

**I. National Technology Transfer and Advancement Act (NTTAA)**

This rulemaking does not involve technical standards.

**J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations**

EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The effect of this action triggers additional planning requirements under the CAA.

**K. Congressional Review Act (CRA)**

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. 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).

**L. Petitions for Judicial Review**

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 29, 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, does not extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur oxides.

Dated: January 6, 2022.

**Debra Shore,**  
Regional Administrator, Region 5.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 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.*

■ 2. In § 52.1170, the table in paragraph (e) is amended by adding an entry for “Determination of failure to attain the 2010 SO<sub>2</sub> standard” immediately after the entry for “2010 Sulfur Dioxide Clean Data Determination” to read as follows:

**§ 52.1170 Identification of plan.**

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

**EPA-APPROVED MICHIGAN NONREGULATORY AND QUASI-REGULATORY PROVISIONS**

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
* Determination of failure to attain the 2010 SO <sub>2</sub> standard.	* Detroit area (Wayne County, part).	* .....	* 1/28/2022, [INSERT FEDERAL REGISTER CITATION].	* Triggers requirements of CAA section 179(d) for the State of Michigan to submit by January 30, 2023, a revision to its SIP for the Detroit area that, among other elements, provides for expeditious attainment of the 2010 SO <sub>2</sub> standard within the time period specified in CAA sections 179(d)(3) and 172(a)(2).
* 	* 	* 	* 	* 

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R09–OAR–2021–0261; FRL–8969–02–R9]

**Partial Approval and Partial Disapproval of Air Quality Implementation Plans and Determination of Attainment by the Attainment Date; California; San Joaquin Valley Serious Area and Section 189(d) Plan for Attainment of the 1997 24-hour PM<sub>2.5</sub> NAAQS**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve in part and disapprove in part portions of state implementation plan (SIP) revisions submitted by California to address Clean Air Act (CAA) requirements for the 1997 24-hour fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS or “standards”) in the San Joaquin Valley PM<sub>2.5</sub> nonattainment area. Specifically, the EPA is approving all but the contingency measures element of the submitted SIP revisions as meeting all applicable “Serious” area and CAA section 189(d) requirements for the 1997 24-hour PM<sub>2.5</sub> NAAQS and is disapproving the contingency measures element. The EPA is also

finalizing a determination that the San Joaquin Valley air quality planning area has attained the 1997 24-hour PM<sub>2.5</sub> NAAQS by the applicable attainment date. This determination is based on sufficient, quality-assured, and certified data for 2018–2020. Based on our finding that the San Joaquin Valley area has attained the 1997 24-hour PM<sub>2.5</sub> NAAQS by the applicable attainment date, we are also finalizing a determination that the requirement for contingency measures will no longer apply to the San Joaquin Valley nonattainment area for the 1997 24-hour PM<sub>2.5</sub> NAAQS. Lastly, the EPA is issuing a protective finding for transportation conformity determinations for the disapproval of the contingency measures element.

**DATES:** This rule is effective on February 28, 2022.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2021–0261. 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:** Ashley Graham, Air Planning Office (ARD–2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3877, or by email at [graham.ashleyr@epa.gov](mailto:graham.ashleyr@epa.gov).

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

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### I. Summary of Proposed Rule

On September 24, 2021, the EPA proposed to approve in part and disapprove in part portions of SIP

revisions submitted by the California Air Resources Board (CARB) to meet CAA requirements for the 1997 24-hour PM<sub>2.5</sub> NAAQS in the San Joaquin Valley PM<sub>2.5</sub> nonattainment area.<sup>1</sup> The San Joaquin Valley is classified as a Serious nonattainment area for the 1997 24-hour PM<sub>2.5</sub> NAAQS and is also subject to CAA section 189(d) requirements because of the failure of the area to attain the 1997 24-hour PM<sub>2.5</sub> NAAQS by the area’s original Serious area attainment date (*i.e.*, December 31, 2015). The EPA’s determination that the area failed to attain the original December 31, 2015 attainment date triggered the requirement for the state to submit the SIP revisions on which the EPA is taking final action in this document.

The SIP revisions on which we proposed action are those portions of the “2018 Plan for the 1997, 2006, and 2012 PM<sub>2.5</sub> Standards” (“2018 PM<sub>2.5</sub> Plan”)<sup>2</sup> and the “San Joaquin Valley Supplement to the 2016 State Strategy for the State Implementation Plan” (“Valley State SIP Strategy”)<sup>3</sup> that pertain to the 1997 24-hour PM<sub>2.5</sub> NAAQS. CARB submitted the 2018 PM<sub>2.5</sub> Plan and Valley State SIP Strategy to the EPA as a revision to the California SIP on May 10, 2019. We refer to the portions of these two SIP submissions that pertain to the 1997 24-hour PM<sub>2.5</sub> NAAQS collectively as the “SJV PM<sub>2.5</sub> Plan” or “Plan.” The SJV PM<sub>2.5</sub> Plan addresses the Serious area and CAA section 189(d) attainment plan requirements for the 1997 24-hour PM<sub>2.5</sub> NAAQS in the San Joaquin Valley, including the demonstration that the area would attain those NAAQS by December 31, 2020.

The EPA proposed to approve the 2013 base year emissions inventories, the precursor demonstration, the best available control measures/best available control technology (BACM/BACT) demonstration, the five percent annual emissions reduction demonstration, the attainment demonstration, the reasonable further progress (RFP) demonstration, and the quantitative milestones demonstration in the SJV PM<sub>2.5</sub> Plan as meeting the Serious nonattainment area and CAA section 189(d) planning requirements for the 1997 24-hour PM<sub>2.5</sub> NAAQS. We also proposed to approve the motor

vehicle emissions budgets for 2017 and 2020 and the inter-pollutant trading mechanism provided for use in transportation conformity analyses.

Based on complete (or otherwise deemed sufficient), quality-assured, and certified ambient air quality monitoring data for the 2018–2020 monitoring period, the EPA also proposed to determine that the San Joaquin Valley nonattainment area attained the 1997 24-hour PM<sub>2.5</sub> NAAQS by the December 31, 2020 attainment date.<sup>4</sup> This determination was based in part on the EPA’s July 13, 2021 concurrence<sup>5</sup> on a demonstration provided by CARB that a wildfire exceptional event contributed to exceedances at eight monitoring sites within the San Joaquin Valley nonattainment area during August 20–24, 2020, and exclusion of these data from our evaluation.<sup>6</sup>

Because we proposed to determine that the San Joaquin Valley has attained the 1997 24-hour PM<sub>2.5</sub> NAAQS by the December 31, 2020 attainment date, we also proposed to determine that the requirement for a post-attainment milestone would no longer apply in the San Joaquin Valley nonattainment area for these NAAQS.<sup>7</sup> We explained that the purpose of the post-attainment quantitative milestone is to provide the EPA with the tools necessary to monitor

<sup>4</sup> EPA, 2020 Air Quality System (AQS) Design Value Report (“Design Value Report”), AMP480, accessed January 11, 2022. The Design Value Report excludes measurements with regionally occurred exceptional event flags. As discussed in our proposed action, at the time of our proposal, AQS reports for 24-hour PM<sub>2.5</sub> design values were available only for the 2006 24-hour PM<sub>2.5</sub> NAAQS as the pollutant standard. Following our proposed action, the AQS system was updated to also report 24-hour PM<sub>2.5</sub> design values for the 1997 24-hour PM<sub>2.5</sub> NAAQS as the pollutant standard. 40 CFR part 50 Appendix N specifies the data handling and design value calculations for both the 2006 24-hour PM<sub>2.5</sub> NAAQS and the 1997 24-hour PM<sub>2.5</sub> NAAQS. The data values derived using the 1997 24-hour PM<sub>2.5</sub> NAAQS as the pollutant standard are the same as those derived for the EPA’s proposed action using the 2006 24-hour PM<sub>2.5</sub> NAAQS as the pollutant standard except for minor differences in the 2018 98th percentiles at the Bakersfield-Airport (Planz) (AQS ID: 06–029–0016) and Madera-Avenue 14 (AQS ID: 06–039–2010) sites, and the 2020 design value at the Madera-Avenue 14 site, due to data handling differences related to the levels of the two standards. The 24-hour PM<sub>2.5</sub> design values at all monitoring sites in the San Joaquin Valley nonattainment area for the 2018–2020 data period calculated using the 1997 24-hour PM<sub>2.5</sub> NAAQS as the pollutant standard are equal to or less than 65 µg/m<sup>3</sup> (*i.e.*, the level of the 1997 24-hour PM<sub>2.5</sub> NAAQS). The January 11, 2022 Design Value Report reflects the AQS system update to report 24-hour PM<sub>2.5</sub> design values for the 1997 24-hour PM<sub>2.5</sub> NAAQS as the pollutant standard.

<sup>5</sup> Letter dated July 13, 2021, from Elizabeth J. Adams, Director, Air and Radiation Division, EPA Region IX, to Michael Benjamin, Division Chief, Air Quality Planning and Science Division, CARB.

<sup>6</sup> 86 FR 53150, 53183.

<sup>7</sup> *Id.* at 53173.

<sup>1</sup> 86 FR 53150.

<sup>2</sup> The 2018 PM<sub>2.5</sub> Plan was adopted by the San Joaquin Valley Unified Air Pollution Control District on November 15, 2018, and by CARB on January 24, 2019. The 2018 PM<sub>2.5</sub> Plan includes a revised version of Appendix H submitted by CARB as a technical correction on February 11, 2020.

<sup>3</sup> The Valley State SIP Strategy was adopted by CARB on October 25, 2018.

the area's continued progress toward attainment in the event the area fails to attain by the attainment date,<sup>8</sup> and that once an area has attained the NAAQS, "no further milestones are necessary or meaningful."<sup>9</sup> Similarly, the section 189(c)(2) requirement to submit a quantitative milestone report no longer applies when the area has attained the standard.<sup>10</sup> Accordingly, we proposed to find that upon a final determination that the San Joaquin Valley area has attained the 1997 24-hour PM<sub>2.5</sub> NAAQS by the attainment date, the post-attainment RFP milestone requirement will no longer apply and CARB would no longer be required to submit a quantitative milestone report for the San Joaquin Valley under 40 CFR 51.1013(b) for the purposes of the 2023 post-attainment milestone year identified in the Plan for the 1997 24-hour PM<sub>2.5</sub> NAAQS.<sup>11</sup>

Similarly, because the EPA does not believe that it is necessary to demonstrate conformity using post-attainment year budgets in areas that attain by the attainment date, we proposed that the requirement for post-attainment year (*i.e.*, 2023) motor vehicle emissions budgets would no longer apply in the area for the 1997 24-hour PM<sub>2.5</sub> NAAQS.<sup>12</sup>

Finally, the EPA proposed to disapprove the contingency measures element of the SJV PM<sub>2.5</sub> Plan because of several deficiencies, including that the contingency provisions of the District's Rule 4901 ("Wood Burning Fireplaces and Wood Burning Heaters") do not address the potential for failures to meet RFP, to meet a quantitative milestone, or to submit a quantitative milestone report.<sup>13</sup> In addition, the contingency measure provisions of Rule 4901 are not structured to achieve any additional emissions reductions if the EPA were to find that only certain counties in the San Joaquin Valley are violating the 1997 24-hour PM<sub>2.5</sub> NAAQS as of the attainment date, and thus only provide for reductions under certain circumstances. However, the EPA also proposed to find that the contingency measures requirement for the 1997 24-hour PM<sub>2.5</sub> NAAQS will no longer apply in the San Joaquin Valley nonattainment area if we finalize the determination that the area attained by the December 31, 2020 attainment date. Because we proposed to approve the RFP analysis, the modeled attainment

demonstration, and the motor vehicle emissions budgets, we also proposed to issue a protective finding under 40 CFR 93.120(a)(3) in the event we finalize the disapproval of the contingency measures.<sup>14</sup>

Please see our September 24, 2021 proposed rule for additional background and a detailed explanation of the rationale for our proposed action.

## II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period that ended on October 25, 2021. We received one set of comments in support of our proposal.<sup>15</sup> These comments are included in the docket for this action and do not require a response.

## III. Final Action

For the reasons discussed in detail in our proposed action, the EPA is finalizing our determination that the San Joaquin Valley nonattainment area has attained the 1997 24-hour PM<sub>2.5</sub> NAAQS by the December 31, 2020 attainment date, based on complete (or otherwise deemed sufficient), quality-assured, and certified ambient air quality monitoring data for the 2018–2020 monitoring period.<sup>16</sup> The EPA is taking this final action pursuant to CAA sections 179(c)(1) and 188(b)(2). This final determination that the San Joaquin Valley nonattainment area has attained the 1997 24-hour PM<sub>2.5</sub> NAAQS does not constitute a redesignation of the area to attainment. Under CAA section 107(d)(3)(E), redesignations of nonattainment areas to attainment require states to meet a number of additional statutory criteria, including the EPA's approval of a SIP revision demonstrating maintenance of the standard for 10 years after redesignation. The designation status of the San Joaquin Valley area will remain Serious nonattainment for the 1997 24-hour PM<sub>2.5</sub> NAAQS until such time as the EPA determines that the area meets the CAA requirements for redesignation to attainment.

Also, for the reasons discussed in detail in our proposed action, under CAA section 110(k)(3), the EPA is taking final action to approve in part and disapprove in part portions of the SJV PM<sub>2.5</sub> Plan for the 1997 24-hour PM<sub>2.5</sub>

NAAQS in the San Joaquin Valley nonattainment area as follows:

(1) We are approving the following elements as meeting the Serious nonattainment area planning requirements:

(a) The 2013 base year emissions inventories as meeting the requirements of CAA section 172(c)(3) and 40 CFR 51.1008(b);

(b) the BACM/BACT demonstration as meeting the requirements of CAA section 189(b)(1)(B) and 40 CFR 51.1010(a);

(c) the demonstration (including air quality modeling) that the Plan provides for attainment as expeditiously as practicable as meeting the requirements of CAA sections 179(d) and 189(b) and 40 CFR 51.1011(b);

(d) the RFP demonstration as meeting the requirements of CAA sections 172(c)(2) and 171(1) and 40 CFR 51.1012; and

(e) the quantitative milestone demonstration as meeting the requirements of CAA section 189(c) and 40 CFR 51.1013;

(2) We are approving the following elements as meeting the CAA section 189(d) planning requirements:

(a) The 2013 base year emissions inventories as meeting the requirements of CAA section 172(c)(3) and 40 CFR 51.1008(c);

(b) the BACM/BACT demonstration as meeting the requirements of CAA sections 189(a)(1)(C)<sup>17</sup> and 189(b)(1)(B) and 40 CFR 51.1010(c);

(c) the demonstration that the Plan will, at a minimum, achieve an annual five percent reduction in emissions of nitrogen oxides (NO<sub>x</sub>) as meeting the requirements of CAA section 189(d) and 40 CFR 51.1010(c);

(d) the demonstration (including air quality modeling) that the Plan provides for attainment as expeditiously as practicable as meeting the requirements of CAA sections 179(d) and 189(d) and 40 CFR 51.1011(b);

(e) the RFP demonstration as meeting the requirements of CAA sections 172(c)(2) and 171(1) and 40 CFR 51.1012; and

(f) the quantitative milestone demonstration as meeting the requirements of CAA section 189(c) and 40 CFR 51.1013;

<sup>17</sup> As discussed in the proposal, a section 189(d) plan must address any outstanding "Moderate" or Serious area requirements that have not previously been approved (86 FR 53150, 53154–53155). Because we have not previously approved a subpart 4 reasonably available control measure (RACM) demonstration for the San Joaquin Valley nonattainment area, we are also approving the BACM/BACT demonstration in the SJV PM<sub>2.5</sub> Plan as meeting the subpart 4 RACM/reasonably available control technology requirement for the area.

<sup>8</sup> 81 FR 58010, 58064 (August 24, 2016).

<sup>9</sup> 75 FR 13710, 13713 (March 23, 2010).

<sup>10</sup> Id.

<sup>11</sup> 86 FR 53150, 53173.

<sup>12</sup> Id. at 53178.

<sup>13</sup> Id. at 53175–53176.

<sup>14</sup> Id.

<sup>15</sup> Comment received October 25, 2021, from the North American Insulation Manufacturer's Association to Docket ID No. EPA–R09–OAR–2021–0261, including attachment.

<sup>16</sup> EPA, 2020 Air Quality System (AQS) Design Value Report, AMP480, accessed January 11, 2022. The Design Value Report excludes measurements with regionally concurred exceptional event flags.

(3) We are approving the following motor vehicle emissions budgets for 2017 and 2020 as meeting the

requirements of CAA section 176(c) and 40 CFR part 93, subpart A:

MOTOR VEHICLE EMISSIONS BUDGETS FOR THE SAN JOAQUIN VALLEY FOR THE 1997 24-HOUR PM<sub>2.5</sub> NAAQS  
[annual average, tons per day]

County	2017 (RFP Year)		2020 (Attainment Year)	
	PM <sub>2.5</sub>	NO <sub>x</sub>	PM <sub>2.5</sub>	NO <sub>x</sub>
Fresno .....	0.9	28.5	0.9	25.3
Kern (San Joaquin Valley portion) .....	0.8	28.0	0.8	23.3
Kings .....	0.2	5.8	0.2	4.8
Madera .....	0.2	5.3	0.2	4.2
Merced .....	0.3	10.7	0.3	8.9
San Joaquin .....	0.7	14.9	0.6	11.9
Stanislaus .....	0.4	11.9	0.4	9.6
Tulare .....	0.4	10.8	0.4	8.5

Source: 2018 PM<sub>2.5</sub> Plan, Appendix D, Table 3–1. Budgets are rounded up to the nearest tenth of a ton.

We are limiting the duration of our approval of the budgets to last until new budgets based on updated planning data and models have been submitted and the EPA has found the budgets to be adequate for conformity purposes. Upon the effective date of this final rule, the San Joaquin Valley metropolitan planning organizations (MPOs) and the U.S. Department of Transportation will be required to use the new budgets in transportation conformity determinations.<sup>18</sup> In addition, for these conformity determinations, the motor vehicle emissions from implementation of the transportation plan must be projected and compared to the budgets at the same level of accuracy and using the same method as the budgets in the Plan. For example, emissions must be rounded up to the nearest tenth of a ton per day (tpd).

(4) We are also approving the trading mechanism in the SJV PM<sub>2.5</sub> Plan for the 1997 24-hour PM<sub>2.5</sub> NAAQS for use in transportation conformity analyses by the San Joaquin Valley MPOs as allowed for under 40 CFR 93.124(b). The trading applies only to the following:

- Emissions sources included in the transportation conformity process;
- Trades using NO<sub>x</sub> emissions reductions in excess of those needed to meet the NO<sub>x</sub> budget;
- Trades in one direction from NO<sub>x</sub> to direct PM<sub>2.5</sub>; and
- A trading ratio of 2 tpd NO<sub>x</sub> to 1 tpd PM<sub>2.5</sub>.<sup>19</sup>

<sup>18</sup> Upon the effective date of this final rule, the newly-approved budgets will supersede the corresponding budgets for the 24-hour PM<sub>2.5</sub> NAAQS that the EPA approved at 76 FR 69896 (November 9, 2011).

<sup>19</sup> See the 2018 PM<sub>2.5</sub> Plan, Appendix D, D–125 to D–127. Upon the effective date of this final rule, the new trading ratio will replace the corresponding existing trading ratio of 9 to 1, NO<sub>x</sub> to PM<sub>2.5</sub>, for the 1997 24-hour PM<sub>2.5</sub> NAAQS.

Clear documentation of the calculations used in the trade must be included in the conformity analysis; and

(5) We are disapproving the contingency measures element of the SJV PM<sub>2.5</sub> Plan for the 1997 24-hour PM<sub>2.5</sub> NAAQS for both the Serious area and CAA section 189(d) planning requirements for failing to meet the requirements of CAA section 172(c)(9). However, based on our finding of attainment by the applicable attainment date, we are also finalizing a determination that the contingency measures requirement no longer applies to the San Joaquin Valley area for the 1997 24-hour PM<sub>2.5</sub> NAAQS. Therefore, this final action does not trigger sanctions or FIP clocks.<sup>20</sup> In addition, because we are approving the RFP analysis, the modeled attainment demonstration, and the motor vehicle emissions budgets, we are issuing a protective finding for transportation

<sup>20</sup> As noted in the proposed rule (86 FR 53150, 53152), on December 6, 2018 (83 FR 62720), the EPA determined that California had failed to submit a complete section 189(d) attainment plan for the 1997 24-hour PM<sub>2.5</sub> NAAQS, among other required SIP submissions for the San Joaquin Valley, by the statutory deadlines. Among other things, this finding triggered the obligation under CAA section 110(c) for the EPA to promulgate a federal implementation plan (FIP) no later than two years after the finding, unless the State has submitted, and the EPA has approved, the required SIP submission. Our final action on the SJV PM<sub>2.5</sub> Plan for the 1997 24-hour PM<sub>2.5</sub> NAAQS terminates our FIP obligation arising from the December 6, 2018 determination with respect to the 1997 24-hour PM<sub>2.5</sub> NAAQS in San Joaquin Valley. For all SIP elements other than the contingency measures, the FIP obligation is terminated by our approval of the relevant portions of the SJV PM<sub>2.5</sub> Plan SIP as meeting the applicable requirements. For the contingency measures element, the FIP obligation is terminated based on our final determination that the area has attained the 1997 24-hour PM<sub>2.5</sub> NAAQS by the applicable attainment date, and that as a result, the contingency measures requirement for that NAAQS no longer applies, and thus, there is no SIP deficiency for a FIP to correct.

conformity determinations under 40 CFR 93.120(a)(3) in connection with the final disapproval of the contingency measures element.

Lastly, based on our final determination that the San Joaquin Valley has attained the 1997 24-hour PM<sub>2.5</sub> NAAQS by the December 31, 2020 attainment date, we are finalizing the determinations that the requirements for a post-attainment milestone, a post-attainment year quantitative milestone report, and post-attainment year budgets no longer apply in the San Joaquin Valley nonattainment area for the 1997 24-hour PM<sub>2.5</sub> NAAQS.

**IV. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at <http://www.epa.gov/laws-regulations/laws-and-executive-orders>.

*A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

*B. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA because this partial approval and partial disapproval of SIP revisions and finding of attainment do not in-and-of themselves create any new information collection burdens but simply disapprove certain state requirements for inclusion in the SIP.

*C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities

under the RFA. This action will not impose any requirements on small entities. This partial approval and partial disapproval of SIP revisions and finding of attainment do not in-and-of themselves create any new requirements but simply disapprove certain state requirements for inclusion in the SIP.

#### D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action, in part, disapproves certain pre-existing requirements under state or local law and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

#### E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

#### F. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP revisions that the EPA is partially approving and partially disapproving do not 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, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

#### G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because this partial approval and partial disapproval of SIP revisions and finding of attainment do not in-and-of themselves create any new regulations but simply disapprove certain state requirements for inclusion in the SIP.

#### H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

#### I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

#### J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

#### K. Congressional Review Act (CRA)

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).

#### L. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 29, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see CAA section 307(b)(2)).

#### List of Subjects in 40 CFR Part 52

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

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

Dated: January 24, 2022.

#### Martha Guzman Aceves,

Regional Administrator, Region IX.

For the reasons stated in the preamble, the EPA amends chapter I, title 40 of the Code of Federal Regulations as follows:

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

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

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

#### Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(537)(ii)(A)(8) and (c)(537)(ii)(B)(6) to read as follows:

#### § 52.220 Identification of plan—in part.

\* \* \* \* \*

(c) \* \* \*

(537) \* \* \*

(ii) \* \* \*

(A) \* \* \*

(8) “Appendix H, RFP, Quantitative Milestones, and Contingency, 2018 Plan for the 1997, 2006, and 2012 PM<sub>2.5</sub> Standards, Appendix H Revised February 11, 2020” (portions pertaining to the 1997 24-hour PM<sub>2.5</sub> NAAQS only, and excluding section H.3 (“Contingency Measures”)).

(B) \* \* \*

(6) 2018 Plan for the 1997, 2006, and 2012 PM<sub>2.5</sub> Standards (“2018 PM<sub>2.5</sub> Plan”), adopted November 15, 2018 (portions pertaining to the 1997 24-hour PM<sub>2.5</sub> NAAQS only, and excluding Chapter 6 (“Demonstration of Federal Requirements for 2006 PM<sub>2.5</sub> Standards”), Chapter 7 (“Demonstration of Federal Requirements for 2012 PM<sub>2.5</sub> Standards”), and Appendix H, section H.3 (“Contingency Measures”)).

\* \* \* \* \*

■ 3. Section 52.237 is amended by adding paragraph (a)(12) to read as follows:

#### § 52.237 Part D disapproval.

(a) \* \* \*

(12) The contingency measures portion of the 2018 Plan for the 1997, 2006, and 2012 PM<sub>2.5</sub> Standards (“2018 PM<sub>2.5</sub> Plan”), adopted November 15,

2018, for San Joaquin Valley with respect to the 1997 24-hour PM<sub>2.5</sub> NAAQS.

\* \* \* \* \*

■ 4. Section 52.244 is amended by adding paragraph (f)(3) to read as follows:

**§ 52.244 Motor vehicle emissions budgets.**

\* \* \* \* \*

(f) \* \* \*

(3) San Joaquin Valley, for the 1997 24-hour PM<sub>2.5</sub> NAAQS only (years 2017 and 2020 budgets only), approved February 28, 2022.

■ 5. Section 52.247 is amended by adding paragraph (p) to read as follows:

**§ 52.247 Control Strategy and regulations: Fine Particle Matter.**

\* \* \* \* \*

(p) *Determination of Attainment:* Effective February 28, 2022, the EPA has determined that, based on 2018 to 2020 ambient air quality data, the San Joaquin Valley PM<sub>2.5</sub> nonattainment area has attained the 1997 24-hour PM<sub>2.5</sub> NAAQS by the applicable attainment date of December 31, 2020. Therefore, the EPA has met the requirement pursuant to CAA sections 179(c)(1) and 188(b)(2) to determine whether the area attained the standard. The EPA has also determined that, based on the determination of attainment by the applicable attainment date, the requirement of CAA section 172(c)(9) to provide for contingency measures no longer applies to the San Joaquin Valley area for the 1997 24-hour PM<sub>2.5</sub> NAAQS.

[FR Doc. 2022-01728 Filed 1-27-22; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[EPA-R07-OAR-2021-0391; FRL-8693-02-R7]

**Air Plan Approval; Missouri Redesignation Request and Associated Maintenance Plan for the Jefferson County 2010 SO<sub>2</sub> 1-Hour NAAQS Nonattainment Area**

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

**ACTION:** Final rule.

**SUMMARY:** On December 27, 2017, the State of Missouri submitted a request for the Environmental Protection Agency (EPA) to redesignate the Jefferson County, Missouri, 2010 1-hour sulfur dioxide (SO<sub>2</sub>) National Ambient Air Quality Standard (NAAQS) nonattainment area to attainment and to

approve a State Implementation Plan (SIP) revision containing a maintenance plan for the area. The State provided supplemental information on: May 15, 2018; February 7, 2019; February 25, 2019; and April 9, 2021. In response to these submittals, the EPA is taking the following final actions: Approve the State's plan for maintaining attainment of the 2010 1-hour SO<sub>2</sub> primary standard in the area; and approve the State's request to redesignate the Jefferson County SO<sub>2</sub> nonattainment area to attainment for the 2010 1-hour SO<sub>2</sub> primary standard.

**DATES:** This final rule is effective on February 28, 2022.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2021-0391. 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, *i.e.*, 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 information.

**FOR FURTHER INFORMATION CONTACT:** Ashley Keas, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7629 or by email at [keas.ashley@epa.gov](mailto:keas.ashley@epa.gov).

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

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**I. What is being addressed in this document?**

On December 27, 2017, the State submitted a request for redesignation of the Jefferson County SO<sub>2</sub> nonattainment area to attainment and a SIP revision containing a 10-year maintenance plan for the area. On May 15, 2018, the State submitted a clarifying letter that Appendix A (containing the emissions inventory for the area) and Appendix B

(containing a Consent Agreement entered between Missouri and Ameren sources in the area) of the SIP submittal should be considered part of the SIP revision request. On February 7, 2019, and February 25, 2019, the State submitted supplemental modeling information to the EPA. On April 9, 2021, the State submitted an addendum to the Consent Agreement which contains the emissions limits and monitoring, reporting, and recordkeeping requirements needed to determine compliance with the emissions limits for the covered sources. The EPA's proposal at 86 FR 34177 [June 29, 2021] discusses the EPA's review of the redesignation request, the maintenance plan (including Consent Agreement and addendum), and the supplemental information and provides support for the EPA's proposed approval of the request to redesignate the area to attainment and for proposed approval of the 10-year maintenance plan. Additional analysis of the redesignation request, 10-year maintenance plan, Consent Agreement and addendum, and supplemental modeling information is provided in a Technical Support Document (TSD) included in this docket. The public comment period on the EPA's proposed rule opened on June 29, 2021, the date of its publication in the **Federal Register**, and closed on July 29, 2021. During this period, the EPA received one comment. The EPA additionally received a request to extend the comment period due to the technical support document being added to the docket partway through the comment period. Therefore, the EPA reopened the comment period on August 17, 2021, and closed on September 16, 2021 (86 FR 45950). During this second comment period, the EPA received one additional comment. Both comments are addressed in section II.

**II. The EPA's Responses to Comments**

*Comment 1:* On July 29, 2021, the EPA received a comment from Ameren Missouri. The comment was largely supportive of the EPA's proposed redesignation of the Jefferson County area. Ameren also identified minor clarifications and corrections needed in the TSD. Specifically, Ameren noted that the TSD incorrectly stated that meteorological data was from the Weaver monitor when in fact the Weaver monitor does not collect meteorological data.

*Response 1:* The EPA updated this reference to the Johnson Tall Tower, the source of the meteorological data underlying the pollution rose on page