14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone of limited size and duration. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3707; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–670 to read as follows:

§ 165.T11–670 Safety zone; Semisubmersible Loading Operation Safety Zone, South San Francisco Bay, San Francisco, CA.

(a) *Location.* This temporary safety zone is established in the navigable waters of South San Francisco Bay within 500 feet of the anchored semisubmersible and all support vessels engaged in the loading operation at Anchorage 9 in approximate position 37°46′09″ N, 122°21′31″ W (NAD83).

(b) *Enforcement Period.* The zone described in paragraph (a) of this section will be enforced for a 24-hour period between October 14 and 23, 2014. The Captain of the Port San Francisco (COTP) will notify the maritime community of periods during which this zone will be enforced via Broadcast Notice to Mariners in accordance with 33 CFR 165.7.

(c) *Definitions.* As used in this section, ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP pursuant to a Memorandum of Understanding with that agency, to assist in the enforcement of the safety zone.

(d) *Regulations.* (1) Under the general regulations in 33 CFR Part 165, Subpart C, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the COTP or a designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or a designated representative. Persons and vessels may request permission to enter the safety zone by contacting the Coast Guard Patrol Commander on VHF channel 23A.

Dated: October 9, 2014.

Gregory G. Stump,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2014–25383 Filed 10–23–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0646; FRL–9918–38–Region 9]

Findings of Failure To Submit State Implementation Plan; California; Interstate Transport Requirements for 2006 24-Hour Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is making a finding that California has not submitted a State Implementation Plan (SIP) revision for the Clean Air Act (CAA or Act) provisions that require the SIP to contain adequate provisions to address the transport of air pollution to other states. Specifically, these requirements pertain to significant contribution to nonattainment, or interference with maintenance, of the 2006 24-hour fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS) in any other state. EPA refers to such submittals as ''interstate transport'' SIPs and often refers to the specific requirements addressed in this final rule as ''prongs 1 and 2'' since they address the first two of several interstate transport requirements. This finding of failure to submit establishes a deadline of 24 months after the effective date of this final rule for EPA to promulgate a Federal Implementation Plan (FIP) to address these two interstate transport requirements for California for the 2006 24-hour $PM_{2.5}$ NAAQS unless, prior to that time, the state submits, and EPA approves, a submittal that meets these requirements.

DATES: *Effective Date:* This final rule is effective on *November 24, 2014.*

ADDRESSES: EPA has established a docket for this action, identified by Docket ID Number EPA–R09–OAR–2014–0646. The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Rory Mays, Air Planning Office (AIR–2), EPA Region IX, (415) 972–3227, *mays.rory@epa.gov.*

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

Section 553 of the Administrative Procedures Act, 5 United States Code (U.S.C.) 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for

comment because no significant EPA judgment is involved in making a finding of failure to submit SIPs, or elements of SIPs, required by the CAA, where states have made no submittals, or incomplete submittals, to meet the requirement by the statutory date. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

Table of Contents

I. Background

CAA section 110(a)(1) requires states to submit SIP revisions that provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a)(2) sets the content requirements of such a plan, which generally relate to the information and authorities, compliance assurances, procedural requirements, and control measures that constitute the ''infrastructure'' of a state's air quality management program. A SIP revision addressing these requirements is referred to as an ''infrastructure SIP.'' Within these requirements, section 110(a)(2)(D)(i) contains requirements to address interstate transport of NAAQS pollutants. A SIP revision submitted for this sub-section is referred to as an ''interstate transport SIP.'' In turn, section 110(a)(2)(D)(i)(I) requires that such a plan contain adequate provisions to prohibit emissions from the state that will contribute significantly to nonattainment of the NAAQS in any other state (''prong 1'') or interfere with maintenance of the NAAQS in any other state (''prong 2''). Interstate transport prongs 1 and 2 are the SIP content requirements relevant to this findings notice.

On September 21, 2006, EPA promulgated a final rule revising the existing 1997 24-hour $PM_{2.5}$ NAAQS from 65 micrograms per cubic meter ($\mu g/m^3$) to 35 $\mu g/m^3$ and retained the 1997 annual $PM_{2.5}$ NAAQS of 15 $\mu g/m^3$.[1] This set an infrastructure SIP submittal deadline of September 21, 2009 for the 2006 $PM_{2.5}$ NAAQS, including the interstate transport requirements. EPA issued guidance for satisfying the interstate transport requirements for the 2006 24-hour $PM_{2.5}$ NAAQS on September 25, 2009 (''EPA's 2009 Guidance''), including guidance on interstate transport prongs 1 and 2.[2]

Prior to issuance of this guidance, California Air Resources Board (ARB) submitted an infrastructure SIP certification letter for the 2006 $PM_{2.5}$ NAAQS on July 7, 2009 (''2009 Submittal'').[3] This submittal referred to an interim draft of EPA's 2009 Guidance and largely relied on California's earlier infrastructure SIP submittal of November 16, 2007 for the 1997 $PM_{2.5}$ NAAQS, including reliance on that earlier submittal's response to the requirements for interstate transport prongs 1 and 2. On the basis of California's 2009 Submittal, California was not included in EPA's 2010 notice that made findings of failure to submit SIP revisions for such requirements for the 2006 24-hour $PM_{2.5}$ NAAQS for 29 states and territories.[4]

Sierra Club sued EPA on December 21, 2012, alleging that EPA had failed to take action on infrastructure SIP submittals for the 2006 $PM_{2.5}$ NAAQS from several states, including California.[5] In the same filing, Sierra Club also alleged that EPA had failed to promulgate FIPs for several other states addressing CAA section 110(a)(2)(D)(i)(I) (i.e., interstate transport prongs 1 and 2) for the 2006 $PM_{2.5}$ NAAQS. That lawsuit was stayed by the U.S. District Court for the Northern District of California on March 29, 2013 as it related to on-going litigation in *EME Homer City v. EPA* (pertaining to EPA's Cross State Air Pollution Rule (CSAPR), which EPA promulgated to address interstate transport prongs 1 and 2 in the eastern portion of the U.S.).[6]

On March 6, 2014, California submitted a multi-pollutant infrastructure SIP revision for several NAAQS (''2014 Submittal'') that includes a SIP revision for the 2006 $PM_{2.5}$ NAAQS, except for the requirements of CAA section 110(a)(2)(D)(i)(I).[7] With respect to interstate transport prongs 1 and 2, the submittal stated that California was not addressing these requirements pursuant to the U.S. Court of Appeals for the D.C. Circuit Court ruling in *EME Homer City* v. *EPA,* which ARB read as concluding that ''states do not need to address Prong 1 and Prong 2 until U.S. EPA quantifies each state's transport obligation.'' [8] Shortly thereafter, the U.S. Supreme Court reversed this part of the judgment of the U.S. Court of Appeals for the D.C. Circuit Court.[9] Thus, California's submittal of an interstate transport SIP for prongs 1 and 2 for the 2006 24-hour $PM_{2.5}$ NAAQS, or any other NAAQS, is not contingent on EPA first defining California's CAA section 110(a)(2)(D)(i)(I) obligations for the 2006 $PM_{2.5}$ NAAQS.

On July 18, 2014, California withdrew its 2009 Submittal, stating that ARB would submit a SIP revision to address the outstanding requirements.[10] The effect of this withdrawal letter is that California does not have an approved or pending submittal addressing the interstate transport prongs for the 2006 $PM_{2.5}$ NAAQS. We must therefore make a finding that California has failed to submit a SIP revision to address the requirements of interstate transport prongs 1 and 2 by the applicable deadline of September 21, 2009.

II. Final Action

This action reflects EPA's determination with respect to the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS for California only, as discussed in section I of this findings notice. EPA is making a finding of failure to submit for California for the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS. This finding establishes a deadline of 24 months after the effective date of this final rule for EPA to promulgate a FIP, in accordance with section 110(c)(1), unless prior to that time California submits, and EPA approves, a submittal that addresses these interstate transport requirements. This finding of failure to submit does not impose sanctions, and does not set deadlines for imposing sanctions as described in section 179,

[1] 71 FR 61144, October 17, 2006. Note that only new or revised standards trigger the requirement for states to submit infrastructure SIPs and interstate transport SIPs, pursuant to CAA section 110(a)(1), while retained standards, such as the 2006 annual $PM_{2.5}$ NAAQS, do not trigger that requirement.

[2] Memorandum from William T. Harnett, Director, Air Quality Policy Division, OAQPS, ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particulate Matter National Ambient Air Quality Standards,'' September 25, 2009, pp. 3–4.

[3] Letter from Lynn Terry, Deputy Executive Officer, California Air Resources Board to Laura Yoshii, Acting Regional Administrator, U.S. EPA Region IX, July 7, 2009.

[4] 75 FR 32673, June 9, 2010.

[5] *Sierra Club* v. *EPA,* No. 12–6472, U.S. District Court for the Northern District of California, December 21, 2012.

[6] *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302, U.S. Court of Appeals for the D.C. Circuit Court, August 21, 2012.

[7] ''California Infrastructure SIP,'' March 6, 2014, p. 1.

[8] 2014 Submittal, p. 18.

[9] *EME Homer City Generation, L.P.* v. *EPA,* No. 12–1182, U.S. Supreme Court, certiorari to the U.S. Court of Appeals for the D.C. Circuit, April 29, 2014.

[10] Letter from Lynn Terry, Deputy Executive Officer, California Air Resources Board to Jared Blumenfeld, Regional Administrator, U.S. EPA Region IX, July 18, 2014.

because it does not pertain to the elements of a CAA title I, part D plan for nonattainment areas as required under section 110(a)(2)(I), and because this action is not a SIP call pursuant to section 110(k)(5).

III. Statutory and Executive Order Reviews

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'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden. This rule relates to the requirement in the CAA for states to submit SIPs under section 110(a) to satisfy certain requirements pertaining to interstate transport of air pollution under section 110(a)(2) of the CAA for the 2006 $PM_{2.5}$ NAAQS. Section 110(a)(1) of the CAA requires that states submit SIPs that implement, maintain, and enforce a new or revised NAAQS which satisfy the requirements of section 110(a)(2), including the interstate transport requirements of section 110(a)(2)(D)(i)(I), within 3 years of promulgation of such standard, or shorter period as EPA may provide. This final rule does not establish any new information collection requirement apart from that already required by law. The OMB control numbers for EPA's regulations in the CFR are listed in 40 CFR Part 9.

C. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any action subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies that the action will not have a significant economic impact on a substantial number of small entities.

For the purpose of assessing the impacts of this final action on small entities, small entity is defined as: (1) A small business that is a small industry entity as defined in the U.S. Small Business Administration size standards (*See* 13 CFR 121); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which independently owned and operated is not dominate in its field.

After considering the economic impacts of this final action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action relates to the requirement in the CAA for states to submit SIPs under section 110(a) to satisfy certain requirements pertaining to interstate transport of air pollution under section 110(a)(2) of the CAA for the 2006 $PM_{2.5}$ NAAQS. Section 110(a)(1) of the CAA requires that states submit SIPs that implement, maintain, and enforce a new or revised NAAQS which satisfy the requirements of section 110(a)(2), including the interstate transport requirements of section 110(a)(2)(D)(i)(I), within 3 years of promulgation of such standard, or shorter period as EPA may provide.

D. Unfunded Mandates Reform Act of 1995 (UMRA)

This action contains no federal mandate under the provisions of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538 for state, local, and tribal governments and the private sector. The action does not impose any new enforceable duty on any state, local or private sector. Therefore, this action is not subject to the requirements of section 202 and 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action relates to the requirement in the CAA for states to submit SIPs under section 110(a) to satisfy certain requirements pertaining to interstate transport of air pollution under section 110(a)(2) of the CAA for the 2006 $PM_{2.5}$ NAAQS. Section 110(a)(1) of the CAA requires that states submit SIPs that implement, maintain, and enforce a new or revised NAAQS which satisfy the requirements of section 110(a)(2), including the interstate transport requirements of section 110(a)(2)(D)(i)(I), within 3 years of promulgation of such standard, or shorter period as EPA may provide.

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, as specified in Executive Order 13132. The CAA establishes the scheme whereby states take the lead in developing plans to meet the NAAQS. This action will not modify the relationship of the states and EPA for purposes of developing programs to implement the NAAQS. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249). It does not have a substantial direct effect on one or more Indian Tribes, because no Tribe has implemented an air quality management program related to the 2006 $PM_{2.5}$ NAAQS. Furthermore, this action does not affect the relationship or distribution of power and responsibilities between the Federal government and Indian Tribes. The CAA and the Tribal Air Rule establish the relationship of the Federal government and Tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is making a finding as to whether or not California has submitted a complete SIP for the interstate transport requirements specified in CAA section 110(a)(2)(D)(i)(I) necessary to implement the 2006 $PM_{2.5}$ NAAQS. This finding of failure to submit for these interstate transport requirements establishes a deadline of 24 months after the effective date of this final rule for EPA to a promulgate FIP to address the outstanding SIP elements unless, prior to that time, California submits, and EPA approves, the required SIP.

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

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply,

distribution, or use of energy. At the time of proposal of the implementation rule for the prior 1997 $PM_{2.5}$ standard, information on the methodology and data regarding the assessment of potential energy impacts regarding implementation of the 2006 $PM_{2.5}$ standard was not addressed because the 2006 $PM_{2.5}$ NAAQS is not a significant energy action. This is based on the fact that no impacts are specifically ascribed to the standard only. Potential energy impacts are ascribed during the implementation phase by the states. An energy impact analysis, as part of a regulatory impact analysis or other assessment for the $PM_{2.5}$ NAAQS rule, was prepared by the Office of Air Quality Planning and Standards, Research Triangle Park, NC, April 24, 2003. (71 FR 60853, October 17, 2006)

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impracticable. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This action does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

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

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not directly affect the level of protection provided to human health or the environment. This notice is making a finding concerning whether California has submitted or failed to submit a complete SIP for the interstate transport requirements specified in CAA section 110(a)(2)(D)(i)(I) necessary to implement the 2006 $PM_{2.5}$ NAAQS.

K. Congressional Review Act

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 action 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). This action will be effective November 24, 2014.

L. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final actions by EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit: (i) When the EPA action consists of ''nationally applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) when such action is locally or regionally applicable, if ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.''

The Administrator is determining that this action making a finding of failure to submit SIPs related to the section 110(a)(2)(D)(i)(I) requirements for the 2006 24-hour $PM_{2.5}$ NAAQS is of nationwide scope and effect for the purposes of section 307(b)(1). This is particularly appropriate because in the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator's determination that an action is of ''nationwide scope or effect'' would be appropriate for any action that has ''scope or effect beyond a single judicial circuit.'' H.R. Rep. No. 95–294 at 323, 324, reprinted in 1977 U.S.C.C.A.N.1402–03. Here, the scope and effect of this rulemaking extends to numerous judicial circuits since the finding of failure to submit a SIP applies to a rulemaking of national scope and effect. In these circumstances, section 307(b)(1) and its legislative history call for the Administrator to find the rule to be of ''nationwide scope or effect'' and for venue to be in the District of Columbia Circuit.

Thus, any petitions for review of this action related to a finding of failure to submit SIPs related to the requirements of section 110(a)(2)(D)(i)(I) of the CAA must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the **Federal Register**.

List of Subjects in 40 CFR Part 52

Approval and promulgation of implementation plans, Environmental protection, Administrative practice and procedures, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, and Reporting and recordkeeping requirements.

Dated: September 29, 2014.

Jared Blumenfeld,

Regional Administrator, U.S. EPA, Region IX.

[FR Doc. 2014–25279 Filed 10–23–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

Mandatory Greenhouse Gas Reporting

CFR Correction

In Title 40 of the Code of Federal Regulations, Parts 96 to 99, revised as of July 1, 2013, on page 765, in § 98.226, paragraph (c) is reinstated to read as follows:

§ 98.226 Data reporting requirements.

* * * * *

(c) Annual nitric acid production from each nitric acid train (tons, 100 percent acid basis).

* * * * *

[FR Doc. 2014–25390 Filed 10–23–14; 8:45 am]

BILLING CODE 1505–01–D