

(i) *Retention of audit report.* The verifying party must retain the report of the audit for a period of not less than three years from the date of issuance.

**§ 383.6 Terms for making payment of royalty fees.**

(a) *Terms in general.* Subject to the provisions of this section, terms governing timing and due dates of royalty payments to the Collective, late fees, statements of account, audit and verification of royalty payments and distributions, retention of records requirements, treatment of Licensees' confidential information, distribution of royalties by the Collective, unclaimed funds, designation of the Collective, and any definitions for applicable terms not defined in this part and not otherwise inapplicable shall be those adopted by the Copyright Royalty Judges for digital audio transmission and the reproduction of ephemeral recordings by Commercial Webcasters in part 380, subpart A, of this chapter, for the License Period. For purposes of this part, the term "Collective" refers to the collection and distribution organization that is designated by the Copyright Royalty Judges. For the License Period, the sole Collective is SoundExchange, Inc.

(b) *Reporting of performances.* Without prejudice to any applicable notice and recordkeeping provisions, statements of account shall not require reports of performances.

(c) *Applicable regulations.* To the extent not inconsistent with this part, all applicable regulations, including part 370 of this chapter, shall apply to activities subject to this part.

Dated: December 10, 2024.

**David P. Shaw,**

*Chief Copyright Royalty Judge.*

[FR Doc. 2024–29384 Filed 12–18–24; 8:45 am]

**BILLING CODE 1410–72–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA–R09–OAR–2024–0588; FRL–12486–01–R9]**

**Air Plan Revisions; California; California Mobile Source Regulations**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve all or portions of two submissions by the State of California ("State") to revise

its State Implementation Plan (SIP). The submissions consist of State regulations establishing standards and other requirements relating to the control of emissions from certain new on-road vehicles and engines. The EPA is proposing to approve the SIP revision because the regulations meet the applicable requirements of the Clean Air Act. If finalized, approval of the regulations as part of the California SIP will make them Federally enforceable.

**DATES:** Comments must be received on or before January 21, 2025.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2024–0588 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 a disability 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:** Rory Mays, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; phone: (415) 972–3227; email: [mays.rory@epa.gov](mailto:mays.rory@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

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**I. Background**

Under the Clean Air Act (CAA or "Act"), the EPA establishes national ambient air quality standards (NAAQS) to protect public health and welfare. The EPA has established NAAQS for certain pervasive air pollutants including ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, lead, and particulate matter. Under section 110(a)(1) of the CAA, states must submit plans that provide for the implementation, maintenance, and enforcement of the NAAQS within each State. Such plans are referred to as SIPs, and revisions to those plans are referred to as SIP revisions. Section 110(a)(2) of the CAA sets forth the content requirements for SIPs. Among the various requirements, SIPs must include enforceable emission limitations and other control measures, means, or techniques as may be necessary or appropriate to meet the applicable requirements of the CAA. See CAA section 110(a)(2)(A).

Emissions sources contributing to ambient air pollution levels can be divided into two basic categories: stationary emissions sources and mobile emissions sources. As a general matter, the CAA assigns stationary source regulation and SIP development responsibilities to the States through title I of the Act and assigns mobile source regulation to the EPA through title II of the Act. In so doing, the CAA preempts various types of State regulation of mobile sources as set forth in section 209(a) (preemption of State emissions standards for new motor vehicles and engines), section 209(e) (preemption of State emissions standards for new and in-use off-road vehicles and engines),<sup>1</sup> and section 211(c)(4)(A) (preemption of State fuel requirements for motor vehicle emission control other than California's motor vehicle fuel requirements for motor

<sup>1</sup> EPA regulations refer to "nonroad" vehicles and engines whereas California Air Resources Board (CARB) regulations refer to "off-road" vehicles and engines. These terms refer to the same types of vehicles and engines, and for the purposes of this action, we will be using CARB's chosen term, "off-road," to refer to such vehicles and engines.

vehicle emission control as authorized by section 211(c)(4)(B)).

Under California law, the California Air Resources Board (CARB) is the State agency responsible for adopting and submitting the California SIP and SIP revisions to the EPA for approval. Over the years, CARB has submitted, and the EPA has approved, many county and regional air district rules regulating stationary source emissions as part of the California SIP. See generally 40 CFR 52.220(c). With respect to regulation of mobile sources not specifically preempted by the CAA, CARB has submitted, and the EPA has approved, certain specific State regulatory programs or regulations, such as the various fuels regulations, the inspection and maintenance program for light-duty and other vehicles (also known as the “Smog Check” program), the Heavy Duty Vehicle Inspection Program (HDVIP)/Periodic Smoke Inspection Program (PSIP), and the Innovative Clean Transit Regulation.<sup>2</sup> See generally 40 CFR 52.220a(c).

CARB and the California air districts rely on these county, regional, and State stationary and mobile source regulations to meet various CAA requirements and account for the corresponding emissions reductions in the various regional air quality plans developed to attain and maintain the NAAQS. The EPA generally allows California to take credit for the corresponding emissions reductions relied upon in the various regional air quality plans because, among other reasons, the regulations are approved as part of the SIP and are thereby Federally enforceable as required under CAA section 110(a)(2)(A).

With respect to mobile sources that are specifically preempted under the CAA, CARB must request a waiver (for motor vehicles) or authorization (for off-road engines and equipment) from the EPA in order to enforce standards relating to the control of emissions from these types of mobile sources. See CAA sections 209(b) (new motor vehicles) and 209(e)(2) (most categories of new

and in-use off-road vehicles). Over the years, CARB has submitted many requests for waiver or authorization of its standards and other requirements relating to the control of emissions from new on-road and new and in-use off-road vehicles and engines, and the EPA has granted many such requests. Once the EPA grants the request for waiver or authorization, CARB may enforce the corresponding mobile source regulations and may rely on the related emissions reductions to meet CAA requirements, and until 2015, the EPA had approved California air quality plans that took credit for emissions reductions from such regulations, notwithstanding the fact that California had not submitted these particular regulations as part of the California SIP.

The EPA’s longstanding practice of approving California plans that rely on emissions reductions from such “waiver measures,” notwithstanding the lack of approval as part of the SIP, was challenged in several petitions filed in the Ninth Circuit Court of Appeals. In a 2015 decision, the Ninth Circuit held in favor of the petitioners on this issue and concluded that CAA section 110(a)(2)(A) requires that all State and local control measures on which SIPs rely to attain the NAAQS be included in the SIP, including the “waiver measures,” and thereby subject to enforcement by the EPA and members of the general public. See *Committee for a Better Arvin v. EPA*, 786 F.3d 1169 (9th Cir. 2015).

In response to the decision in *Committee for a Better Arvin v. EPA*, CARB made SIP submissions on August 14, 2015; December 7, 2016; and June 15, 2017; consisting of State mobile source regulations that establish standards and other requirements for the control of emissions from various new on-road and new and in-use off-road vehicles and engines for which the EPA had issued waivers or authorizations and that California regional plans rely upon to attain and maintain the NAAQS. The EPA took final action on those SIP revisions at 81 FR 39424 (June 16, 2016), 82 FR 14446 (March 21, 2017), and 83 FR 23232 (May 18, 2018), respectively. In this document, the EPA is proposing action on two SIP submissions submitted by CARB on August 8, 2023, and June 25,

2024, which include four new or amended CARB mobile source regulations for which the EPA issued waivers in 2023 as discussed further in the following sections of this document.

## II. The State’s Submissions

### A. What regulations did the State submit?

CARB submitted two SIP revisions that include four mobile source regulations and documentation of the public process conducted by CARB in adopting and submitting the regulations for inclusion in the California SIP. Specifically, on August 8, 2023, CARB submitted the Advanced Clean Trucks Regulation, Heavy-Duty Warranty Regulations and Maintenance Provisions, and Zero-Emission Airport Shuttle Regulation to the EPA.<sup>3</sup> On June 25, 2024, CARB submitted the Alternative Certification Requirements and Test Procedures for Heavy-Duty Electric and Fuel-Cell Vehicles and Proposed Standards and Test Procedures for Zero-Emission Powertrains (herein referred to as the “Zero-Emission Powertrain Certification Regulation”) to the EPA.<sup>4</sup>

For the four mobile source regulations that are the subject of this proposed action, CARB requested and the EPA has granted the appropriate waiver under CAA section 209. Table 1 lists each regulation and identifies the applicable mobile source category to which it applies, the relevant sections of the California Code of Regulations (CCR), the corresponding date of adoption by the CARB Board, and the notice of decision in which the EPA granted the relevant waiver.

<sup>3</sup> CARB submitted the Advanced Clean Trucks Regulation, Heavy-Duty Warranty Regulation and Maintenance Provisions, and the Zero-Emission Airport Shuttle Regulation to the EPA electronically on August 8, 2023, as attachments to a letter dated July 12, 2023, from Steven S. Cliff, Ph.D., Executive Officer, CARB to Martha Guzman, Regional Administrator, EPA Region IX.

<sup>4</sup> CARB submitted the Zero-Emission Powertrain Certification Regulation to the EPA electronically on June 25, 2024, as attachments to a letter dated June 25, 2024, from Steven S. Cliff, Ph.D., Executive Officer, CARB to Martha Guzman, Regional Administrator, EPA Region IX. This SIP submission included additional SIP revisions that the EPA will address in separate rulemakings, including the Clean Miles Standard Regulation and several amendments to CARB’s consumer products regulations.

<sup>2</sup> See 75 FR 26653 (May 12, 2010) (revisions to California on-road reformulated gasoline and diesel fuel regulations), 75 FR 38023 (July 1, 2010) (revisions to California Smog Check program), 87 FR 27949 (May 10, 2022) (HDVIP/PSIP), and 88 FR 10049 (February 16, 2023) (Innovative Clean Transit Regulation).

TABLE 1—SUMMARY OF CARB MOBILE SOURCE REGULATIONS SUBMITTED AS SIP REVISIONS

CARB regulation/source category	Relevant sections of California Code of Regulations (CCR)	CARB Board adoption date	EPA notice of decision
Advanced Clean Trucks Regulation/On-Road Medium- and Heavy-Duty Vehicles.	New sections: 13 CCR §§ 1963, 1963.1–1963.5, 2012, 2012.1, 2012.2, effective for State law purposes on March 15, 2021.	June 25, 2020 .....	88 FR 20688 (April 6, 2023).
Heavy-Duty Warranty Regulations and Maintenance Provisions/On-Road Diesel-Powered Heavy-Duty Vehicles.	Amended sections: 13 CCR §§ 1956.8, 2035, 2036, 2040, and the document incorporated by reference (see Table 2 of this document), effective for State law purposes on October 1, 2019.	June 28, 2018 .....	88 FR 20688 (April 6, 2023).
Zero-Emission Airport Shuttle Regulation/Airport Shuttles.	New sections: 17 CCR §§ 95690.1–95690.8, effective for State law purposes on April 1, 2020.	June 27, 2019 .....	88 FR 20688 (April 6, 2023).
Zero-Emission Powertrain Certification Regulation/Medium- and Heavy-Duty Electric and Fuel-Cell Vehicles.	Amended sections: 13 CCR § 1956.8 and 17 CCR § 95663, and the documents incorporated by reference (see Table 2 of this document), effective for State law purposes on April 1, 2020.	June 27, 2019 .....	88 FR 20688 (April 6, 2023).

The Heavy-Duty Warranty Regulations and Maintenance Provisions and the Zero-Emission

Powertrain Certification Regulation incorporate by reference documents that amend or establish test procedures,

among other things. Table 2 lists the incorporated documents included in the SIP submissions.

TABLE 2—DOCUMENTS INCORPORATED BY REFERENCE IN CERTAIN REGULATIONS LISTED IN TABLE 1 AND SUBMITTED AS PART OF SIP REVISION

#### On-Road Diesel-Powered Heavy-Duty Vehicles

California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles, as amended April 18, 2019.

#### Heavy-Duty Electric and Fuel-Cell Vehicles

California Greenhouse Gas Exhaust Emission Standards and Test Procedures for 2014 and Subsequent Model Heavy-Duty Vehicles, as last amended on June 27, 2019.

California Standards and Test Procedures for New 2021 and Subsequent Model Heavy-Duty Zero-Emission Powertrains, as adopted June 27, 2019.

#### *B. Are there other versions of these regulations in the SIP?*

All the rules that comprise the Advanced Clean Trucks Regulation and the Zero-Emission Airport Shuttle Regulation would be new to the California SIP.

The Heavy-Duty Warranty Regulations and Maintenance Provisions amend 13 CCR 1956.8, specifically subsection (b), and certain test procedures, which the EPA last approved in 2018.<sup>5</sup> The other sections of the CCR that comprise the Heavy-Duty Warranty Regulations and Maintenance Provisions would be new to the SIP.

The Zero-Emission Powertrain Certification Regulation amends the subsections of 13 CCR 1956.8 that relate to emissions standards and definitions. The EPA most recently approved those subsections in 2016.<sup>6</sup> The amendments to 17 CCR 95663 and the new or

amended test procedures would be new to the SIP.

#### *C. What is the purpose of the submitted regulations?*

California has experienced some of the most severe and most persistent air pollution problems in the country. Under the CAA, based on ambient data collected at numerous sites throughout the State, the EPA has designated areas within California as nonattainment areas for the ozone NAAQS and the particulate matter (PM) NAAQS, which includes both coarse and fine particulate (*i.e.*, PM<sub>10</sub> and PM<sub>2.5</sub>). See, generally, 40 CFR 81.305. Several areas in California that had been designated as nonattainment areas for the carbon monoxide NAAQS have been redesignated by the EPA as attainment areas because California has attained the standard in those areas and is subject to an approved maintenance plan demonstrating how the State will maintain the carbon monoxide standard into the future.

Mobile source emissions constitute a significant portion of overall emissions of carbon monoxide, ozone precursors including volatile organic compounds (VOC) and oxides of nitrogen (NO<sub>x</sub>), and direct PM and PM precursors including NO<sub>x</sub> and sulfur dioxide (SO<sub>2</sub>) in the various air quality planning areas within California.<sup>7</sup> Thus, a main purpose of CARB's mobile source regulations in general, and the mobile source regulations that are subject of this proposed action in particular, is to reduce these emissions and thereby reduce ambient concentrations of these pollutants to help California attain and maintain the NAAQS throughout the State.<sup>8</sup> At elevated levels, ozone and PM

<sup>7</sup> VOC and NO<sub>x</sub> are precursors responsible for the formation of ozone, and NO<sub>x</sub> and SO<sub>2</sub> are precursors for PM<sub>2.5</sub>. SO<sub>2</sub> belongs to a family of compounds referred to as sulfur oxides. PM<sub>2.5</sub> precursors also include VOC and ammonia. See 40 CFR 51.1000.

<sup>8</sup> See, *e.g.*, 13 CCR section 1963(a) and Attachment A to CARB Resolution 20–19, June 25, 2020, p. 18 (Advanced Clean Trucks Regulation); CARB Resolution 18–24, June 28, 2018, pp. 8–9

<sup>5</sup> 83 FR 23232 (May 18, 2018).

<sup>6</sup> 81 FR 39424.

harm human health and the environment by contributing to premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems.

CARB adopted the mobile source regulations that are the subject of this proposed action to address, in part, commitments made by CARB as part of the “Revised Proposed 2016 State Strategy for the State Implementation Plan” (March 7, 2017) (“2016 State SIP Strategy”) and the “San Joaquin Valley Supplement to the 2016 State Strategy for the State Implementation Plan” (October 25, 2018) (“Valley State SIP Strategy”).<sup>9</sup> CARB adopted the 2016 State SIP Strategy to provide, in combination with local measures, a plan for achieving emission reductions necessary to attain the ozone NAAQS across California. CARB adopted the supplemental Valley State SIP Strategy to provide a plan for achieving additional emission reductions necessary to attain the PM<sub>2.5</sub> NAAQS in San Joaquin Valley.

The 2016 State SIP Strategy and the Valley State SIP Strategy included commitments to develop and bring to the CARB Board for consideration the Last Mile Delivery and Zero-Emission Airport Shuttle Buses measures.<sup>10</sup> The Last Mile Delivery measure became the Advanced Clean Trucks Regulation and the Zero-Emission Airport Shuttle Buses measure became the Zero-Emission Airport Shuttle Regulation. The Valley State SIP Strategy expanded the 2016 State Strategy’s Lower In-Use Performance Level measure to include a commitment to develop and bring to the CARB Board for consideration the Amended Warranty Requirements for Heavy-Duty Vehicles measure, which became the Heavy-Duty Warranty Regulations and Maintenance Provisions. The Zero-Emission Powertrain Certification Regulation supports other CARB regulations, including the Advanced Clean Trucks Regulation.<sup>11</sup>

In addition, CARB’s “2022 State Strategy for the State Implementation Plan” (“2022 State SIP Strategy”) was adopted as part of the State’s plan to

attain the 2015 ozone NAAQS, which relies upon emission reductions from the regulations evaluated herein.<sup>12</sup> Lastly, we note that the Advanced Clean Truck Regulation is included specifically in the most recent EPA-approved version of CARB’s EMFAC on-road vehicle emissions factor model, EMFAC2021.<sup>13</sup> The EPA approved EMFAC2021 for use in SIP development and transportation conformity in California.

#### *D. What requirements do the regulations establish?*

In the following paragraphs, we briefly summarize some of the key emission control requirements in the new or amended regulations addressed in this proposed action and listed in table 1 of this document. For further detail on each provision of the CCR that has been submitted for incorporation into the California SIP for these new or amended regulations, see the December 2024 “EPA Technical Support Document on California Air Resources Board Mobile Source Regulation SIP Submissions.”

The Advanced Clean Trucks Regulation requires that manufacturers produce and sell increasing percentages of medium- and heavy-duty zero-emission vehicles (ZEVs) and near zero-emission vehicles (NZEVs) in California in each model year. These quantities of vehicles are based on increasingly higher percentages of manufacturers’ annual sales of on-road medium- and heavy-duty vehicles, beginning in the 2024 model year.

The Heavy-Duty Warranty Regulations and Maintenance Provisions extend the emissions warranty periods for 2022 and subsequent model year on-road heavy-duty diesel engines and for 2022 and subsequent model year diesel vehicles with a gross vehicle weight rating exceeding 14,000 pounds powered by such engines.

The Zero-Emission Airport Shuttle Regulation establishes steadily increasing zero-emission airport shuttle fleet composition requirements for airport shuttle fleet owners who service the thirteen largest California airports.

The Zero-Emission Powertrain Certification Regulation establishes certification requirements and optional emission standards for 2021 and subsequent model year medium- and heavy-duty ZEVs and the zero-emission powertrains installed in such vehicles.

For more information on these four regulations, see 88 FR 20688 (April 6, 2023).

### **III. EPA’s Evaluation and Proposed Action**

#### *A. How is the EPA evaluating the regulations?*

The EPA has evaluated the submitted regulations discussed in section II of this document against the applicable procedural and substantive requirements of the CAA for SIPs and SIP revisions and is proposing to conclude that they meet all the applicable requirements. Generally, SIPs must include enforceable emission limitations and other control measures, means, or techniques, including schedules and timetables for compliance, as may be necessary to meet the requirements of the Act (see CAA section 110(a)(2)(A)); must provide necessary assurances that the State will have adequate personnel, funding, and authority under State law to carry out such SIP (including that the State is not prohibited by any provision of Federal or State law from carrying out such SIP) (see CAA section 110(a)(2)(E)); must be adopted by a State after reasonable notice and public hearing (see CAA section 110(l)); and must not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act (see CAA section 110(l)).<sup>14</sup>

#### *B. Do the State’s regulations meet CAA SIP evaluation criteria?*

1. Did the State provide adequate public notification and comment periods?

Under CAA sections 110(a)(2) and 110(l), SIP revisions must be adopted by the State, and the State must provide for reasonable public notice and hearing prior to adoption. In 40 CFR 51.102(d), the EPA specifies that reasonable public notice in this context refers to at least 30 days.

All the submitted regulations have gone through extensive public comment processes including CARB’s workshop and hearing processes prior to CARB adoption of each regulation, and CARB has provided documentation of these processes as part of its SIP submissions.

<sup>14</sup> CAA section 193, which prohibits any pre-1990 SIP control requirement relating to nonattainment pollutants in nonattainment areas from being modified unless the SIP is revised to insure equivalent or greater emission reductions of such air pollutants, does not apply to these regulations because they are new regulations or amended regulations previously approved in the California SIP in 2016 and 2018, and thus, do not constitute an amendment to a pre-1990 SIP control requirement.

(Heavy-Duty Warranty Regulations and Maintenance Provisions); and CARB Resolution 19–8, February 21, 2019, p. 7 (Zero-Emission Airport Shuttle Regulation).

<sup>9</sup> The EPA approved the 2016 State SIP Strategy at 84 FR 3302 (February 12, 2019) (corrected at 84 FR 19680, May 3, 2019), and at 84 FR 52005 (October 1, 2019). The EPA approved the Valley State SIP Strategy at 85 FR 44192 (July 22, 2020).

<sup>10</sup> CARB Executive Order S–23–011, dated July 12, 2023, p. 2.

<sup>11</sup> CARB Resolution 24–4, May 23, 2024, p. 2.

<sup>12</sup> CARB, 2022 State SIP Strategy, adopted September 22, 2022.

<sup>13</sup> The EPA approved EMFAC2021 at 87 FR 68483 (November 15, 2022).

Additionally, the EPA's waiver process provided a separate opportunity for the public to submit written comment and to request public hearings to present information relevant to the separate action in which EPA evaluated CARB's

request for the relevant waivers and authorizations under section 209 of the CAA.<sup>15</sup>

In table 3, for each of the subject CARB regulations, we list the date that CARB published notice of public

hearing, the date of the public hearing, the resolution through which CARB adopted the regulations, and the CARB resolution or Executive Order through which CARB adopted the regulation as part of the California SIP.

TABLE 3—KEY DATES LEADING TO ADOPTION AND SUBMISSION OF CARB REGULATIONS ADDRESSED IN THIS PROPOSED ACTION

CARB regulation	Date of notice of public hearing	Date of public hearing	CARB Board resolution of adoption of regulation	CARB Board resolution or Executive Order (E.O.) of adoption of regulation as revision to California SIP
Advanced Clean Trucks Regulation.	October 8, 2019 ...	December 12, 2019.	Resolution 20–19, June 25, 2020.	Resolution 20–19 and E.O. S–23–011, July 12, 2023.
Heavy-Duty Warranty Regulations and Maintenance Provisions.	April 24, 2018 .....	June 28, 2018 .....	Resolution 18–24, June 28, 2018.	Resolution 18–24 and E.O. S–23–011, July 12, 2023.
Zero-Emission Airport Shuttle Regulation.	December 18, 2018.	February 21, 2019	Resolution 19–16, June 27, 2019.	E.O. S–23–011, July 12, 2023.
Zero-Emission Powertrain Certification Regulation.	December 18, 2018.	February 21, 2019	Resolution 19–15, June 27, 2019.	Resolution 24–4, May 23, 2024.

Based on the public participation processes that CARB has undertaken and documented for the four regulations in the two relevant SIP submissions, CARB's SIP submissions of the four regulations meet the applicable procedural requirements for SIP revisions under the CAA sections 110(a)(2) and 110(l) and 40 CFR 51.102.

## 2. Does the State have adequate legal authority to implement the regulations?

CARB has been granted both general and specific authority under the California Health & Safety Code (H&SC) to adopt and implement these regulations. California H&SC sections 39600 (“Acts required”) and 39601 (“Adoption of regulation; Conformance to Federal law”) confer on CARB the general authority and obligation to adopt regulations and measures necessary to execute CARB's powers and duties imposed by State law. California H&SC sections 43013(a) and 43018 provide broad authority to achieve the maximum feasible and cost-effective emission reductions from all mobile source categories. Regarding in-use motor vehicles, California H&SC sections 43600 and 43701(b), respectively, grant CARB authority to

adopt emission standards and emission control equipment requirements.

The mobile source regulations that are the subject of this proposed action were submitted by CARB under CAA section 209 with a request for waiver and were granted such waiver by the EPA.<sup>16</sup> Thus, the regulations we are proposing to approve in this document are not preempted under the CAA. For additional information regarding California's motor vehicle emission standards, please see the EPA's “California Waivers and Authorizations” web page at URL address: <https://www.epa.gov/state-and-local-transportation/vehicle-emissions-california-waivers-and-authorizations>. This website also lists relevant **Federal Register** notices that have been issued by the EPA in response to California waiver and authorization requests.

In addition, the EPA is unaware, at the present time, of any non-CAA legal obstacle to CARB's enforcement of the regulations<sup>17</sup> and CARB has provided the necessary assurances that the State has adequate authority under State law to carry out the SIP revision (and is not prohibited by any provision of Federal or State law from carrying out such SIP) and thereby meets the requirements of

CAA section 110(a)(2)(E) with respect to legal authority.

## 3. Are the regulations enforceable as required under CAA section 110(a)(2)?

We have evaluated the enforceability of the new or amended mobile source regulations with respect to applicability and exemptions; standard of conduct and compliance dates; sunset provisions; discretionary provisions; and test methods, recordkeeping, and reporting;<sup>18</sup> the amended regulations would be enforceable for the purposes of CAA section 110(a)(2) for the reasons presented in the following paragraphs.

First, with respect to applicability, the new or amended regulations are sufficiently clear as to which persons and which vehicles or engines are affected by the regulations. See, e.g., 13 CCR sections 1963(b) and (e) (applicability and exemption provisions for the Advanced Clean Trucks Regulation), and 17 CCR sections 95690.3 and 95690.6 (applicability and exemption provisions for the Zero-Emission Airport Shuttle Regulation).

Second, the new or amended regulations are sufficiently specific so that the persons affected by the regulations are on notice as to what the requirements and related compliance

<sup>15</sup> The EPA's actions issuing the relevant waivers are separate actions outside the scope of this rulemaking. Thus, we are not soliciting comments on the issuance of waivers as part of this action.

<sup>16</sup> We note that the EPA's waiver published at 88 FR 20688 for CARB's Advanced Clean Trucks Regulation, Heavy-Duty Warranty Regulations and Maintenance Provisions, Zero-Emission Airport Shuttle Regulation, and Zero-Emission Powertrain Certification Regulation has been challenged in the U.S. Court of Appeals for the D.C. Circuit. The

individual related challenges have been consolidated into *Western States Trucking Association v. EPA*, 23–1143. The *Western States Trucking Association v. EPA* case is currently in abeyance pending the Court's resolution of *Ohio v. EPA*, No. 22–1081, and *Texas v. EPA*, No. 22–1031. If the EPA's waiver decision is overturned by the Court before we take final action on the subject regulations as revisions to the California SIP, then we will reconsider this proposed approval in light of the decision.

<sup>17</sup> We note that the petitioners in *Western States Trucking Association* have raised certain non-CAA claims as well.

<sup>18</sup> These concepts are discussed in detail in an EPA memorandum from J. Craig Potter, EPA Assistant Administrator for Air and Radiation, et al., titled “Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency,” September 23, 1987.

dates are. For example, see the model-year-specific deficit and credit generation and compliance demonstration provisions set forth in the Advanced Clean Truck Regulation at 13 CCR sections 1963.1, 1963.2, and 1963.3; and the fleet requirements and compliance dates set forth in the Zero-Emission Airport Shuttle Regulation at 17 CCR section 95690.5.

Third, none of the new or amended regulations contain sunset provisions that automatically repeal the emissions limits by a given date or upon the occurrence of a particular event, such as the change in the designation of an area from nonattainment to attainment.

Fourth, with the exception of certain provisions in the Zero-Emission Airport Shuttle Regulation, as described in the following paragraphs, the new or amended regulations do not contain provisions that allow for discretion on the part of CARB's Executive Officer. As a general matter, such "director's discretion" provisions can undermine enforceability of a SIP regulation, and thus prevent full approval by the EPA.

Under 17 CCR section 95690.7(a), the Zero-Emission Airport Shuttle Regulation authorizes the CARB Executive Officer to grant a fleet owner an extension to the compliance deadline or purchase replacement requirement for a fleet that is domiciled in a facility with site limitations that either prevent adequate zero-emission charging infrastructure from being installed, or if installed, would not allow for safe ingress and egress at the facility. However, under the Regulation, the CARB Executive Officer may grant only one "infrastructure facility extension" to a given fleet owner, and the extension can be granted for not more than two years. Under 17 CCR section 95690.7(b), the CARB Executive Officer may grant a fleet owner an extension to the compliance deadline or purchase replacement requirement due to unforeseen, temporary, or extenuating circumstances outside of the fleet owner's control. The extension provided for in 17 CCR section 95690.7(b) is not limited to a single instance for a given fleet owner or limited in duration. With respect to either type of extension, we note that 17 CCR section 95690.7(c) specifies an application process, provides for a 30-day public comment period on any such application, requires CARB consider and address comments received during the public comment period, and to make the notification to the applicant (if the application is denied) or approved plan (if the application is approved) available to the public on the CARB Zero-Emission Airport Shuttle website.

As noted, director's discretion provisions can undermine enforceability of a SIP regulation, and while the provisions requiring public review and comment on extension applications provide beneficial public participation opportunities and transparency, they do not fully mitigate the identified deficiencies. However, due to the time constraints built into the "infrastructure facility extension" under 17 CCR section 95690.7(a) and the limited circumstances under which the CARB Executive Officer may grant extensions under 17 CCR section 95690.7(b), we propose to find that the deficiencies with respect to enforceability would not significantly undermine enforcement of the Regulation by citizens or the EPA and thus do not prevent the EPA from proposing approval of the Zero-Emission Airport Shuttle Regulation as a SIP-strengthening measure.

Lastly, the new or amended regulations identify appropriate test methods and include adequate recordkeeping and reporting requirements sufficient to ensure compliance with the applicable requirements. See, e.g., the reporting and recordkeeping requirements set forth in the Advanced Clean Trucks Regulation at 13 CCR section 1963.4 and in the Zero-Emission Airport Shuttle Regulation at 17 CCR section 95690.4.

4. Do the regulations interfere with reasonable further progress and attainment or any other applicable requirement of the Act?

All the State's reasonable further progress (RFP), attainment, and maintenance plans rely to some extent on the emission reductions from CARB's mobile source program, including the emissions standards and other requirements for which the EPA has issued waivers or authorizations. CARB's mobile source program is accounted for in the emissions estimates for mobile sources that are included in the emissions inventories that form the quantitative basis for the RFP, attainment, and maintenance demonstrations. The new and amended regulations evaluated herein would reduce criteria pollutant emissions.<sup>19</sup>

Based on CARB estimates, these four new and amended regulations,

<sup>19</sup> The EPA stated in the Notice of Decision for the waivers of CAA preemption for the regulations proposed here that, "Although nothing in the statutory text limits California's program or the associated waivers to a certain category of air pollution problems, the EPA notes that each of the regulations contained in the two waiver requests from CARB is clearly designed to address emissions of criteria pollutants and will have that effect, regardless of whether some also reduce greenhouse gases." 88 FR 20688, 20702.

considered together, would reduce statewide direct PM<sub>2.5</sub> emissions by approximately 0.11 tons per day (tpd) in 2030 and statewide NO<sub>x</sub> emissions by approximately 5 tpd in 2031 and 12 tpd in 2037.<sup>20</sup> In doing so, these control measures support California's plans to attain the 2012 annual PM<sub>2.5</sub> NAAQS by 2030 (for the Serious areas of Los Angeles-South Coast Air Basin and San Joaquin Valley),<sup>21</sup> the 2008 ozone NAAQS by 2031 (for the Extreme areas of Los Angeles-South Coast Air Basin, San Joaquin Valley, and Riverside County (Coachella Valley)), and the 2015 ozone NAAQS by 2037 (for the Extreme areas of Los Angeles-South Coast Air Basin, San Joaquin Valley, and Riverside County (Coachella Valley)).<sup>22</sup> They also support California's plans to attain the 2015 ozone NAAQS by 2032 for three Severe-15 areas in California (i.e., Los Angeles-San Bernardino Counties (West Mojave Desert), Kern County (Eastern Kern), and Sacramento Metro).<sup>23</sup>

Moreover, as discussed in more detail in Section II.C of this document, the new or amended regulations that are evaluated herein were adopted to fulfill certain commitments made by CARB in the 2016 State SIP Strategy and Valley State SIP Strategy and are relied upon in the 2022 State SIP Strategy. As such, the new and amended regulations would support the various RFP, attainment, and maintenance plans, and would not interfere with such requirements for the purposes of CAA section 110(l).

<sup>20</sup> The emissions estimates are based on emissions data presented in the Initial Statement of Reasons (ISOR) published by CARB for each of the four individual regulatory actions considered herein, including appendix F of the ISOR documents for the Advanced Clean Trucks Regulation and the Heavy-Duty Warranty Regulations and Maintenance Provisions. We include the relevant ISORs in the docket for this rulemaking. See also, EPA Region IX, "Summary of Statewide Emission Reduction Estimates by CARB for Each of Four On-Road Regulations," December 2024.

<sup>21</sup> CARB has requested an attainment date extension from December 31, 2025, to December 31, 2030, under CAA section 188(e) for the Los Angeles-South Coast Air Basin and San Joaquin Valley Areas. See CARB Resolution 24–7, June 27, 2024, p. 3 (Los Angeles-South Coast Air Basin) and CARB Resolution 24–10, July 25, 2024, p. 3 (San Joaquin Valley).

<sup>22</sup> The Riverside County (Coachella Valley) nonattainment area is currently classified as Severe-15 for the 2015 ozone NAAQS but CARB has requested reclassification from Severe-15 to Extreme for this area.

<sup>23</sup> The Kern County (Eastern Kern) and Sacramento Metro nonattainment areas are currently classified as Serious for the 2015 ozone NAAQS but CARB has requested reclassification from Serious to Severe-15 for both areas.

5. Will the State have adequate personnel and funding for the regulations?

In previous SIP submissions dated August 14, 2015, and October 1, 2018, CARB refers to the annual approval by the California Legislature of funding and staff resources for carrying out CAA-related responsibilities and notes that a large portion of CARB's budget has gone toward meeting CAA mandates.<sup>24 25</sup> CARB indicates that a majority of CARB's funding comes from dedicated fees collected from regulated emission sources and other sources such as vehicle registration fees and vehicles license plate fees and that these funds can only be used for air pollution control activities.<sup>26</sup> For the 2024–2025 budget cycle, CARB has over 1,100 positions and almost \$560 million dedicated to developing and enforcing the mobile source program regulations.<sup>27</sup> Given the longstanding nature of CARB's mobile source program, its adequate personnel and funding dedicated to developing and enforcing the mobile source program regulations, and its history of effective implementation of similar regulations as illustrated by the documented mobile source emissions reductions achieved,<sup>28</sup> CARB has provided necessary assurances that the State has adequate personnel and funding to carry out the mobile source regulations and amendments submitted for approval on August 8, 2023, and June 25, 2024.

#### 6. EPA's Proposed Conclusion

Based on the preceding discussion, we propose to find that these regulations are consistent with the relevant CAA requirements and with relevant EPA policies and guidance with the exception noted previously in connection with director's discretion provisions in the Zero-Emission Airport Shuttle Regulation. We also propose to find that the director's discretion

provisions in the Zero-Emission Airport Shuttle Regulation would not significantly undermine enforcement of the Regulation by citizens or the EPA and thus do not prevent the EPA from proposing approval of the Zero-Emission Airport Shuttle Regulation as a SIP-strengthening measure.

#### C. Proposed Action and Public Comment

As authorized in section 110(k)(3) of the Act, the EPA proposes to approve all or portions of two SIP submissions submitted by CARB on August 8, 2023, and June 25, 2024, that include certain sections of titles 13 and 17 of the California Code of Regulations and establish standards and other requirements relating to the control of emissions from certain new on-road vehicles and engines. We are proposing to approve these regulations as part of the California SIP based on our proposed determination that they fulfill all relevant CAA requirements. We will accept comments from the public on this proposal until January 21, 2025. If we take final action to approve the submitted regulations, our final action will incorporate these regulations into the Federally enforceable SIP for the State of California.

#### IV. Environmental Justice Considerations

As explained in the EJ Legal Tools to Advance Environmental Justice 2022 document, the CAA provides States with the discretion to consider environmental justice in developing rules and measures related to nonattainment area control measures analyses.<sup>29</sup> In this instance, CARB exercised this discretion, and we summarize the State's discussion of EJ in the following paragraphs. In reviewing CARB's analysis, the EPA defers to CARB's reasonable exercise of its discretion in considering EJ in this way.

CARB discusses environmental justice in its "Initial Statement of Reasons" (ISOR) staff report for each of the measures addressed in this proposed action and released such reports in advance of the respective public hearings where the measures would be considered for adoption. Where CARB received comments relating to environmental justice, it provided responses in its "Final Statement of Reasons" (FSOR).<sup>30</sup> In addition, in

board resolutions adopting each measure, CARB affirms that the regulations are consistent with the Board's environmental justice policies and do not disproportionately impact people of any race, culture, or income. The ISOR, FSOR, and board resolution(s) for each measure are included in the SIP submission for each measure.

For the Advanced Clean Trucks Regulation, CARB states that one key strategy to meeting the State's "air quality, public health, and climate goals, along with ensuring economic prosperity, social equity, and energy security" is transitioning to zero-emission technologies and that the Advanced Clean Trucks Regulation is essential to that strategy.<sup>31</sup> CARB notes that medium- and heavy-duty trucks are the primary means of distributing goods and services and are prevalent at distribution centers, ports, warehouses, and major roadways, which are common to densely populated urban areas that include disadvantaged communities. CARB states that deploying heavy-duty ZEVs, as the Advanced Clean Trucks Regulation requires, would eliminate tailpipe emissions and reduce brake wear PM emissions (due to regenerative braking) from such vehicles in such disadvantaged communities.

For the Heavy-Duty Warranty Regulations and Maintenance Provisions, CARB states that the regulation would promote timelier repair of malfunctioning vehicle emission components, support improved overall maintenance and less engine tampering, and reduce emissions of NO<sub>x</sub> and diesel PM.<sup>32</sup> CARB anticipates that emission reductions will be greatest near major trucking and freight corridors, ports, and railyards, where the majority of trucks operate, thereby benefiting environmental justice communities found along such goods movement facilities.

For the Zero-Emission Airport Shuttle Regulation, CARB states that the measure would improve air quality at

<sup>24</sup> Letter dated August 14, 2015, from Richard W. Corey, Executive Officer, CARB, to Jared Blumenfeld, Regional Administrator, EPA Region IX, p. 2 (for a prior set of mobile source regulations).

<sup>25</sup> Letter dated October 1, 2018, from Richard W. Corey, Executive Officer, CARB, to Michael Stoker, Regional Administrator, EPA Region IX, and CARB, "California Infrastructure SIP, Revision for the 0.070 Parts per Million 8-Hour Ozone Standard," report release date August 24, 2018, pp. 15–16.

<sup>26</sup> Id.

<sup>27</sup> California Department of Finance, 2024–25 State Budget, Department Report, 3900 State Air Resources Board, enacted June 26, 2024.

<sup>28</sup> CARB, 2022 State Strategy for the State Implementation Plan (September 22, 2022), figure 5 on page 7 (illustrating a 73% reduction in mobile source NO<sub>x</sub> emissions in California from 2000–2020, excluding primarily federally-regulated mobile sources—interstate trucks, planes, trains, and ships).

<sup>29</sup> EPA Office of General Counsel, "EPA Legal Tools to Advance Environmental Justice," May 2022. See, for example, "Chapter One: Clean Air Act Programs."

<sup>30</sup> See, for example, CARB, "Advanced Clean Trucks Regulation, Final Statement of Reasons,"

March 2021, e.g., pp. 94–99 (regarding inclusion of pickups earlier and/or increase sales percentage requirements).

<sup>31</sup> CARB, "Public Hearing to Consider the Proposed Advanced Clean Trucks Regulation, Staff Report: Initial Statement of Reasons," release date October 22, 2019, section VIII. Environmental Justice.

<sup>32</sup> CARB, "Public Hearing to Consider Proposed Amendments to California Emission Control System Warranty Regulations and Maintenance Provisions for 2022 and Subsequent Model Year On-Road Heavy-Duty Diesel Vehicles and Heavy-Duty Engines with Gross Vehicle Weight Ratings Greater than 14,000 Pounds and Heavy-Duty Diesel Engines in Such Vehicles, Staff Report: Initial Statement of Reasons," release date May 8, 2018, section VIII. Environmental Justice.



airports (*i.e.*, reduce emissions relative to existing airport shuttles), including airports in the South Coast Air Basin (*e.g.*, LAX, BUR, and ONT) and the San Francisco Bay Area (*e.g.*, OAK), which are in disadvantaged communities.<sup>33</sup>

For the Zero-Emission Powertrain Certification Regulation, CARB states that, while the emission reductions from the measure are not directly quantifiable (because it does not mandate deployment of heavy-duty electric or fuel-cell vehicles), it expects the measure to help ensure the success of CARB's other zero-emission efforts, which will benefit disadvantaged communities that are disproportionately impacted by heavy-duty truck traffic and off-road equipment usage.<sup>34</sup>

The EPA is taking proposed action to approve the SIP revision because it meets minimum requirements pursuant to the CAA and relevant implementing regulations. The EPA also finds that CARB's consideration of EJ analyses in this context is reasonable. The EPA encourages air agencies generally to evaluate environmental justice considerations of their actions and carefully consider impacts to communities. The EJ analyses submitted by the air agency were considered but were not the basis for EPA's decision making and the SIP met the minimum applicable requirements, as explained in this document.

## V. Incorporation by Reference

In this action, 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 certain sections of titles 13 and 17 of the California Code of Regulations that establish standards and other requirements relating to the control of emissions from certain new on-road vehicles and engines, as described in section II 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).

## VI. 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 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 proposes to approve 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, 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).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on communities with environmental justice (EJ) concerns to the greatest extent practicable and permitted by law. Executive Order 14096 (Revitalizing Our Nation's Commitment to Environmental Justice for All, 88 FR 25251, April 26, 2023) builds on and supplements Executive Order 12898 and defines EJ as, among other things, “the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, or Tribal affiliation, or disability in agency decision-making and other Federal activities that affect human health and the environment.”

CARB evaluated EJ considerations as part of its SIP submittals even though the CAA and applicable implementing regulations neither prohibit nor require an evaluation. The EPA's evaluation of the air agency's EJ considerations is described in this document in the section titled, “Environmental Justice Considerations.” The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. The EPA is taking action under the CAA on bases independent of the air agency's evaluation of EJ. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. In addition, there is no information in the record upon which this decision is based that is inconsistent with the stated goal of Executive Orders 12898 and 14096 of achieving EJ for communities with EJ concerns.

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon oxides, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 13, 2024.

**Martha Guzman Aceves,**  
*Regional Administrator, Region IX.*

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<sup>33</sup> CARB, “Public Hearing to Consider the Proposed Zero-Emission Airport Shuttle Regulation, Staff Report: Initial Statement of Reasons,” release date December 31, 2018, section VI. Environmental Justice.

<sup>34</sup> CARB, “Staff Report: Initial Statement of Reasons, Proposed Alternative Certification Requirements and Test Procedures for Heavy-Duty Electric and Fuel-Cell Vehicles and Proposed Standards and Test Procedures for Zero-Emission Powertrains (Zero-Emission Powertrain Certification Regulation),” release date December 31, 2018, section VIII. Environmental Justice.