

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2021–0623; FRL–8997–01–R9]

### Air Plan Approval; Arizona, California, Nevada; Emissions Statements Requirements

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions, under the Clean Air Act (CAA or “Act”), to portions of the Arizona, California, and Nevada State Implementation Plans (SIPs) regarding emissions statements (ES) requirements for the 2015 ozone national ambient air quality standards (NAAQS). We are also proposing to approve ES certifications (“certifications”) adopted by various California air districts that existing SIP-approved rules are adequate to meet the ES requirements for the 2015 ozone NAAQS. In addition, we are proposing that the following Arizona, California, and Nevada nonattainment areas (NAAs) meet the ES requirements for the 2015 ozone NAAQS: Phoenix-Mesa, Yuma, Amador County, Butte County, Imperial County, Los Angeles-San Bernardino Counties (West Mojave Desert), Los Angeles-South Coast Air Basin, Nevada County (Western part), Riverside County (Coachella Valley), Sacramento Metro, San Diego County, San Francisco Bay Area, San Joaquin Valley, San Luis Obispo (Eastern part), Sutter Buttes, Tuolumne County, Ventura County, and Las Vegas. We are also proposing to approve that two NAAs meet requirements for prior ozone NAAQS. Finally, we are proposing that Maricopa County Air Quality District (MCAQD) Rule 100, section 503, which we proposed for approval into the SIP on February 23, 2021, meets the ES requirements for the 2015 ozone NAAQS. We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Comments must be received on or before January 13, 2022.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2021–0623 at <https://www.regulations.gov>. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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 <https://www.epa.gov/dockets/commenting-epa-dockets>. 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:** Nancy Levin, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3848 or by email at [Levin.Nancy@epa.gov](mailto:Levin.Nancy@epa.gov).

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

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#### I. The State’s Submittal

##### A. What rules or certifications did the states submit?

The Arizona Department of Environmental Quality (ADEQ) submitted rules for the Arizona Administrative Code (AAC) and Pinal County Air Quality Control District (AQCD) portions of the SIP. The California Air Resources Board submitted rules or certifications for the the Amador Air District (AAD), Butte County Air Quality Management District (AQMD), El Dorado County AQMD, Feather River AQMD, Imperial County Air Pollution Control District (APCD), Placer County APCD, San Luis Obispo County APCD, and Tuolumne County APCD portions of the California SIP. The Nevada Division of Environmental Protection submitted a rule for the Clark County Department of Air Quality (CCDAQ) portion of the Nevada SIP.

Table 1 lists the rules submitted for approval into the SIP with the dates that the rules were adopted or revised by the local or state air agencies and submitted by the states to fulfill CAA section 182(a)(3)(B) Emissions Statements (“section 182(a)(3)(B)”) requirements. Table 2 lists ES certifications with the dates the certifications were adopted by the local air agencies and submitted by the State of California to meet section 182(a)(3)(B) requirements.<sup>1</sup> Tables 1 and 2 also list the dates that the EPA determined that the submittals met the completeness criteria in 40 Code of Federal Regulations (CFR) Part 51 Appendix V or were deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V (“complete by operation of law” or COL), which must be met before formal EPA review.

<sup>1</sup> Neither Arizona nor Nevada submitted emissions certifications for the 2015 ozone NAAQS.

TABLE 1—SUBMITTED RULES

Agency	Rule No.	Rule title	Adopted/ revised	Submitted	Deemed complete
ADEQ .....	AAC R18–2–327 .....	Annual Emissions Inventory Questionnaire and Emissions Statement.	12/4/2020	12/22/2020	COL, 6/22/2020.
Pinal County AQCD .....	Rule 3–1–103 .....	Annual emissions inventory questionnaire and emissions statement.	7/1/2020	7/21/2020	COL, 1/21/2021.
Amador Air District .....	Rule 428 .....	Emissions Statements .....	3/16/2021	6/10/2021	Letter, 9/25/2021.
Butte County AQMD .....	Rule 434 .....	Emissions Statements .....	6/25/2020	7/27/2020	COL, 1/27/2021.
El Dorado County AQMD .....	Rule 1000 .....	Emission Statement .....	8/25/2020	9/22/2020	COL, 3/22/2021.
El Dorado County AQMD .....	Rule 1001.1 .....	Emission Statement Waiver .....	8/25/2020	9/22/2020	COL, 3/22/2021.
Feather River AQMD .....	Rule 4.8 .....	Further Information .....	8/3/2020	12/15/2020	COL, 6/15/2021.
Imperial County APCD .....	Rule 116 .....	Emissions Statement and Certification	11/3/2020	2/19/2021	COL, 8/19/2021.
Placer County APCD .....	Rule 503 .....	Emission Statement .....	10/8/2020	12/15/2020	COL, 6/15/2021.
San Luis Obispo County AQMD .....	Rule 222 .....	Federal Emission Statement .....	6/24/2020	7/27/2020	COL, 1/27/2021.
Tuolumne County APCD .....	Rule 428 .....	Emissions Statements .....	7/21/2020	8/3/2020	COL, 2/3/2021.
CCDAQ .....	Section 12.9.1 .....	Annual Emissions Statement <sup>a</sup> .....	8/18/2020	10/15/2020	COL, 4/15/2021.

<sup>a</sup>NDEP submitted Section 12.9 “Annual Emissions Statement and Inventory Requirements,” which includes 12.9.1 “Annual Emissions Statement” and 12.9.2 “Annual Emissions Inventory.” However, we are only acting on subsection 12.9.1 in this notice.

TABLE 2—SUBMITTED EMISSIONS STATEMENTS CERTIFICATIONS  
[2015 ozone NAAQS]<sup>2</sup>

Local agency	Existing SIP approved rule No.	Rule title	Adopted	Submitted	Deemed complete
Antelope Valley AQMD .....	Rule 107 (2012); 78 FR 21545 (April 11, 2013).	Certification of Submissions and Emission Statements.	7/21/2020	8/3/2020	COL, 2/3/2021.
Mojave Desert AQMD .....	Rule 107 (1992); 69 FR 29880 (May 26, 2004).	Certification and Emission Statements.	10/28/2019	12/20/2019	COL, 6/20/2020.
Northern Sierra AQMD .....	Rule 513 (2016); 82 FR 28240 (June 21, 2017).	Emissions Statements and Recordkeeping.	1/25/2021	3/23/2021	COL, 9/23/2021.
Sacramento Metropolitan AQMD.	Rule 105 (1996) 73 FR 32240 (June 6, 2008).	Emission Statement .....	7/23/2020	8/3/2020	COL, 2/3/2021.
San Diego County APCD .....	Rule 19.3 (1996); 65 FR 12472 (March 9, 2000).	Emission Information .....	10/14/2020	1/12/2021	COL, 7/12/2021.
San Francisco Bay Area AQMD.	Reg 2–Permits 2–1–429 (2004); 83 FR 23372 (May 21, 2018).	Federal Emissions Statement.	7/15/2020	8/3/2020	COL, 2/3/2021.
San Joaquin Valley APCD ...	Rule 1160 (1992); 84 FR 3302 (February 12, 2019).	Emission Statements (1992)	6/18/2020	8/3/2020	COL, 2/3/2021.
South Coast AQMD <sup>a</sup> .....	Rule 301 (2019); 84 FR 52005 (October 1, 2019).	Permitting and Associated Fees (paragraphs (e)(1), except (e)(1)(C), (e)(2), (5), and (8) only).	6/5/2020	8/3/2020	COL, 2/3/2021.
Ventura County APCD .....	Rule 24 (1992); 65 FR 76567 (December 7, 2000).	Source Recordkeeping, Reporting and Emission Statements.	7/14/2020	7/29/2020	COL, 1/29/2021.
Yolo-Solano AQMD .....	Rule 3.18 (1992); 69 FR 29880 (May 26, 2004).	Emission Statements .....	9/9/2020	11/2/2020	COL, 5/2/2021.

<sup>2</sup>All certifications in this table were submitted by the State of California. The “Adopted” and “Submitted” and “Deemed Complete” dates listed in Table 2 refer to those of the certifications.

<sup>a</sup>South Coast AQMD has jurisdiction over Riverside (Coachella), and Rule 301 applies to both the South Coast Air Basin and the Riverside (Coachella) nonattainment areas.

In addition to the certifications for the 2015 ozone NAAQS, the San Francisco Bay Area is certifying that Reg 2–Permits 2–1–429 meets section 182(a)(3)(B) requirements for the 1997 and 2008 ozone NAAQS, and the San Diego County APCD is certifying that Rule 19.3 meets section 182(a)(3)(B) requirements for the 2008 ozone NAAQS.

*B. Are there other versions of these rules?*

There are no previous versions of El Dorado County AQMD Rule 1000.1, Amador Air District Rule 428, Tuolumne County APCD Rule 428, or CCDAQ Regulations section 12.9 in the SIP. Table 3 lists versions of rules that we previously approved into the SIP. If we take final action to approve the submitted versions of these rules, they will replace the existing SIP-approved versions.

We approved an earlier version of MCAQD Rule 100, section 503 into the SIP on April 5, 2019 (84 FR 13543). On February 23, 2021 (86 FR 10903), the EPA proposed approval on revised Rule 100, section 503, which, if finalized, will replace the previously approved version of this rule in the SIP. In this action, we are proposing that MCAQD Rule 100, section 503, if finalized as proposed for approval into the SIP, will fulfill the 2015 ozone NAAQS requirement for emissions statements.

TABLE 3—EXISTING SIP-APPROVED RULES

State	Local agency	Rule	Final approval
AZ .....	ADEQ .....	R18–2–327 Annual Emissions Inventory Questionnaire and Emissions Statement (1995).	77 FR 66405 (November 5, 2012).
AZ .....	Pinal County Air Quality Control District (PCAQCD).	Rule 3–1–103 Annual emissions inventory questionnaire (1995).	61 FR 15717 (April 9, 1996).
CA .....	Butte County AQMD .....	Rule 434 Emissions Statements (2013) .....	80 FR 33195 (June 11, 2015).
CA .....	El Dorado County AQMD .....	Rule 1000 Emission Statement .....	69 FR 29880 (May 26, 2004).
CA .....	Feather River AQMD .....	Rule 4.8 Further Information (1992) .....	69 FR 29880 (May 26, 2004).
CA .....	Imperial County APCD .....	Rule 116 Emissions Statement and Certification (2010).	77 FR 72968 (December 7, 2012).
CA .....	Placer County APCD .....	Rule 503 Emission Statement (2010) .....	77 FR 72968 (December 7, 2012).
CA .....	San Luis Obispo County AQMD.	Rule 222 Federal Emission Statement (2014) .....	80 FR 33195 (June 11, 2015).

### C. What is the purpose of the submitted rules or certifications?

Under the CAA, a SIP must require stationary sources in ozone NAAs classified as “Marginal” or above to report annual emissions of NO<sub>x</sub> and VOC. See CAA section 182(a)(3)(B). Whenever the EPA promulgates a new ozone NAAQS, the state must submit a new or amended rule to ensure that the section 182(a)(3)(B) requirements are met.

Section 182(a)(3)(B)(i) requires states to submit a SIP revision that requires that owners or operators of stationary sources provide the state with a statement of actual emissions of VOC and NO<sub>x</sub> at least annually, containing a certification that the information is accurate.<sup>3</sup>

In lieu of submitting a new or amended rule, the state may submit for SIP approval a certification that the existing SIP-approved rule satisfies the emissions statement requirements of CAA section 182(a)(3)(B) for the relevant ozone NAAQS. Specifically, the preamble of the EPA’s “Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements” states that “[W]here an air agency determines that an existing regulation is adequate to meet applicable nonattainment area planning requirements of CAA section 182 . . . for a revised ozone NAAQS, that air agency’s SIP revision may provide a written statement certifying that determination in lieu of submitting new

revised regulations.”<sup>4</sup> The EPA’s technical support document (TSD), which is in the docket for this rulemaking, has more information about these rules and certifications.

## II. The EPA’s Evaluation and Action

### A. How is the EPA evaluating the rules and certifications?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193). Areas classified as Marginal nonattainment or higher are subject to the requirements of CAA section 182(a)(3)(B). Guidance and policy documents that we used to evaluate enforceability, revision/relaxation, and CAA requirements for the applicable criteria pollutants include the following:

1. “Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements,” 83 FR 62998 (December 6, 2018).
2. “(Draft) Guidance on the Implementation of an Emission Statement Program,” EPA, July 1992.
3. “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
4. “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
5. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (the Little Bluebook).

<sup>4</sup> “Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements,” 83 FR 62998 (December 6, 2018).

<sup>3</sup> Section 182(a)(3)(B)(ii) “The State may waive the application of clause (i) to any class or category of stationary sources which emit less than 25 tons per year of volatile organic compounds or oxides of nitrogen if the State, in its submissions under subparagraphs (1) or (3)(A), provides an inventory of emissions from such class or category of sources, based on the use of the emission factors established by the Administrator or other methods acceptable to the Administrator.”

### B. Do the rules and certifications meet the evaluation criteria?

These rules and certifications meet CAA requirements and are consistent with relevant guidance regarding enforceability, SIP revisions, and emissions statement requirements. The TSD has more information on our evaluation.

### C. The EPA’s Recommendations To Further Improve the Rules or Certifications

The TSD includes recommendations for the next time local agencies modify the rules or submit certifications.

### D. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rules and certifications because they fulfill all relevant requirements. We are also proposing that the following 2015 ozone nonattainment areas have met CAA section 182(a)(3)(B) requirements: Phoenix-Mesa, AZ; Yuma, AZ; Amador County, CA; Butte County, CA; Imperial County, CA; Los Angeles-San Bernardino Counties, CA (West Mojave Desert); Los Angeles-South Coast Air Basin, CA; Nevada County (Western part), CA; Riverside County (Coachella Valley) CA; Sacramento Metro, CA; San Diego County, CA; San Francisco Bay Area, CA; San Joaquin Valley, CA; San Luis Obispo (Eastern part), CA; Sutter Buttes, CA; Tuolumne, County, CA; Ventura County, CA; and Las Vegas, NV. We are also proposing to approve that the San Francisco Bay Area NAA meets the emissions statements requirements for the 1997 and 2008 ozone NAAQS, and the San Diego County NAA meets these requirements for the 2008 ozone NAAQS. Finally, we are proposing that MCAQD Rule 100, section 503, proposed for approval in a separate action on February 23, 2021, meets the

emissions statements requirements for the 2015 ozone NAAQS. We will accept comments from the public on this proposal until January 13, 2022. If we take final action to approve the submitted rules, our final action will incorporate these rules into the federally enforceable SIP.

### III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through <https://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).

### 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 (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
- 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: December 7, 2021.

**Deborah Jordan,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 2021-27018 Filed 12-13-21; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 80

[EPA-HQ-OAR-2021-0566; FRL-9090-01-OAR]

### Notice of Opportunity To Comment on Proposed Denial of Petitions for Small Refinery Exemptions

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

**ACTION:** Proposed denial of petitions.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to deny all undecided/pending small refinery exemption petitions under the Renewable Fuel Standard program currently before the agency. EPA is

providing an opportunity for the public to comment on our proposed denial of these petitions.

**DATES:** Comments must be received on or before February 7, 2022.

**ADDRESSES:** *Comments.* You may send your comments, identified by Docket ID No. EPA-HQ-OAR-2021-0566, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov> (our preferred method) Follow the online instructions for submitting comments.

- *Email:* [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov). Include Docket ID No. EPA-HQ-OAR-2021-0566 in the subject line of the message.

- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Air Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

- *Hand Delivery or Courier (by scheduled appointment only):* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

*Instructions:* All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov> or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID-19.