attachment A (“Annual Average Emissions by Source Category in South Coast Air Basin”) for PM_{2.5}, NO_x, SO₂, VOC, and NH₃ for years 2012, 2017, 2019, and 2020 and Attachment D, tables D-1, D-3, D-7 and D-9; Appendix IV-A (“SCAQMD’s Stationary and Mobile Source Control Measures”), Table IV-A-4 and section 2 (“PM_{2.5} Control Measures”); Appendix IV-C (“Regional Transportation Strategy and Control Measures”), section IV (“TCM Best Available Control Measure (BACM) Analysis for 2006 24-Hour and 2012 Annual PM_{2.5} NAAQS”); Appendix V (“Modeling and Attainment Demonstration”), Chapter 7 (“24-hour PM_{2.5} Demonstration”) and Attachment 8 (“24-hour Unmonitored Area Analysis Supplement”); Appendix VI-A (“Reasonably Available Control Measures (RACM)/Best Available Control

Measures (BACM) Demonstration”), pages VI-A-13 through VI-A-42, Attachment VI-A-1 (“Evaluation of SCAQMD Rules and Regulations”), Attachment VI-A-2 (“Control Measure Assessment”), and Attachment VI-A-3 (“California Mobile Source Control Program Best Available Control Measures/Reasonably Available Control Measures Assessment”); Appendix VI-C (“Reasonable Further Progress (RFP) and Milestone Years”), pages VI-C-5 through VI-C-8, and Attachment VI-C-1 (“California Existing Mobile Source Control Program”); Appendix VI-D (“General Conformity and Transportation Conformity Budget”), pages VI-D-2 through VI-D-6 and excluding tables VI-D-1 through 3; and Appendix VI-F (“Precursor Requirements”).

(2) Letter dated March 14, 2018 from Philip Fine, Deputy Executive Officer, Planning, Rule Development, and Area Sources, South Coast Air Quality Management District, to Amy Zimpfer, Associate Director, Air Division, EPA Region IX.

(3) Letter dated June 15, 2018 from Philip Fine, Deputy Executive Officer, Planning, Rule Development, and Area Sources, South Coast Air Quality Management District, to Amy Zimpfer, Associate Director, Air Division, EPA Region IX, regarding “Condensable and Filterable Portions of PM_{2.5} Emissions in the 2016 AQMD.”

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[FR Doc. 2019-01922 Filed: 2/11/2019 8:45 am; Publication Date: 2/12/2019]