Subpart EE—New Hampshire

■ 2. In § 52.1520(e) amend the table by adding entries for ''Boston-Manchester-Portsmouth Area Second 10-Year Limited Maintenance Plan for 1997 Ozone NAAQS'' and ''Letter from New Hampshire and attachment G Amendment'' at the end of the table to read as follows:

§ 52.1520 Identification of plan.

* * * * *

(e) * * *

NEW HAMPSHIRE NON-REGULATORY

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date [1]	Explanations
* *	* *	*	*	*
Boston-Manchester-Portsmouth Area Second 10-Year Limited Maintenance Plan for 1997 Ozone NAAQS.	Boston-Manchester-Portsmouth Maintenance Area.	7/29/2021	4/22/2022 [Insert **Federal Register** citation].	Approval for 2nd 10-year LMP for 1997 ozone NAAQS.
Letter from New Hampshire and attachment G Amendment.	Boston-Manchester-Portsmouth Maintenance Area.	12/23/2021	4/22/2022 [Insert **Federal Register** citation].	Supplemental information for 2nd 10-year LMP for 1997 ozone NAAQS.

[1] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

[FR Doc. 2022–08392 Filed 4–21–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2018–0146; FRL–9681–01–R9]

Approval of Air Quality Implementation Plans; California; Ventura County; 8-Hour Ozone Nonattainment Area Requirements; Correction Due to Vacatur

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: The Environmental Protection Agency (EPA or ''Agency'') is correcting the state implementation plan (SIP) for the State of California to remove from the Code of Federal Regulations (CFR) revisions to the California SIP that were initially approved into the SIP in a June 25, 2020 final action that was subsequently vacated and remanded to the EPA by the Court of Appeals for the Ninth Circuit. This action is exempt from notice-and-comment rulemaking because it is ministerial in nature.

DATES: This final rule is effective on April 22, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2018–0146. 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 (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. 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: Tom Kelly, Air Planning Office (AIR–2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3856, or by email at *kelly.thomasp@epa.gov.*

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

Table of Contents

I. Background and Rationale for This Action

Ground-level ozone pollution is formed from the reaction of volatile organic compounds (VOC) and oxides of nitrogen (NO_X) in the presence of sunlight.[1] These two pollutants, referred to as ozone precursors, are emitted by many types of sources, including on-and off-road motor vehicles and engines, power plants and industrial facilities, and smaller area sources such as lawn and garden equipment and paints. Scientific evidence indicates that adverse public health effects occur following exposure to elevated levels of ozone, particularly in children and adults with lung disease. Breathing air containing ozone can reduce lung function and inflame airways, which can increase respiratory symptoms and aggravate asthma or other lung diseases.[2]

Under section 109 of the Clean Air Act (CAA), the EPA promulgates national ambient air quality standards (NAAQS) for pervasive air pollutants, such as ozone. The EPA has previously promulgated NAAQS for ozone in 1979 and 1997.[3] In 2008, the EPA revised and further strengthened the ozone NAAQS by setting the acceptable level of ozone in the ambient air at 0.075 parts per million (ppm) averaged over an 8-hour period (and herein referred to as the ''2008 ozone NAAQS'').[4] Although the EPA further tightened the 8-hour ozone NAAQS to 0.070 ppm in 2015, this action relates to the requirements for the 2008 ozone NAAQS.[5]

Following promulgation of a new or revised NAAQS, the EPA is required under CAA section 107(d) to designate

[1] The State of California refers to reactive organic gases (ROG) rather than VOC in some of its ozone-related SIP submissions. ROG and VOC refer essentially to the same set of chemical constituents, and for the sake of simplicity, we refer to this set of gases as VOC in this final rule.

[2] See ''Fact Sheet—2008 Final Revisions to the National Ambient Air Quality Standards for Ozone'' dated March 2008.

[3] The ozone NAAQS promulgated in 1979 was 0.12 parts per million (ppm) averaged over a 1-hour period (''1-hour ozone NAAQS''). *See* 44 FR 8202 (February 8, 1979). The ozone NAAQS promulgated in 1997 was 0.08 ppm averaged over an 8-hour period (''1997 ozone NAAQS''). See 62 FR 38856 (July 18, 1997).

[4] 73 FR 16436 (March 27, 2008).

[5] Information on the 2015 ozone NAAQS is available at 80 FR 65292 (October 26, 2015).

areas throughout the country as attaining or not attaining the NAAQS. The EPA classifies ozone nonattainment areas under CAA section 181 according to the severity of the ozone pollution problem, with classifications ranging from ''Marginal'' to ''Extreme.'' State planning and emissions control requirements for ozone are determined, in part, by the nonattainment area's classification. The EPA designated Ventura County as nonattainment for the 2008 ozone NAAQS on May 21, 2012 and classified the area as ''Serious.'' [6] Ventura County lies within California's South Central Coast Air Basin, which includes the counties of Santa Barbara and San Luis Obispo, in addition to Ventura County. The Ventura County ozone nonattainment area for the 2008 ozone NAAQS includes the entire county except for the Channel Islands of Anacapa and San Nicolas Islands.

In California, the California Air Resources Board (CARB or ''State'') is the state agency responsible for the adoption and submission to the EPA of California SIP submissions, and it has broad authority to establish emissions standards and other requirements for mobile sources. Under California law, local and regional air pollution control districts in California are responsible for the regulation of stationary sources and are generally responsible for the development of regional air quality plans. In Ventura County, the Ventura County Air Pollution Control District (VCAPCD or ''District'') develops and adopts air quality management plans to address CAA planning requirements applicable to that region. The District then submits such plans to CARB for adoption and submission to the EPA as proposed revisions to the California SIP.

Under the CAA, after the EPA designates areas as nonattainment for a NAAQS, states with nonattainment areas are required to submit SIP revisions. With respect to areas designated as nonattainment, states must implement the 2008 ozone NAAQS under Title 1, part D of the CAA, which includes section 172 (''Nonattainment plan provisions in general'') and sections 181–185 of subpart 2 (''Additional Provisions for Ozone Nonattainment Areas''). To assist states in developing effective plans to address ozone nonattainment problems, in 2015, the EPA issued a SIP Requirements Rule (SRR) for the 2008 ozone NAAQS (''2008 Ozone SRR'') that addresses implementation of the 2008 ozone NAAQS, including attainment dates, requirements for emissions inventories, attainment and reasonable further progress (RFP) demonstrations, and the transition from the 1997 ozone NAAQS to the 2008 ozone NAAQS and associated anti-backsliding requirements.[7] The 2008 Ozone SRR is codified at 40 CFR part 51, subpart AA.

In 2017 and 2018, CARB submitted SIP revisions to address the nonattainment planning requirements for Ventura County for the 2008 ozone NAAQS, including the District's ''Final 2016 Ventura County Air Quality Management Plan'' (February 14, 2017) (''2016 Ventura County AQMP'') and CARB's ''2018 Updates to the California State Implementation Plan'' (''2018 SIP Update''). In two separate final rules, we approved the 2016 Ventura County AQMP and the 2018 SIP Update as meeting all the applicable statutory and regulatory requirements for the Ventura County Serious nonattainment area for the 2008 ozone NAAQS, with the exception of the contingency measure requirement.[8] For the contingency measure requirement, we issued a conditional approval that relied upon a commitment by the District to amend the District's architectural coatings rule to include contingency provisions and a commitment by CARB to submit the amended District rule to the EPA within a year of final conditional approval of the contingency measure element for Ventura County.[9]

Under the CAA, ozone nonattainment areas classified under subpart 2 as Serious or above must include contingency measures in their SIPs consistent with sections 172(c)(9) and 182(c)(9). Contingency measures are additional controls or measures to be implemented in the event the area fails to make RFP or to attain the NAAQS by the attainment date. Contingency measures must be designed to be implemented prospectively; already-implemented control measures may not serve as contingency measures even if they provide emissions reductions beyond those needed for any other CAA purpose. See *Bahr* v. *EPA,* 836 F.3d 1218, at 1235–1237 (9th Cir. 2016). The SIP should contain trigger mechanisms for the contingency measures, specify a schedule for implementation, and indicate that the measure will be implemented without significant further action by the state or the EPA.[10] Neither the CAA nor the EPA's implementing regulations establish a specific amount of emissions reductions that implementation of contingency measures must achieve, but the 2008 Ozone SRR reiterates the EPA's guidance recommendation that contingency measures should provide for emissions reductions approximately equivalent to one year's worth of RFP, thus amounting to reductions of 3 percent of the baseline emissions inventory for the nonattainment area.[11]

The contingency measure element for Ventura County for the 2008 ozone NAAQS consists of the contingency-related portion of the 2016 Ventura County AQMP and the 2018 SIP Update's updated evaluation of the surplus emissions reductions in Ventura County from already-implemented measures.[12] To supplement the contingency measure element for Ventura County, the District and CARB committed to adopt and submit a contingency measure within one year of the EPA's final conditional approval of the contingency measure element.[13] In December 2019, we proposed conditional approval of the contingency measure element of the 2016 Ventura County AQMP, as modified by the 2018 SIP Update,[14] and the Center for Biological Diversity (CBD) submitted comments challenging that proposed action.

CBD objected to our proposed conditional approval on several grounds. First, CBD noted that the Agency had not provided an estimate of the emissions reductions that would be achieved by the contingency measure and asserted that the Agency must therefore assume the reductions to be de minimis. CBD also challenged the proposed conditional approval on the grounds that the EPA's consideration of surplus emissions reductions from already-implemented measures in evaluating the adequacy of contingency measures is functionally no different than simply approving the already-implemented measures as contingency measures, which is inconsistent with the *Bahr* v. *EPA* decision. CBD also asserted that the EPA's approach would allow states to meet the contingency

[6] 77 FR 30088 (May 21, 2012).

[7] 80 FR 12264 (March 6, 2015).

[8] 85 FR 11814 (February 27, 2020); and 85 FR 38081 (June 25, 2020). The EPA's February 27, 2020 final approval of all other elements of the 2016 Ventura County AQMP was not challenged and this action does not relate to that final action.

[9] 85 FR 38081, 38085.

[10] 70 FR 71612 (November 29, 2005); see also 2008 Ozone SRR, 80 FR 12264, 12285.

[11] 80 FR 12264, 12285.

[12] 84 FR 70109, 70124 (December 20, 2019).

[13] The specific contingency measure that the District committed to adopt consists of revisions to the District's architectural coatings rule, such as lower VOC content limits for certain coating categories, consistent with CARB's 2019 update of its Suggested Control Measures for architectural coatings, to take effect if the EPA determines that Ventura County failed to achieve an RFP milestone or failed to attain the 2008 ozone NAAQS by the applicable attainment date.

[14] 84 FR 70109.

measure requirement through submission of token contingency measures so long as already-implemented measures provide for surplus emissions reductions equivalent to one year's worth of RFP. Contingency measures, according to CBD, should at a minimum equal one year's worth of RFP.

For our final action, in light of CBD's comment regarding the quantification of emissions reductions, based on preliminary estimates provided by the District and CARB, the EPA estimated that the contingency measure, *i.e.,* the contingency provision in the architectural coatings rule, would achieve emissions reductions equivalent to approximately two to five percent of one year's worth of RFP.[15] Notwithstanding expected emissions reductions from the contingency measure equivalent to only a fraction of one year's worth of RFP, we found that the one contingency measure (*i.e.,* once adopted, submitted, and approved by the EPA) would be sufficient for the State and District to meet the contingency measure requirement for Ventura County for the 2008 ozone NAAQS because of the substantial surplus emissions reductions we anticipate to occur in the future from already-implemented measures.

CBD filed a petition for review of the EPA's June 25, 2020 conditional approval of the contingency measure element for Ventura County for the 2008 ozone NAAQS.[16] In September 2020, the Court granted the EPA's unopposed motion to hold the case in abeyance until a decision was reached by the Ninth Circuit in the *Association of Irritated Residents* v. *EPA* case (No. 19–71223). The petitioners in the *Association of Irritated Residents* v. *EPA* case had filed a brief challenging the EPA's conditional approval of the contingency measure element for San Joaquin Valley for the 2008 ozone NAAQS on similar grounds as CBD had raised in comments on our proposed conditional approval of the contingency measure element for Ventura County.

On August 26, 2021, the U.S. Court of Appeals for the Ninth Circuit published its decision in the *Association of Irritated Residents* v. *EPA* case, granting the petition in part and denying the petition in part. The Court held that EPA's conditional approval of the contingency measure element was arbitrary and capricious because, in the court's view, the Agency had changed its position by accepting a contingency measure that would achieve far less than one year's worth of RFP as meeting the contingency measure requirement without a reasoned explanation.[17] The Court found that by taking into account the emissions reductions from already-implemented measures to find that the contingency measure would suffice to meet the applicable requirement, the EPA was circumventing the court's 2016 holding in *Bahr* v. *EPA.* The court rejected the EPA's arguments that the Agency's approach was grounded in its long-standing guidance and was consistent with the court's 2016 *Bahr* v. *EPA* decision. The court remanded the conditional approval action back to the Agency for further proceedings consistent with the decision.

In light of the decision in the *Association of Irritated Residents* v. *EPA* case and the overlap in the rationales presented by the EPA to justify the conditional approvals of the contingency measure elements for San Joaquin Valley and Ventura County and the grounds for challenging those actions, the EPA filed an unopposed motion for vacatur and voluntary remand in the *Center for Biological Diversity* v. *EPA* case.[18] The court granted the motion by order dated March 1, 2022.[19] We will be proposing a new action on the contingency measure element from the 2016 Ventura County AQMP, as modified by the 2018 SIP Update, in a separate rulemaking.

II. Final Action

The EPA is correcting the codification of the California SIP in the CFR to reflect the vacatur of the EPA's June 25, 2020 final action. The EPA is taking this action as a final rule without providing an opportunity for public comment because the EPA finds that the Administrative Procedure Act (APA) good cause exemption applies. In general, the APA requires that general notice of proposed rulemaking shall be published in the **Federal Register**. Such notice must provide an opportunity for public participation in the rulemaking process. However, the APA also provides a way for an agency to directly issue a final rulemaking in certain specific instances. This may occur, in particular, when an agency for good cause finds (and incorporates the finding and a brief statement of reasons in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. See 5 U.S.C. 553(b)(3)(B).

The EPA has determined that it is not necessary to provide an opportunity for public comment on this action because the correction of the CFR to reflect the vacatur of EPA's June 25, 2020 final action is a necessary ministerial act. The Court, through its Order referencing the Motion, vacated the rule conditionally approving the revisions to the California SIP that this action removes from display in the CFR and remanded this matter to the EPA. Therefore, removing the affected regulatory text simply implements the decision of the Court, and it would serve no useful purpose to provide an opportunity for public comment on this issue. In addition, notice-and-comment would be contrary to the public interest because it would unnecessarily delay the correction of the applicable California SIP as identified in the CFR. Such delay could result in confusion on the part of the regulated industry and state, local, and tribal air agencies on the actual SIP-approved provisions in the California SIP. For these reasons, the EPA finds good cause to issue a final rulemaking pursuant to section 553 of the APA, 5 U.S.C. 553(b)(3)(B). Moreover, the EPA finds that the problems outlined above regarding the effects of delaying issuance of the rule also provide good cause for not delaying its effective date. 5 U.S.C. 553(d)(3). Accordingly, the requirement for a delay in effective date does not apply and the rule will take effect upon publication in the **Federal Register**. 5 U.S.C. 553(d).

III. Statutory and Executive Order Reviews

A. General Requirements

This action merely makes ministerial corrections to the SIP consistent with state law that the EPA had previously approved as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions

[15] 85 FR 38081, 38083.

[16] *Center for Biological Diversity* v. *EPA,* Ninth Circuit Court of Appeals, Case No. 20–72513.

[17] *Association of Irritated Residents.* v. *EPA,* 10 F.4th 937 (9th Cir. 2021).

[18] *Center for Biological Diversity* v. *EPA,* Ninth Circuit Court of Appeals, Case No. 20–72513, Docket Entry: 15–1, December 6, 2021.

[19] *Center for Biological Diversity* v. *EPA,* Ninth Circuit Court of Appeals, Case No. 20–72513, Docket Entry: 16, March 1, 2022.

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, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this action 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).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

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 June 21, 2022. 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 correcting the California SIP to reflect the vacatur of EPA's June 25, 2020 final rule may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: April 18, 2022.

Deborah Jordan,

Acting Regional Administrator, Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for Part 52 continues to read as follows:

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

Subpart F—California

§ 52.220 [Amended]

■ 2. Section 52.220 is amended by removing and reserving paragraphs (c)(514)(ii)(A)(*6*) and (c)(532)(ii)(A)(*2*).

§ 52.248 [Amended]

■ 3. Section 52.248 is amended by removing and reserving paragraph (j).

[FR Doc. 2022–08570 Filed 4–21–22; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 300–3, 301–10, 301–51, and 302–16

[FTR Case 2020–301–1; Docket No. GSA–FTR–2021–0017, Sequence No. 2]

RIN 3090–AK45

Federal Travel Regulation; Rental Car Policy Updates and Clarifications

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: This final rule clarifies that agencies may reimburse relocating employees rental car fees when their privately owned vehicle (POV) suffers a shipping delay when arriving at or returning from a foreign or non-foreign area outside the continental United States (OCONUS). The rule also defines the terms: OCONUS and fuel. It also clarifies when collision damage waiver(s) and theft insurance are reimbursable during car rentals.

DATES: Effective May 23, 2022.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Davis, Program Analyst, Office of Government-wide Policy, at 202–669–1653 or *travelpolicy@gsa.gov* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite ''FTR Case 2020–301–1.''

SUPPLEMENTARY INFORMATION:

I. Background

GSA published a proposed rule at 86 FR 50863 on September 13, 2021, to provide clarifications to rental car use policies and definitions.

Agencies are authorized to provide eligible employees a miscellaneous expenses allowance (MEA) to defray some of the costs incurred while relocating. A non-exhaustive list of examples of MEAs can be found at FTR § 302–16.2. While not specifically mentioned as an example of an MEA, agencies are allowed to provide reimbursement for relocating employees for rental car use while awaiting arrival of their privately owned vehicle (POV) due to shipment delay from or to OCONUS. The lack of specific mention of this type of miscellaneous expense in the FTR has caused agency confusion surrounding its authorization for reimbursement.

The reimbursement of the cost of collision damage waiver (CDW) or theft insurance when renting a vehicle for