Executive Order 13175

This action does not have tribal implications warranting the application of Executive Order 13175. The action does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) applies to rules that are subject to notice and comment under section 553(b) of the APA or any other law. As explained above, the CSA exempts this final order from notice and comment. Consequently, the RFA does not apply to this action.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information requirement under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Congressional Review Act

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act). However, the DEA has submitted a copy of this final order to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

For the reasons set out above, the DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

■ 2. Amend § 1308.11 by redesignating paragraphs (b)(3) through (55) as (b)(4) through (56) and adding a new (b)(3)to read as follows:

§ 1308.11 Schedule I.

* * * * *

(b) * * *

(3)	AH-7921 (3,4-dichloro-*N*-[(1-dimethylamino) cyclohexylmethyl]benzamide	9551

* * * * *

Dated: April 8, 2016

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2016–08566 Filed 4–13–16; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–HQ–OAR–2016–0098; FRL–9944–88–OAR]

Findings of Failure To Submit State Implementation Plans Required for Attainment of the 2010 1-Hour Primary Sulfur Dioxide National Ambient Air Quality Standard (NAAQS); Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: The Environmental Protection Agency (EPA) is correcting a final rule that appeared in the **Federal Register** on March 18, 2016 (81 FR 14736). The document included a listing of areas for which states had not submitted State Implementation Plans (SIPs) addressing nonattainment area SIP requirements for the 2010 1-hour primary sulfur dioxide (SO_2) NAAQS. This action corrects that listing to clarify that the Indiana, Pennsylvania nonattainment area for the 2010 SO_2 NAAQS consists of the entirety of Indiana County and part of Armstrong County.

DATES: The effective date of this document is April 18, 2016.

FOR FURTHER INFORMATION CONTACT: For questions regarding this correction, contact Dr. Larry Wallace, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Mail Code C539–01, Research Triangle Park, NC 27711, phone number (919) 541-0906 or by email at *wallace.larry@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The EPA issued the final rule, in FR Doc 2016–06063 on March 18, 2016 (81 FR 14736). That final rule establishes certain Clean Air Act deadlines for the EPA to impose sanctions if a state does not submit a SIP addressing nonattainment area SIP requirements to bring the affected areas into attainment of the 2010 1-hour primary SO_2 NAAQS and for the EPA to promulgate a Federal Implementation Plan to address any outstanding SIP requirements.

Need for Correction

As published, the final preamble contains an error in a table identifying areas subject to the findings of failure to submit related to the Indiana, Pennsylvania nonattainment area. The Indiana, Pennsylvania nonattainment area consists of the entirety of Indiana County and part of Armstrong County. *See* 78 FR 47191, August 5, 2013 codified at 40 CFR part 81, subpart C. The preamble table mistakenly lists Indiana County as a ''partial'' county that is part of the Indiana, Pennsylvania nonattainment area subject to a finding of failure to submit, when the full county should have been listed as subject to the finding. Additional notice and comment for this minor technical correction is unnecessary under 5 U.S.C. 553(b)(3)(B), and the EPA finds that good cause exists for this minor technical correction to become effective at the same time as the final rule. Accordingly, this correction is incorporated into the final rule and also becomes effective on April 18, 2016.

Correction of Publication

In FR Doc 2016–06063 appearing on page 14736 in the **Federal Register** of Friday, March 18, 2016, the following correction is made:

On page 14737, table entitled ''STATES AND SO_2 NONATTAINMENT AREAS AFFECTED BY THESE FINDINGS OF FAILURE TO SUBMIT,'' remove from the end of the fourth entry, under the column titled ''Nonattainment area'' the text ''(p)''.

Dated: April 4, 2016.

Janet G. McCabe,

Acting Assistant Administrator.

[FR Doc. 2016–08509 Filed 4–13–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2015–0204; FRL–9944–16–Region 9]

Partial Approval and Partial Disapproval of Air Quality State Implementation Plans; California; South Coast; Moderate Area Plan for the 2006 $PM_{2.5}$ NAAQS

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving in part and disapproving in part State implementation plan (SIP) revisions

submitted by California to address moderate area Clean Air Act (CAA) requirements for the 2006 fine particulate ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) in the Los Angeles—South Coast air basin (South Coast) $PM_{2.5}$ nonattainment area. These SIP revisions are the 2012 $PM_{2.5}$ Plan, submitted February 13, 2013, and the 2015 Supplement, submitted March 4, 2015. We are disapproving the Reasonably Available Control Measure, Reasonably Available Control Technology (RACM/RACT), and Reasonable Further Progress elements of the SIP revisions because of new information indicating that the 2010 RECLAIM program does not meet the RACM/RACT requirement for certain sources of emissions. The EPA is prepared to work with the State to correct this deficiency. We are not finalizing our proposed action on the District's ports-related commitment at this time.

DATES: This rule is effective on May 16, 2016.

ADDRESSES: The EPA has established docket number EPA–R09–OAR–2015–0204 for this action. Generally, documents in the docket for this action are available electronically at *http://www.regulations.gov* or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *http://www.regulations.gov,* some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material, large maps, multi-volume reports), and some may not be 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 in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Wienke Tax, EPA Region 9, (415) 947–4192, *tax.wienke@epa.gov.*

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

Table of Contents

I. Background Information

On October 20, 2015, we proposed to approve state implementation plan (SIP) revisions submitted by California to address Clean Air Act (CAA or Act) requirements for the 2006 24-hour fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS) in the Los Angeles-South Coast air basin (South Coast) Moderate $PM_{2.5}$ nonattainment area. See 80 FR 63640 (October 20, 2015). The SIP revisions that we proposed to approve are those portions of the ''Final 2012 Air Quality Management Plan (AQMP)'' that address attainment of the 2006 $PM_{2.5}$ NAAQS (2012 $PM_{2.5}$ Plan), submitted February 13, 2013, and the ''Supplement to the 24-Hour $PM_{2.5}$ State Implementation Plan for the South Coast Air Basin'' (2015 Supplement), submitted March 4, 2015. We refer to these submissions collectively herein as ''the Plan.'' The EPA proposed to approve the following elements of the Plan as satisfying applicable CAA requirements: (1) The 2008 base year emissions inventories; (2) the reasonably available control measures/reasonably available control technology demonstration; (3) the reasonable further progress demonstration; (4) the demonstration that attainment by the Moderate area attainment date of December 31, 2015 is impracticable; (5) the District's commitments to adopt and implement specific rules and measures on a specific schedule; and (6) the general conformity budgets for NO_X and VOC for years 2013–2030 in the Plan.[1]

The EPA also proposed to reclassify the South Coast area, including Indian country within it, as a Serious nonattainment area for the 2006 $PM_{2.5}$ NAAQS, based on the EPA's determination that the area could not practicably attain this standard by the applicable Moderate area attainment date of December 31, 2015.

On December 22, 2015, we finalized our proposal to reclassify the South Coast area from Moderate to Serious for the 2006 $PM_{2.5}$ NAAQS.[2] As a result of that action, California is required to submit, by August 14, 2017, additional SIP revisions to satisfy the statutory requirements that apply to Serious $PM_{2.5}$ nonattainment areas, including the requirements of subpart 4 of part D, title I of the Act. The Serious area plan must provide for attainment of the 2006 $PM_{2.5}$ NAAQS in the South Coast area as expeditiously as practicable, but no later than December 31, 2019, in accordance with the requirements of part D of title I of the Act.

In our December 22, 2015 final action to reclassify the South Coast area as a Serious $PM_{2.5}$ nonattainment area, we summarized and responded to public comments pertaining to the reclassification and its consequences and stated that we would, in a separate rulemaking, respond to comments pertaining to our proposed action on the submitted plan.[3]

II. Public Comments and EPA Responses

The EPA provided a 30-day period for public comment on our proposed rule. During this comment period, which ended on November 19, 2015, we received ten sets of public comments on our proposal. Comment letters were submitted by Earthjustice on behalf of the Center for Biological Diversity, Coalition for Clean Air, Communities for a Better Environment, East Yard Communities for Environmental Justice, and the Sierra Club (''Earthjustice''); the San Pedro Bay Ports (Ports of Los Angeles and Long Beach, or ''the Ports''); Maersk Agency USA; NAIOP, the Commercial Real Estate Development Association; the Los Angeles Area Chamber of Commerce; Burlington Northern Santa Fe and Union Pacific Railroads; the Pacific Merchant Shipping Association; the California Trucking Association; BizFed, the Los Angeles County Business Federation; and the Public Solar Power Coalition.[4] Copies of these comment letters can be found in the docket.

Many of these comment letters address only our proposal to approve the South Coast Air Quality Management District's (SCAQMD or District) commitment to adopt a backstop measure related to ports and port-related facilities in 2015, as part of our action on the 2012 $PM_{2.5}$ Plan and 2015 Supplement.[5] Specifically, the comments from the following entities focus entirely on this ports-related commitment: The San Pedro Bay Ports (Ports of Los Angeles and Long Beach, or ''the Ports''); Maersk Agency USA; NAIOP, the Commercial Real Estate Development Association; the Los Angeles Area Chamber of Commerce; Burlington Northern Santa Fe and Union Pacific Railroads; the Pacific Merchant Shipping Association; the California Trucking Association; and BizFed, the Los Angeles County Business Federation. Given the volume of these comments on the District's ports-related commitment, and the need for the EPA to further evaluate the

[1] 80 FR 63640 (October 20, 2015) at 63660.

[2] 81 FR 1514 (January 13, 2016).

[3] *Id.*

[4] All comment letters are in the docket for today's action at *www.regulations.gov,* docket ID EPA–R09–OAR–2015–0204.

[5] *See* 80 FR at 63651 (October 20, 2015) (discussing District commitment to ''adopt backstop measures related to ports and port-related facilities in 2015,'' also referred to as control measure IND–01, ''Backstop Measures for Indirect Sources of Emissions from Ports and Port-related Facilities'').

issues these comments raise, we are not finalizing our proposed action on the commitment at this time and will respond to all comments pertaining to this commitment in a separate rulemaking.[6] We summarize and respond below to all other comments pertaining to our proposed action on the 2012 $PM_{2.5}$ Plan and the 2015 Supplement.

Comments Regarding RACM/RACT

Comment 1. Earthjustice asserts that the 2012 $PM_{2.5}$ Plan fails to meet minimum requirements for Reasonably Available Control Measures (RACM) because some sources covered under South Coast's NO_X Regional Clean Air Incentives Market (RECLAIM) program have not installed control technologies that are economically feasible and readily available. Citing recent rulemaking documents from the District's December 4, 2015 amendments to the RECLAIM program,[7] Earthjustice argues that the District itself has found that the current cap on NO_X RECLAIM emissions is far above the level of emissions that would be generated if cost-effective and readily available technologies were implemented in the South Coast air basin. Earthjustice also argues that the 2 ton per day (tpd) reduction in the NO_X RECLAIM cap (referred to as the NO_X ''shave'') included in the 2012 $PM_{2.5}$ Plan falls short of what is actually feasible for certain sectors, where ''readily available technologies simply have not been installed because of too many credits in the NO_X RECLAIM program.'' For example, Earthjustice quotes the District's statements in the ''Draft Final Socioeconomic Report For Proposed Amendments to Regulation XX—Regional Clean Air Incentive Market (RECLAIM) NO_X RECLAIM'' (hereafter ''RECLAIM Socioeconomic Report'') indicating that the NO_X RECLAIM program, as amended in 2005, has allowed numerous refineries to delay installation of selective catalytic reduction (SCR) controls that the District had identified as best available retrofit control technology (BARCT).[8]

Earthjustice acknowledges the EPA's policies allowing for cap and trade programs to satisfy RACT by ensuring emission reductions equal, in the aggregate, to the reductions expected from direct application of RACT on individual affected sources but asserts that, in this case, ''EPA cannot simply conclude that a 2 tpd shave to the NO_X RECLAIM program satisfies RACT because 'RECLAIM [must] achieve[ ] reductions of NO_X emissions from covered sources that are equivalent in the aggregate, to the reductions achieved by RACT-level controls.' '' At a minimum, according to Earthjustice, ''RACM requires an assessment of the NO_X RECLAIM program in light of new information that the NO_X RECLAIM program is woefully far from achieving reductions commensurate with 'RACT-level controls.' '' Earthjustice concludes that the District can either amend its NO_X RECLAIM program to make it equivalent to RACT-level controls or adopt direct controls to ensure that readily available and cost-effective pollution control equipment is installed on many sources that have not installed these controls.

Response 1: The EPA has reevaluated the RACM/RACT demonstration in the 2012 $PM_{2.5}$ Plan in light of the commenter's arguments and agrees that the Plan does not adequately address RACM/RACT for certain NO_X emission sources covered by the RECLAIM program.

The SCAQMD adopted the RECLAIM program in 1993 to reduce emissions from the largest stationary sources of NO_X and SO_X emissions through a market-based trading program that establishes annually declining NO_X and SO_X allocations (also called ''facility caps'') and allows covered facilities to comply with their facility caps by installing pollution control equipment, changing operations, or purchasing ''RECLAIM trading credits'' (RTCs) from the RECLAIM market.[9] Section 40440 of the California Health and Safety Code requires the District to monitor advances in BARCT and periodically to reassess the overall facility caps to ensure that the facility caps are equivalent, in the aggregate, to BARCT emission levels imposed on affected sources. Facilities electing to enter RECLAIM are exempted from a number of SCAQMD prohibitory rules that otherwise apply to sources of NO_X and SO_X emissions in the South Coast.[10]

Under longstanding EPA interpretation of the CAA, a market-based cap and trade program may satisfy RACT requirements by ensuring that the level of emission reductions resulting from implementation of the program will be equal, in the aggregate, to those reductions expected from the direct application of RACT on all affected sources within the nonattainment area.[11] The EPA approved the RECLAIM program into the California SIP in June 1998 based in part on a conclusion that the NO_X emission caps in the program satisfied the RACT requirements of CAA section 182(b)(2) and (f) for covered NO_X emission sources in the aggregate.[12] In 2005 and 2010, the District adopted revisions to the NO_X RECLAIM program, which the EPA approved on August 29, 2006 and August 12, 2011, respectively, based in part on conclusions that the revisions continued to satisfy NO_X RACT requirements.[13] We refer to the NO_X RECLAIM program as approved into the SIP as the ''2010 RECLAIM program.''

The recent SCAQMD rulemaking documents that Earthjustice cites call into question the efficacy of the 2010 RECLAIM program in ensuring NO_X emission reductions equivalent to RACT-level controls on all affected sources. Specifically, according to a November 4, 2015 draft staff report by the SCAQMD entitled ''Proposed Amendments to Regulation XX, Regional Clean Air Incentives Market (RECLAIM), NO_X RECLAIM'' (hereafter ''Draft RECLAIM Staff Report''), between 2009 and 2013, the RECLAIM market contained 5–8 tons per day (tpd) of ''surplus'' RTCs that created a dampening effect on RTC prices, bringing average RTC prices down to a range of $1,162–$5,491 per ton compared to the average cost-effectiveness of control range, which is $8,300–$13,000 per ton.[14] As a result,

[6] The District's ports-related commitment is not a component of the February 13, 2013 plan submission that is the subject of a consent decree in *Sierra Club, et al.* v. *EPA,* No. 2:15–cv–3798–ODW (ASx) (C.D. CA.). *See* letter dated February 13, 2013, from James N. Goldstene, Executive Officer, CARB, to Jared Blumenfeld, Regional Administrator, EPA Region 9, with attachments, and CARB Resolution 15–2, February 19, 2015; *see also* 80 FR 79338 (December 21, 2015).

[7] On December 4, 2015, the SCAQMD adopted amendments to the RECLAIM program to implement BARCT for NO_X emissions from various equipment by establishing RTC reduction targets and RTC adjustment factors for year 2016 and beyond (See SCAQMD Governing Board Resolution 15–25, December 4, 2015).

[8] BARCT is defined as ''an emission limitation that is based on the maximum degree of reduction achievable taking into account environmental, energy, and economic impacts by each class or category of source.'' California Health & Safety Code Section 40406.

[9] 2012 $PM_{2.5}$ Plan, Appendix IV–A (''Stationary Source Control Measures'') at p. IV–A–13 (discussing CMB–01: Further NO_X Reductions from RECLAIM—Phase I [NO_X]).

[10] SCAQMD Rule 2001, as amended May 6, 2005, at section (j) (''Rule Applicability'').

[11] 59 FR 16690 (April 7, 1994) and U.S. EPA, ''Improving Air Quality with Economic Incentive Programs,'' EPA–452/R–01–001 (January 2001), at Section 16.7.

[12] 61 FR 57834 (November 8, 1996) and 63 FR 32621 (June 15, 1998).

[13] 71 FR 51120 (August 29, 2006) and 76 FR 50128 (August 12, 2011).

[14] South Coast Air Quality Management District, ''Proposed Amendments to Regulation XX, Regional Clean Air Incentives Market (RECLAIM), NO_X

Continued

according to the District, RECLAIM facilities opted to purchase these low cost ''surplus'' RTCs to reconcile their emissions at the end of the compliance year instead of installing controls to reduce pollution.[15] For example, refineries did not install any SCR control technologies in response to the 2005 NO_X RECLAIM amendment even though SCAQMD staff had estimated about 51 SCRs would be installed by 2011.[16] The Draft RECLAIM Staff Report indicates that SCR has been used successfully to control NO_X emissions from various refinery operations and is considered a mature, commercially available, and cost-effective control technique for this source category.[17] The District concluded in the Draft RECLAIM Staff Report that ''[r]emoving surplus RTCs is therefore critically important to ensure the effectiveness of the RECLAIM program and meet state law requirements to require the use of BARCT for existing sources.'' Likewise, in the RECLAIM Socioeconomic Report, the District stated that many of these unused ''excess'' RTCs were sold to operating RECLAIM facilities as a result of facility shutdowns and that ''[t]hese excess RTCs have been artificially depressing RTC prices and have induced RECLAIM facilities to delay the installation of cost-effective controls.'' [18]

The 2012 $PM_{2.5}$ Plan cites the 2010 RECLAIM program as the basis for the District's RACM/RACT determination for several NO_X emission source categories, including cement kilns, boilers and process heaters at petroleum refineries, and other stationary combustion installations (*e.g.,* steam generators and natural gas and/or oil-fired industrial/commercial/institutional boilers).[19] The Plan also indicates that, for several source categories for which the District identified more stringent NO_X controls implemented in other nonattainment areas,[20] the District intended to reduce NO_X emissions or conduct further study through ''Control Measure CMB–01—Further NO_X Reductions from RECLAIM,'' [21] a measure that commits the District to achieve an additional 2 tpd of NO_X emission reductions through a 2 tpd ''shave'' to the RECLAIM NO_X emission caps in 2015 if the South Coast area fails to attain the 2006 $PM_{2.5}$ NAAQS by then.[22] The 2012 $PM_{2.5}$ Plan does not explain how either the 2010 RECLAIM program or the additional 2 tpd reduction (''shave'') to the NO_X emission cap described in Control Measure CMB–01 ensures that the level of NO_X emission reductions resulting from implementation of the RECLAIM program is equal, in the aggregate, to those NO_X emission reductions expected from the direct application of RACT on covered sources within the South Coast nonattainment area. The Plan does, however, state that there are approximately 8 tpd of ''excess'' NO_X RTCs in the RECLAIM market, consistent with the District's findings in the Draft RECLAIM Staff Report and RECLAIM Socioeconomic Report.[23]

Given the information in the Plan about ''excess'' NO_X RTCs in the 2010 RECLAIM program and the new information submitted by the commenters indicating that these excess RTCs have artificially depressed NO_X RTC prices during the 2009–2013 period covered by the Plan, thus allowing RECLAIM facilities to avoid installing technically feasible and cost-effective NO_X pollution control equipment during this period, and given the absence of a demonstration in the Plan to support a conclusion that the 2010 RECLAIM program ensures, in the aggregate, NO_X emission reductions equivalent to RACT-level controls for these sources, we are disapproving the RACM/RACT demonstration in the Plan.

Our proposal to find that the 2012 $PM_{2.5}$ Plan and 2015 Supplement satisfy the requirement for RFP in CAA section 172(c)(2) was based primarily on a conclusion that the Plan ''demonstrates that all RACM/RACT are being implemented as expeditiously as practicable and identifies projected emission levels for 2014 that reflect full implementation of the State's and District's RACM/RACT control strategy for the area.'' [24] Our evaluation of whether the RACM/RACT measures would result in emissions reductions consistent with meeting the RFP requirement of the statute was thus dependent upon the approval of the Plan with respect to the RACM/RACT requirement. Because we are now disapproving the RACM/RACT demonstration in the Plan, we must also find that the Plan does not satisfy the statutory requirement for RFP for the 2006 $PM_{2.5}$ NAAQS.

As a result of our December 22, 2015 final action reclassifying the South Coast area as Serious nonattainment for the 2006 $PM_{2.5}$ NAAQS, California is required to submit by August 14, 2017 a Serious Area plan for the South Coast area, including provisions to assure that the best available control measures (BACM) and best available control technology (BACT) for the control of direct $PM_{2.5}$ and $PM_{2.5}$ precursors shall be implemented no later than 4 years after the area is reclassified.[25] We note that, to the extent the State and District intend to rely on the NO_X RECLAIM program as part of the BACM demonstration in this new plan, the plan must include documentation sufficient to demonstrate that the NO_X RECLAIM program ensures, in the aggregate, NO_X emission reductions equivalent to BACT-level controls for covered facilities. If the State and District intend to the correct the deficiency in advance of the BACM submission due August 14, 2017, they may do so by submitting revisions to the NO_X RECLAIM program together with documentation sufficient to demonstrate that the revised program ensures, in the aggregate, NO_X emission reductions equivalent to RACT-level controls for covered facilities. Either type of SIP submission would, upon EPA approval, cure the deficiency in the Plan's RACM/RACT demonstration for the 2006 $PM_{2.5}$ NAAQS.

The Serious area plan for the 2006 $PM_{2.5}$ NAAQS in the South Coast area that California is required to submit by August 14, 2017 must also include plan provisions that provide for RFP

RECLAIM'' (''Draft RECLAIM Staff Report''), November 4, 2015, at pp. 262–264.

[15] *Id.* at 264.

[16] *Id.* The RECLAIM Socioeconomic Report further states that despite a 7.7 tpd NO_X RTC shave implemented during 2007–2011 through the District's 2005 amendments to RECLAIM, only 4 tpd of actual NO_X emission reductions resulted from this shave, most of which were due to facility shut-downs and not measures taken to reduce actual emissions by facilities in the program. South Coast Air Quality Management District, ''Draft Final Socioeconomic Report For Proposed Amendments to Regulation XX—Regional Clean Air Incentive Market (RECLAIM) NO_X RECLAIM'' (''RECLAIM Socioeconomic Report''), December 4, 2015, at pp. 1–2.

[17] *See, e.g.,* Draft RECLAIM Staff Report at Appendix A, Appendix B, and Appendix C (discussing technical feasibility and cost-effectiveness estimates for SCR and other NO_X control techniques at refinery fluid catalytic cracking units, refinery boilers and process heaters, and refinery gas turbines).

[18] RECLAIM Socioeconomic Report at pp. 1–2.

[19] 2012 $PM_{2.5}$ Plan, Appendix VI (''Reasonably Available Control Measures (RACM) Demonstration'') at pp. VI–13 to VI–17 and Table VI–5.

[20] For example, with respect to boilers and process heaters at refineries, the 2012 $PM_{2.5}$ Plan indicates that NO_X control measures implemented in the San Francisco Bay Area are more stringent than regulations implemented in the South Coast area. 2012 $PM_{2.5}$ Plan, Appendix VI (''Reasonably Available Control Measures (RACM) Demonstration'') at pp. VI–13.

[21] *Id.*

[22] 2012 $PM_{2.5}$ Plan, Appendix IV–A (''Stationary Source Control Measures'') at pp. IV–A–13 to IV–A–16 (discussing CMB–01: Further NO_X Reductions from RECLAIM—Phase I [NO_X]), as amended by 2015 Supplement at Table F–1.

[23] 2012 $PM_{2.5}$ Plan, Appendix IV–A (''Stationary Source Control Measures'') at p. IV–A–14.

[24] 80 FR at 63654 (October 20, 2015).

[25] 81 FR 1514 (January 13, 2016).

consistent with the requirements of CAA section 172(c)(2). A Serious area plan that satisfies the statutory RFP requirement for the 2006 $PM_{2.5}$ NAAQS in the South Coast would, upon EPA approval, cure the deficiency in the 2012 $PM_{2.5}$ Plan's RFP provisions.

Comment 2. Earthjustice argues that the RACM demonstration in the Plan impermissibly relies on mobile source measures that are not approved into the SIP and that the EPA continues to attempt to ''illegally credit'' waiver measures even though these measures had not been proposed for SIP approval by the time of the EPA's proposed rule on the 2012 $PM_{2.5}$ Plan. Earthjustice further asserts that these waiver measures have never been reviewed for compliance with SIP-related requirements, and that the public has no ability to review and offer comment on the EPA's assessment of how these mobile source measures satisfy the CAA's RACM requirements. Citing *Committee for a Better Arvin* v. *EPA,* 786 F.3d 1169 (9th Cir. 2015) (hereafter ''CBA''), Earthjustice argues that the EPA's prior approvals of $PM_{2.5}$ plans for the South Coast and San Joaquin Valley nonattainment areas were remanded for failure to include the mobile source control measures upon which the plans relied and that it is, therefore, premature to conclude that the RACM requirement has been satisfied.

Response 2. As we explained in our proposed rule, in response to the Ninth Circuit's decision in *CBA,* CARB adopted the necessary waiver measures as revisions to the California SIP and submitted them to the EPA on August 14, 2015.[26] Our proposed rule for this action stated that the EPA intended to propose action on these waiver measures in a separate rulemaking and that, ''[o]nce approved as part of the SIP, the measures will be enforceable by the EPA or private citizens under the CAA.'' [27] Our proposed rule also stated that the EPA was ''proposing to approve certain elements of the 2012 $PM_{2.5}$ Plan and 2015 Supplement in part based on our expectation that these waiver measures will soon become federally enforceable as a result of our approval of the measures as part of the SIP.'' [28]

On November 12, 2015, the EPA proposed to approve the submitted waiver measures into the California SIP and provided a 30-day period for public comment on its proposal.[29] As part of this proposed rule, the EPA evaluated the necessary waiver measures for compliance with SIP-related requirements and proposed to find that they fulfill all applicable CAA requirements. The EPA expects to finalize this action in the near term, at which point the waiver measures will become federally enforceable under the CAA.

In the meantime, we agree with Earthjustice that the RACM/RACT demonstration in the 2012 $PM_{2.5}$ Plan remains deficient pending the EPA's final action to approve the waiver measures on which it relies. Because we are disapproving the RACM/RACT demonstration in the 2012 $PM_{2.5}$ Plan on other grounds, however (see Response 1), this conclusion does not alter our action.

Comments Regarding Motor Vehicle Emissions Budgets

Comment 3. Earthjustice asserts that the EPA's decision to not act on the motor vehicle emissions budgets (MVEBs) in the 2012 $PM_{2.5}$ plan is arbitrary and capricious. According to Earthjustice, the revised budgets in the 2012 $PM_{2.5}$ Plan (2015 MVEBs) are significantly strengthened compared to the MVEBs for the 1997 $PM_{2.5}$ NAAQS that the EPA approved in 2011 (2011 MVEBs), which are ''outdated and less protective.'' For example, Earthjustice asserts that the 2015 MVEBs reflect more accurate emissions data as they are based on EMFAC2011 and transportation activity data from the Southern California Association of Governments' (SCAG's) adopted 2012 Regional Transportation Plan, whereas the 2011 MVEBs relied on EMFAC2007, the prior transportation plan, and other outdated information. Additionally, Earthjustice claims that the 2011 MVEBs were ''not sufficiently stringent because evidence shows the South Coast air basin has not attained the 1997 $PM_{2.5}$ standard'' and ''certainly are not sufficiently strong to meet the 2006 $PM_{2.5}$ standard and interim milestones to ensure attainment of this standard.''

Earthjustice contends that it is arbitrary to allow the 2011 MVEBs to remain in place for the next transportation plan when revised budgets are available, especially in the South Coast where transportation emissions account for such a large amount of the $PM_{2.5}$ and ozone pollution problems. Earthjustice further argues that it is critically important to have these revised budgets in place given the imminent 2016 transportation plan being prepared by SCAG.

Response 3. We disagree with these comments.

As we explained in our proposed rule, the 2015 Supplement, which CARB submitted in March 2015, revised the attainment demonstration in the 2012 $PM_{2.5}$ Plan to identify December 31, 2015 as the applicable attainment date and included revised motor vehicle emission budgets (MVEBs) for 2015 for direct $PM_{2.5}$, NO_X, and VOC.[30] In July 2015, however, the District submitted preliminary air quality monitoring data that indicated that attainment of the 2006 $PM_{2.5}$ NAAQS by the Moderate area attainment date (December 31, 2015) was impracticable.[31] Based on these air quality data, the District requested that the EPA treat the 2012 $PM_{2.5}$ Plan and 2015 Supplement as a demonstration that attainment by the Moderate area attainment date is impracticable and that the EPA reclassify the South Coast air basin as a Serious nonattainment area for the 2006 $PM_{2.5}$ NAAQS.[32] We therefore evaluated the 2012 $PM_{2.5}$ Plan and 2015 Supplement as a demonstration of impracticability under CAA section 189(a)(1)(B)(ii) and proposed to approve it based on a conclusion that it satisfies the statutory requirements for such demonstrations.

Section 93.118(e)(4) of the conformity rule states that the EPA will not find a motor vehicle emissions budget in a submitted control strategy SIP to be adequate for transportation conformity purposes unless specific criteria are satisfied, including the requirement in paragraph (e)(4)(iv) that the motor vehicle emissions budget(s), when considered together with all other emissions sources, is consistent with applicable requirements for reasonable further progress, attainment, or maintenance, whichever is relevant to the SIP submission. The 2012 $PM_{2.5}$ Plan and 2015 Supplement contain MVEBs only for the 2015 attainment year.[33] The Plan does not demonstrate timely attainment and does not contain an approvable RFP demonstration or any RFP budgets. Because the Plan does not contain a control strategy that satisfies the requirements for RFP, attainment, or maintenance, the EPA cannot find that the MVEBs included with this plan meet the specific requirement in 40 CFR 93.118(e)(4)(iv)

[26] 80 FR 63640 at 63652, n. 48 (citing letter dated August 14, 2015, from Richard W. Corey, Executive Officer, California Air Resources Board, to Jared Blumenfeld, Regional Administrator, EPA Region 9).

[27] 80 FR at 63652.

[28] *Id.*

[29] 80 FR 69915 (November 12, 2015).

[30] 80 FR 63640 at 63655 (October 20, 2015) (citing 2015 Supplement, Attachment C at Table C–1).

[31] *Id.* at 63645 and 63652–53.

[32] *Id.*

[33] 2015 Supplement, Attachment C, at Table C–1.

that the budgets, when considered together with all other emissions sources, be consistent with applicable requirements for reasonable further progress, attainment, or maintenance. Therefore, we cannot find these MVEBs adequate for conformity purposes or approve them.

Under 40 CFR 93.109(c)(2), in a nonattainment area that has no SIP-approved or adequate MVEBs but does have approved or adequate MVEBs in an approved SIP or SIP submission for another NAAQS of the same pollutant, conformity determinations must satisfy the budget test as required by § 93.118 using the approved or adequate MVEBs for that other NAAQS. The South Coast air basin has no SIP-approved or adequate MVEBs for the 2006 $PM_{2.5}$ NAAQS but does have approved MVEBs in an approved SIP for the 1997 $PM_{2.5}$ NAAQS, which is another NAAQS of the same pollutant ($PM_{2.5}$). Therefore, until the EPA finds that a MVEB in a submitted control strategy SIP for the 2006 $PM_{2.5}$ NAAQS is adequate for transportation conformity purposes, conformity determinations for the 2006 $PM_{2.5}$ NAAQS in the South Coast area must satisfy the budget test as required by § 93.118 using the approved MVEBs for the 1997 $PM_{2.5}$ NAAQS. Upon the effective date of the EPA's finding that a MVEB in a submitted control strategy SIP for the 2006 $PM_{2.5}$ NAAQS is adequate for transportation conformity purposes, or upon the publication date of the EPA's approval of such a budget in the **Federal Register**, conformity determinations for the 2006 $PM_{2.5}$ NAAQS in the South Coast area will have to satisfy the budget test in § 93.118 using such approved MVEBs for the 2006 $PM_{2.5}$ NAAQS.[34]

In sum, because the 2012 $PM_{2.5}$ Plan and 2015 Supplement do not contain a control strategy that satisfies the requirements for RFP, attainment, or maintenance, the EPA cannot find that the MVEBs included in the Plan are adequate for conformity purposes and cannot approve these budgets. Accordingly, we are taking no action on the 2015 MVEBs included in the Plan. Because the South Coast air basin has no SIP-approved or adequate MVEBs for the 2006 $PM_{2.5}$ NAAQS but does have approved MVEBs in an approved SIP for the 1997 $PM_{2.5}$ NAAQS, conformity determinations for the 2006 $PM_{2.5}$ NAAQS in the South Coast area must satisfy the budget test as required by § 93.118 using the approved MVEBs for the 1997 $PM_{2.5}$ NAAQS, until the EPA finds that a MVEB in a submitted control strategy SIP for the 2006 $PM_{2.5}$ NAAQS is adequate for transportation conformity purposes in the South Coast air basin.

The EPA recently approved an updated version of the California EMFAC model (EMFAC2014) for use in SIP development and transportation conformity in California.[35] Upon conclusion of the two-year grace period on December 14, 2017, EMFAC2014 will become the only approved motor vehicle emissions model for all new $PM_{2.5}$ regional and hot-spot transportation conformity analyses across California.[36] Although CARB has until August 14, 2017 to submit a Serious area plan for the 2006 $PM_{2.5}$ NAAQS in the South Coast area,[37] we encourage the State to submit this plan and revised MVEBs using EMFAC2014 before that date to ensure that conformity analyses for the 2006 $PM_{2.5}$ NAAQS in the South Coast air basin use the latest emission estimation model available consistent with the requirements of 40 CFR 93.111.

Other Comments

Comment 4. We received three comments from Harvey Eder on behalf of the Public Solar Power Coalition (PSPC). The commenter states his intent to incorporate by reference material submitted to the EPA on behalf of PSPC in several prior EPA rulemaking actions, EPA and presidential statements concerning solar power, and several unspecified magazine and newspaper articles, but does not identify the purpose for which he intends to incorporate these materials by reference. The commenter suggests that EPA Control Techniques Guidelines (CTGs) and Alternative Control Techniques documents (ACTs) ''do not exist'' and that these would need to be developed ''before[] solar can be used as RACT/RACM.'' The commenter asserts that NO_X is a precursor to both PM_{10} and $PM_{2.5}$ as well as fine and ultra-fine particulates.

Additionally, the commenter asserts that it is reasonable to include solar power as a NO_X control measure, and that the South Coast area needs a ''100% ITSC Immediate Total Solar Conversion Plan by 2020–2023.''

Response 4: These comments fail to identify any specific issue that is germane to the EPA's proposed action on the 2012 $PM_{2.5}$ Plan and 2015 Supplement. To the extent the commenter intended to encourage additional evaluation of potential solar power installations that may reduce pollution in the South Coast area, the EPA encourages the commenter to participate in the regulatory processes carried out by the SCAQMD, CARB, and other State/local agencies involved in the development of air quality management plans in the South Coast. The EPA finds no basis in these comments to change its proposed action on the Plan.

With respect to the commenter's request to incorporate material by reference, the EPA generally will not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file-sharing system). For the full EPA public comment policy, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

III. Final Action

The EPA is taking final action to approve and disapprove SIP revisions submitted by the State of California to address attainment of the 2006 $PM_{2.5}$ NAAQS in the South Coast $PM_{2.5}$ nonattainment area. These SIP revisions are the 2012 p.m.$_{2.5}$ Plan, submitted February 13, 2013, and the 2015 Supplement, submitted March 4, 2015.

Under CAA section 110(k)(3), the EPA is approving the following elements of the 2012 $PM_{2.5}$ Plan and 2015 Supplement:

1. The 2008 base year emissions inventories as meeting the requirements of CAA section 172(c)(3);

2. the demonstration that attainment by the Moderate area attainment date of December 31, 2015 is impracticable as meeting the requirements of CAA section 189(a)(1)(B)(ii);

3. SCAQMD's commitments to adopt and implement specific rules and measures in accordance with the schedule provided in Chapter 4 of the 2012 $PM_{2.5}$ Plan as modified by Table F–1 in Attachment F to the 2015 Supplement, to achieve the emissions reductions shown therein, and to submit these rules and measures to CARB within 30 days of adoption for transmittal to the EPA as a revision to the SIP, as stated on pp. 7–8 of SCAQMD Governing Board Resolution 12–19 and modified by SCAQMD Governing Board Resolution 15–3, excluding all commitments pertaining to control measure IND–01 (Backstop Measures for Indirect Sources of Emissions from Ports and Port-Related Facilities); and

4. the general conformity budgets for years 2013–2030 listed in Appendix III, p. III–2–53 of the 2012 $PM_{2.5}$ Plan as

[34] 40 CFR 93.109(c)(1).

[35] 80 FR 77337 (December 14, 2015).

[36] *Id.* at 77339.

[37] 81 FR 1514 at 1520 (January 13, 2016).

meeting the requirements of the CAA and the general conformity rule.

Simultaneously, under CAA section 110(k)(3), the EPA is disapproving the following elements of the 2012 $PM_{2.5}$ Plan and 2015 Supplement:

1. The reasonably available control measures/reasonably available control technology (RACM/RACT) demonstration for failure to meet the requirements of CAA sections 172(c)(1) and 189(a)(1)(C); and

2. the reasonable further progress demonstration for failure to meet the requirements of CAA section 172(c)(2).

As a result of this disapproval, the offset sanction in CAA section 179(b)(2) will apply in the South Coast $PM_{2.5}$ nonattainment area 18 months after the effective date of this action and the highway funding sanctions in CAA section 179(b)(1) will apply in the area 6 months after the offset sanction is imposed. Neither sanction will apply if California submits and the EPA approves, prior to the implementation of the sanctions, SIP revisions that correct the deficiencies identified in this final action. Additionally, this disapproval action triggers an obligation on the EPA to promulgate a federal implementation plan unless California corrects the deficiencies, and the EPA approves the related plan revisions, within two years of this final action.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.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 action does not impose additional requirements beyond those imposed by state law.

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 beyond those imposed by state law.

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 does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will 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 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, 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 it does not impose additional requirements beyond those imposed by state law.

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 Population

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

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. 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 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 13, 2016. 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 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: March 15, 2016.

Jared Blumenfeld,

Regional Administrator, EPA Region 9.

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)(439)(ii)(B)(*5*) and (c)(471) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(439) * * *

(ii) * * *

(B) * * *

(*5*) The following portions of the Final 2012 Air Quality Management Plan (December 2012): $PM_{2.5}$-related portions of chapter 4 (''Control Strategy and Implementation''); Appendix III (''Base and Future Year Emissions Inventory''); Appendix IV–A (''District's Stationary Source Control Measures''); and Appendix V (''Modeling and Attainment Demonstrations''). SCAQMD's commitments to adopt and implement specific rules and measures in accordance with the schedule provided in Chapter 4 of the 2012 $PM_{2.5}$ Plan as modified by Table F–1 in Attachment F to the 2015 Supplement, to achieve the emissions reductions shown therein, and to submit these rules and measures to CARB within 30 days of adoption for transmittal to EPA as a revision to the SIP, as stated on pp. 7–8 of SCAQMD Governing Board Resolution 12–19 and modified by SCAQMD Governing Board Resolution 15–3, excluding all commitments pertaining to control measure IND–01 (Backstop Measures for Indirect Sources of Emissions from Ports and Port-Related Facilities).

* * * * *

(471) The following plan was submitted on March 4, 2015, by the Governor's Designee.

(i) [Reserved]

(ii) Additional material.

(A) South Coast Air Quality Management District.

(*1*) ''2015 Supplement to the 24-Hour $PM_{2.5}$ State Implementation Plan for the South Coast Air Basin'' (February 2015), excluding Attachment C (''New Transportation Conformity Budgets for 2015''). SCAQMD's commitments to adopt and implement specific rules and measures in accordance with the schedule provided in Chapter 4 of the 2012 $PM_{2.5}$ Plan as modified by Table F–1 in Attachment F to the 2015 Supplement, to achieve the emissions reductions shown therein, and to submit these rules and measures to CARB within 30 days of adoption for transmittal to EPA as a revision to the SIP, as stated on pp. 7–8 of SCAQMD Governing Board Resolution 12–19 and modified by SCAQMD Governing Board Resolution 15–3, excluding all commitments pertaining to control measure IND–01 (Backstop Measures for Indirect Sources of Emissions from Ports and Port-Related Facilities).

(*2*) SCAQMD Governing Board Resolution No. 15–3, dated February 6, 2015.

(B) State of California Air Resources Board.

(*1*) CARB Resolution 15–2, dated February 19, 2015, ''Minor Revision to the South Coast Air Basin 2012 $PM_{2.5}$ State Implementation Plan.''

■ 3. Section 52.237 is amended by adding paragraph (a)(7) to read as follows:

§ 52.237 Part D disapproval.

(a) * * *

(7) The $PM_{2.5}$-related portions of Appendix VI (''Reasonably Available Control Measures (RACM) Demonstration'') of the Final 2012 Air Quality Management Plan (December 2012), and Attachment D (''Updated RACM/RACT Analysis'') to the 2015 Supplement to the 24-Hour $PM_{2.5}$ State Implementation Plan for the South Coast Air Basin (January 2015).

[FR Doc. 2016–08039 Filed 4–13–16; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 150903814–5999–02]

RIN 0648–XE499

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2016 commercial summer flounder quota to the State of New Jersey and the Commonwealth of Massachusetts. These quota adjustments are necessary to comply with the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan quota transfer provision. This announcement informs the public of the revised commercial quota for each state involved.

DATES: Effective April 13, 2016, through December 31, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth Scheimer, Fishery Management Specialist, (978)-281–9236.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.110. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.102.

The final rule implementing Amendment 5 to the Summer Flounder Fishery Management Plan, as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider the criteria in § 648.102(c)(2)(i)(A) through (C) in the evaluation of requests for quota transfers or combinations.

North Carolina is transferring 9,935 lb (4,506 kg) of summer flounder commercial quota to New Jersey and 7,350 lb (3,333 kg) of summer flounder commercial quota to Massachusetts. These transfers were requested by the State of North Carolina to repay landings by North Carolina permitted vessels that landed in other states under safe harbor agreements.

The revised summer flounder quotas for calendar year 2016 are now: North Carolina, 2,147,446 lb (974,065 kg); New Jersey, 1,381,879 lb (626,809 kg); and Massachusetts, 571,252 lb (259,115 kg) based on the initial quotas published in the 2016–2018 Summer Flounder, Scup and Black Sea Bass Specifications, (December 28, 2015, 80 FR 80689) and previous 2016 quota transfers (March 8, 2016, 81 FR 12030).

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 11, 2016.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–08616 Filed 4–13–16; 8:45 am]

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