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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA–R09–OAR–2023–0203; FRL–10757–02–R9]

Approval and Promulgation of Implementation Plans; Revisions to the California State Implementation Plan; San Francisco Bay Area**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action under the Clean Air Act (CAA or “Act”) to approve a revision to the San Francisco Bay Area portion of the California State Implementation Plan (SIP). This revision consists of updated transportation conformity procedures related to the interagency coordination on project-level conformity and exchange of travel data for emissions inventories developed for air quality plans and regional transportation conformity analyses. This action updates the transportation conformity criteria and procedures in the California SIP.

DATES: This action is effective January 29, 2024.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2023–0203. 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.

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SUPPLEMENTARY INFORMATION:

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

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I. Summary of Proposed Action

On July 27, 2023, the EPA proposed to approve a revision to the California SIP concerning transportation conformity procedures for the San Francisco Bay Area.¹ The California Air Resources Board (CARB) submitted “The San Francisco Bay Area Transportation Air Quality Conformity Protocol—Conformity Procedures” and “The San Francisco Bay Area Transportation Air Quality Conformity Protocol—Interagency Consultation Procedures,” on May 17, 2021. We refer to these documents together as the “San Francisco Bay Area conformity SIP submittal.”² CARB submitted a prior version of the San Francisco Bay Area conformity SIP to the EPA for approval on December 20, 2006. The EPA approved this SIP revision on October 12, 2007.³ The agencies responsible for developing and updating the San Francisco Bay Area conformity SIP—the Metropolitan Transportation Commission (MTC), the Bay Area Air Quality Management District (BAAQMD), and the Association of Bay Area Governments (ABAG), in consultation with the Sacramento Area Council of Governments (SACOG)—have since further amended the roles and responsibilities for implementing the transportation conformity interagency consultation process and for coordinating travel activity data sharing. The San Francisco Bay Area conformity SIP submittal also reflects an update to a memorandum of understanding that exists between MTC and SACOG as an

¹ 88 FR 48406 (July 27, 2023).

² In addition to other supporting documents, the submittal package included the following documents: “San Francisco Bay Area Transportation Air Quality Conformity Protocol,” Revised: February 26, 2020; “Amended and Restated Memorandum of Understanding Between the Metropolitan Transportation Commission and the Sacramento Area Council of Governments,” (September 11, 2018); and a letter dated May 6, 2021, (submitted electronically May 17, 2021), from Richard W. Corey, Executive Officer, CARB, to Deborah Jordan, Acting Regional Administrator, EPA Region IX. Subject: San Francisco Bay Area State Implementation Plan Amended Transportation Air Quality Conformity Protocol. These documents are available in the docket for this rulemaking.

³ 72 FR 58013 (October 12, 2007).

agreement regarding federal conformity procedures and programming of federal Congestion Mitigation and Air Quality funds in Solano County.⁴

In our proposal, we evaluated the San Francisco Bay Area conformity SIP submittal against the statutory and regulatory requirements of the CAA, 40 CFR part 93, and 40 CFR 51.390, which govern state procedures for transportation conformity and interagency consultation and concluded that the submittal meets these requirements. Furthermore, the comment period and public hearing held by MTC for this SIP revision satisfy the requirements of CAA section 110(l) and 40 CFR 51.102. A technical support document (TSD) is included in the docket for this rulemaking. Specifically, in our TSD, we identify how the submitted procedures satisfy requirements under 40 CFR 93.105 for interagency consultation with respect to the development of transportation plans and programs, SIPs, conformity determinations, the resolution of conflicts, the provision of adequate public consultation, and our requirements under 40 CFR 93.122(a)(4)(ii) and 93.125(c) for enforceability of control measures and mitigation measures. Please refer to our TSD and notice of proposed rulemaking for additional information regarding the content of the revised San Francisco Bay conformity SIP submittal and our review.

II. Public Comments and EPA Responses

The 30-day public comment period for the notice of proposed rulemaking closed on August 28, 2023. During this period, a member of the public submitted two identical comments to the EPA in support of the proposed approval. The full text of these comments is available for viewing in the docket for this rulemaking.

III. EPA Action

In accordance with section 110(k)(3) of the Act, and for the reasons discussed in our proposed rulemaking and summarized in this document, we are finalizing our approval of the San Francisco Bay Area conformity SIP submittal as a revision to the California SIP. The revision will be incorporated

⁴ See “Metropolitan Transportation Commission Resolution No. 2611. Revised, MTC/Sacramento Area Council of Governments (SACOG) Memorandum of Understanding (MOU) for Air Quality Planning in Eastern Solano County” and Metropolitan Transportation Commission Resolution No. 3757, “Re: Approval of San Francisco Bay Area Transportation Air Quality Conformity Protocol,” which is included in the docket for this rulemaking.

into the San Francisco Bay Area portion of the California SIP and thereby replace the previous revision approved on October 12, 2007.

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 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 14094 (88 FR 21879, April 11, 2023);
 - 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
 - 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.
- 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 rulemaking 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).

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 State did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. If finalized, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record 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 February 26, 2024. 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, Particulate Matter, Reporting and recordkeeping requirements.

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

Dated: December 20, 2023.

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 F—California

- 2. Section 52.220 is amended by adding paragraphs (c)(349)(i)(A)(2) and (c)(608) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *
(349) * * *
(i) * * *
(A) * * *

(2) Previously approved on October 12, 2007, in paragraph (c)(349)(i)(A)(1) of this section and now deleted with replacement in paragraph (c)(608)(i)(A)(1) of this section: the San Francisco Bay Area Transportation Air Quality Conformity Protocol—Conformity Procedures (July 26, 2006) and San Francisco Bay Area Transportation Air Quality Conformity Protocol—Interagency Consultation Procedures (July 26, 2006), adopted by BAAQMD on July 19, 2006, by ABAG on July 20, 2006, and by MTC on July 26, 2006.

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(608) San Francisco Bay Area Transportation Air Quality Conformity Protocol—Conformity Procedures and Interagency Consultation Procedures was submitted electronically on May 17, 2021, by the Governor’s designee as an attachment to a letter dated May 6, 2021.

(i) [Reserved]
(ii) *Additional materials.* (A) Association of Bay Area Governments (ABAG), Bay Area Air Quality Management District (BAAQMD), and Metropolitan Transportation Commission (MTC).

(1) The San Francisco Bay Area Transportation Air Quality Conformity

Protocol—Conformity Procedures (February 26, 2020) and San Francisco Bay Area Transportation Air Quality Conformity Protocol—Interagency Consultation Procedures (February 26, 2020), adopted by MTC on February 26, 2020, BAAQMD on March 4, 2020, and by ABAG on April 23, 2020.

(2) [Reserved]

(B) [Reserved]

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[FR Doc. 2023-28494 Filed 12-27-23; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2023-0090; FRL-11014-02-R6]

Air Plan Approval; Oklahoma; Revisions to Air Pollution Control Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving revisions to the State Implementation Plan (SIP) for Oklahoma, submitted to the EPA by the State of Oklahoma designee (“the State”) on January 30, 2023. The SIP revisions being approved address amendments to subchapters regarding Control of Emission of Volatile Organic Compounds (VOCs) and Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas.

DATES: This rule is effective on January 29, 2024.

ADDRESSES: The EPA has established a docket for this action under Docket ID EPA-R06-OAR-2023-0090. 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. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Mr. Emad Shahin, EPA Region 6 Office, Infrastructure and Ozone Section, 214-665-6717, shahin.emad@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The background for this action is discussed in detail in our June 13, 2023, proposal (88 FR 38433).¹ In that document we proposed to approve a portion of the revisions to the Oklahoma SIP submitted on January 30, 2023. Our June 2023 proposal addressed only the portion of the submittal that referred to the Oklahoma Administrative Code (OAC) Title 252, Chapter 100 (denoted OAC 252:100), Subchapters 37, and 39. The remainder of the submitted revisions were addressed in a separate rulemaking action.²

The revisions addressed in our June 2023 proposal add clarity and consistency to the Oklahoma SIP. The revisions do not relax the current SIP rules and are consistent with applicable Federal regulations. Therefore, and consistent with CAA section 110(l), we do not expect these revisions to interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the Act. More detail on these revisions is provided in the docket for this action.

Our June 2023 proposal provided a detailed description of the revisions and the rationale for the EPA’s proposed actions, together with a discussion of the opportunity to comment. The public comment period for our June 2023 proposal was extended to August 14, 2023, to allow additional time for stakeholders to review and comment on the proposal.

We received comments from the Muscogee (Creek) Nation, the Chickasaw Nation, and two anonymous comments. One anonymous comment supported the extension of the comment period and the other was supportive of this action generally. Below are our responses to comments from the Muscogee (Creek) Nation and the Chickasaw Nation.

II. Response to Comments

Comment: During Tribal Consultation, the Muscogee (Creek) Nation asked for more information regarding the number of compressor station facilities within the Muscogee Reservation.

Response: Region 6 was able to obtain the number of natural gas compressor

stations within the Muscogee (Creek) Nation Reservation from the ODEQ emission inventory database. There are 79 compressor stations in the counties that make up the reservation.

Comment: Commenter stated concern about the number of compressor stations (and therefore the amount of loading at relevant condensate tanks) on Muscogee (Creek) Reservation land, the amount of VOC’s, and the effects that the VOC’s may have on Muscogee citizens’ health and the environment.

Response: EPA agrees that VOC emissions can be harmful to human health and the environment but notes that this action will not result in any increase in emissions of VOCs. EPA has found this revision complies with Clean Air Act Requirements. EPA is required to approve SIP revisions that comply with all applicable requirements.

This action merely clarifies ODEQ’s long standing interpretation that the provisions of Subchapter 37 do not apply to loading operations at condensate tanks at compressor stations. As this is just a clarification, there is no change to how these facilities are regulated in practice and there is no increase in emissions of VOC’s. This type of loading, however, remains regulated under separate provisions specific to compressor station operations.

A loading facility has the main purpose of loading/unloading VOC’s in relatively large quantities using specialized equipment. Although condensate loading operations occur at compressor stations, that is not its main purpose. The transfer of condensate and produced water from atmospheric storage tanks into individual tanker trucks at a compressor station is a different type of operation both in scale and in the equipment used than is the case in, for example, the bulk transfer of gasoline at a pipeline terminal/bulk gasoline distribution system.

Condensate loading operations at compressor stations were not meant to be covered by 252:100-37-16 as they do not have the physical equipment (loading arm and pump) to conduct this type of loading and have much lower throughput and emissions. The loading of condensate from natural gas compressor station is regulated under other ODEQ rules such as 252:100-37-15(b) for submerged fill or a vapor recovery system which applies to most condensate tanks at compressor stations since a typical tank is about 400 barrels (16,800 gallons). Also, natural gas compressor stations are subject to federal New Source Performance Standards (NSPS) such as Subpart OOOO.

¹ Henceforth referred to as our “June 2023” proposal.

² The submitted revisions also address amendments to Subchapter 2, and Appendix Q, Incorporation by Reference, and Subchapter 8, Permits for Part 70 Sources and Major New Source Review (NSR) Sources, in the Oklahoma Administrative Code Title 252, Chapter 100, Oklahoma Department of Environmental Quality. More information about the EPA addressing these other sections may be found in the text of the June 2023 proposed action.