

Dated: July 15, 2016.  
**Shawn M. Garvin,**  
*Regional Administrator, Region III.*

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

Transportation Conformity Budgets” at the end of the table to read as follows:

40 CFR part 52 is amended as follows:

**Subpart V—Maryland**

**§ 52.1070 Identification of plan.**

\* \* \* \* \*  
 (e) \* \* \*

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

■ 2. In § 52.1070, the table in paragraph (e) is amended by adding the entries “Serious Area Reasonable Further Progress (RFP) Plan and 2012 RFP Contingency Measures,” “Updates to the 2002 Base Year Inventory for VOC, NO<sub>x</sub> and CO,” and “2012

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Serious Area Reasonable Further Progress (RFP) Plan and 2012 RFP Contingency Measures.	Baltimore 1997 8-hour ozone serious nonattainment area.	July 22, 2013 ...	8/1/2016 [Insert <b>Federal Register</b> citation].	§ 52.1076(cc)
Updates to the 2002 Base Year Inventory for VOC, NO <sub>x</sub> and CO.	Baltimore 1997 8-hour ozone serious nonattainment area.	July 22, 2013 ...	8/1/2016 [Insert <b>Federal Register</b> citation].	§ 52.1075(p)
2012 Transportation Conformity Budgets.	Baltimore 1997 8-hour ozone serious nonattainment area.	July 22, 2013 ...	8/1/2016 [Insert <b>Federal Register</b> citation].	§ 52.1076(dd)

■ 3. Section 52.1075 is amended by adding paragraph (p) to read as follows:

**§ 52.1075 Base year emissions inventory.**

\* \* \* \* \*  
 (p) EPA approves, as a revision to the Maryland State Implementation Plan, updates to the 2002 base year emissions inventories previously approved under paragraph (i) of this section for the Baltimore 1997 8-hour ozone serious nonattainment area (Area) submitted by the Secretary of the Maryland Department of the Environment on July 22, 2013. This submittal consists of updated 2002 base year point, area, non-road mobile, and on-road mobile source

inventories in the Area for the following pollutants: Volatile organic compounds (VOC), carbon monoxide (CO) and nitrogen oxides (NO<sub>x</sub>).

■ 4. Section 52.1076 is amended by adding paragraphs (cc) and (dd) to read as follows:

**§ 52.1076 52.1076 Control strategy plans for attainment and rate-of-progress: Ozone.**

\* \* \* \* \*  
 (cc) EPA approves revisions to the Maryland State Implementation Plan consisting of the serious area reasonable further progress (RFP) plan for the Baltimore 1997 8-hour ozone serious nonattainment area, including 2011 and

2012 RFP milestones, updates to the 2008 RFP milestones previously approved by EPA under paragraph (q) of this section, and contingency measures for failure to meet 2012 RFP, submitted by the Secretary of the Maryland Department of the Environment on July 22, 2013.

(dd) EPA approves the following 2012 RFP motor vehicle emissions budgets (MVEBs) for the Baltimore 1997 8-hour ozone serious nonattainment area, in tons per day (tpd) of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>), submitted by the Secretary of the Maryland Department of the Environment on July 22, 2013:

**TRANSPORTATION CONFORMITY EMISSIONS BUDGETS FOR THE BALTIMORE AREA**

Type of control strategy SIP	Year	VOC (tpd)	NO <sub>x</sub> (tpd)	Effective date of adequacy determination or SIP approval
Rate of Progress Plan .....	2012	40.2	93.5	March 8, 2016 (81 FR 8711), published February 22, 2016.

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 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2016-0119; FRL-9948-26-Region 9]

**Approval of California Air Plan Revisions, Modoc County Air Pollution Control District, Permit Programs**

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Modoc County Air Pollution Control District (MCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern MCAPCD’s administrative and procedural requirements to obtain preconstruction permits that regulate emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are approving local rules under the CAA.

**DATES:** This rule is effective on September 30, 2016 without further notice, unless the EPA receives adverse comments by August 31, 2016. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2016-0119 at <http://www.regulations.gov>, or via email to [R9airpermits@epa.gov](mailto:R9airpermits@epa.gov). For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments

cannot be edited or removed from *Regulations.gov*. For either manner of submission, 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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Ya-Ting (Sheila) Tsai, EPA Region IX, (415) 972-3328, [Tsai.Ya-Ting@epa.gov](mailto:Tsai.Ya-Ting@epa.gov).

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

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**I. The State’s Submittal**

*A. What rules did the State submit?*

Table 1 lists the rules under MCAPCD Regulation II, “Permit System” addressed by this action with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Rule No.	Rule title	Adoption or amendment date	Submittal date
2.3 .....	Transfers .....	1/15/1989	12/31/1990
2.5 .....	Expiration of Applications .....	1/15/1989	12/31/1990
2.7 .....	Conditional Approval .....	1/15/1989	12/31/1990
2.10 .....	Further Information .....	1/15/1989	12/31/1990

On February 28, 1991, the EPA determined that the submittal for the MCAPCD rules listed in Table 1 met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

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

EPA approved the rules listed in Table 2 into the MCAPCD portion of the California SIP on the dates listed. When

the rules listed in Table 1 are approved by EPA, those rules will take the place of the existing SIP approved rules listed in Table 2.

TABLE 2—SIP APPROVED RULES

Rule No.	Rule title	SIP approval date	Federal Register citation
2.3 .....	Transfer .....	09/22/1972	37 FR 19812
2.5 .....	Cancellation of Applications .....	09/22/1972	37 FR 19812
2.7* .....	Provision of Sampling and Testing Facilities .....	09/22/1972	37 FR 19812
2.9* .....	Conditional Approval .....	09/22/1972	37 FR 19812

\* **Note:** SIP approved Rule 2.7—Provision of Sampling and Testing Facilities will be replaced by newly submitted Rule 2.10 Further Information. SIP approved Rule 2.9—Conditional Approval will be replaced by submitted Rule 2.7—Conditional Approval.

*C. What is the purpose of the submitted rule revisions?*

Section 110(a) of the CAA requires States to submit regulations that will assure attainment and maintenance of the National Ambient Quality Air Quality Standards (NAAQS). These rules were developed as part of the local agency’s general programmatic requirement to implement the requirement commonly referred to as the minor or general New Source Review (NSR) program. The revisions contained in the submitted rules listed in Table 1 are mostly administrative in nature. Rule 2.3 prohibits the transfer of an Authority to Construct or Permit to

Operate without written approval. Rule 2.5 provides the timeline for an Authority to Construct or an application for a Permit to Operate to expire and/or be extended. Rule 2.7 is renumbered from Rule 2.9 and provides additional enforceability by clarifying that equipment cannot be operated contrary to permit conditions specified in the permit. Rule 2.10 is a new rule that allows MCAPCD to require data, sampling, testing, and monitoring to determine a stationary source’s emissions. There are no substantive relaxations to these rules.

The TSD, which is available in the docket for today’s rulemaking, has more information about these rules.

**II. The EPA’s Evaluation and Action**

*A. How is the EPA evaluating the rules?*

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193). The submitted rules are revisions

to existing SIP approved general NSR permit program requirements under 40 CFR 51.160–51.164. The revisions are primarily administrative in nature (reformatting, providing additional clarity and enforceability).

*B. Do the rules meet the evaluation criteria?*

We believe these rules are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. These changes are mostly administrative in nature and their approval will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other CAA application requirement.

The TSD, which is available in the docket for today's rulemaking, has more information on our evaluation.

*C. Public Comment and Final Action*

As authorized in section 110(k)(3) of the Act, the EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by August 31, 2016, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on September 30, 2016. This action will incorporate these rules into the federally enforceable SIP.

Please note that if the EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

**III. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the MCAPCD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available electronically through [www.regulations.gov](http://www.regulations.gov) and in hard copy

at U.S. Environmental Protection Agency Region IX (AIR–3), 75 Hawthorne Street, San Francisco, CA 94105–3901.

**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 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, 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, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 30, 2016. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 15, 2016.

Alexis Strauss,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(6)(xi)(D), and (c)(182)(i)(F)(5), (6), (7), and (8) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(6) \* \* \*

(xi) \* \* \*

(D) Previously approved September 22, 1972 in paragraph (c)(6) of this section and now deleted with replacement in paragraph (c)(182)(i)(F)(5), (6), (7), and (8), Rule 2.3 “Transfer,” Rule 2.5 “Cancellation of Application,” Rule 2.7 “Provision of Sampling and Testing Facilities,” and Rule 2.9 “Conditional Approval”.

\* \* \* \* \*

(182) \* \* \*

(i) \* \* \*

(F) \* \* \*

(5) Regulation II, “Permit System,” Rule 2.3 “Transfers” amended on January 15, 1989.

(6) Regulation II, “Permit System,” Rule 2.5 “Expiration of Applications” amended on January 15, 1989.

(7) Regulation II, “Permit System,” Rule 2.7 “Conditional Approval” amended on January 15, 1989.

(8) Regulation II, “Permit System,” Rule 2.10 “Further Information” amended on January 15, 1989.

\* \* \* \* \*

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Parts 1816 and 1852

RIN 2700–AE31

### NASA Federal Acquisition Regulation Supplement: Clarification of Award Fee Evaluations and Payments (NFS Case 2016–N008)

AGENCY: National Aeronautics and Space Administration.

**ACTION:** Final rule.

**SUMMARY:** NASA is issuing a final rule amending the NASA Federal Acquisition Regulation Supplement (NFS) to clarify NASA’s award fee process by incorporating terms used in award fee contracting; guidance relative to final award fee evaluations; release of source selection information; and the calculation of the provisional award fee payment percentage in NASA end-item award fee contracts.

**DATES:** *Effective:* August 31, 2016.

**FOR FURTHER INFORMATION CONTACT:** Mr. William Roets, telephone 202–358–4483.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

NASA published a proposed rule in the *Federal Register* at 81 FR 23667 on April 22, 2016, to revise NFS 1816.4 and 1852.216–77 to clarify NASA’s award fee evaluation and payment processes. One public comment was received in response to the proposed rule.

##### II. Discussion and Analysis

NASA reviewed the public comment in the development of the final rule. A discussion of the comment and the changes made to the rule as a result of this comment is provided, as follows:

###### A. Changes

No change was made in the final rule in response to the public comment received.

###### B. Analysis of Public Comment

*Comment:* Respondent stated that they do not support this rule.

*Response:* The respondent did not identify any specific areas of concern. Accordingly, this rule provides needed clarification to NASA’s award fee processes to enhance the efficient administration of award fee incentives.

##### III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This

rule is not a major rule under 5 U.S.C. 804.

#### IV. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, and is summarized as follows:

NASA is amending the NFS to clarify award fee process by incorporating terms used in award fee contracting; guidance relative to final award fee evaluations; release of source selection information; and the calculation of the provisional award fee payment percentage in NASA end-item award fee contracts.

No changes were made to the proposed rule in developing the final rule. No comments from small entities were submitted in reference to the Regulatory Flexibility Act request in the proposed rule. Therefore, the proposed rule has been adopted as final.

NASA does not expect this final rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the guidance largely clarifies aspects relative to the award fee evaluation and payment process resulting in a more consistent use and administration of award fees within NASA providing all entities both large and small a positive benefit. An analysis of data in the Federal Procurement Data System (FPDS) revealed that award fee contracts are primarily awarded to large businesses with large dollar contracts. An analysis of FPDS data over the past three years (FY2013 through FY2015) showed an average of 157 award fee contracts were awarded at NASA per year, of which 33 (approximately 20%) were awarded to small businesses. Thus, the application of the award fee revisions contained in this rule do not apply to a substantial number of small entities.

The rule imposes no reporting, recordkeeping, or other information collection requirements. There are no significant alternatives that could further minimize the already minimal impact on businesses, small or large.

#### V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).