

## V. Summary of Proposed Actions and Request for Public Comment

For the reasons discussed in this proposed rule, under CAA section 110(k)(3), the EPA proposes to approve, as a revision to the California SIP, the 15 µg/m<sup>3</sup> Plan Amendments, which amends the Valley Incentive Measure for the purposes of emissions reductions in 2023 and revises the aggregate tonnage commitment in the 15 µg/m<sup>3</sup> SIP Revision to reflect that it has been satisfied by the Valley Incentive Measure. We also propose to approve the State's demonstration that the Valley Incentive Measure has achieved emissions reductions of 5.0 tpd of NO<sub>x</sub> and 0.27 tpd of direct PM<sub>2.5</sub> in the year 2023.

The EPA is soliciting public comments on the issues discussed in this document. We will accept comments from the public on this proposal for the next 30 days.

## VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve state plans as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For these reasons, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997)

because it proposes to approve a state plan;

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
  - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA;
- In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines EJ as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." The EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."

The State did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA performed an EJ analysis, as is described above in the section titled, "Environmental Justice Considerations." The analysis was included in this document for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. Due to the nature of the action being taken here, this action is expected to have a neutral impact on the air quality of the affected area. In addition, there is no information in the record upon which this decision is based

inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

## List of Subjects in 40 CFR Part 52

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

Dated: June 27, 2024.

**Cheree Peterson,**

*Acting Regional Administrator, Region IX.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2024-0250; FRL-12006-01-R9]

### Attainment Date Extension for the San Joaquin Valley, California 1997 Annual PM<sub>2.5</sub> Fine Particulate Matter Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to grant a one-year extension of the applicable "Serious" attainment date for the 1997 annual fine particulate matter (PM<sub>2.5</sub>) San Joaquin Valley, California nonattainment area. This action is based on the EPA's evaluation of air quality monitoring data and the extension request submitted by the State of California on May 23, 2024. The EPA is proposing to grant a one-year extension of the Serious attainment date from December 31, 2023, to December 31, 2024, in accordance with section 172(a)(2)(C) of the Clean Air Act (CAA). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Comments must be received on or before August 7, 2024.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2024-0250 at <https://www.regulations.gov>. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public

docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with a disability 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, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; phone: (415) 972-3877; email: [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. Background**

**A. PM<sub>2.5</sub> NAAQS**

Under section 109 of the CAA, the EPA has established NAAQS for certain pervasive air pollutants (referred to as “criteria pollutants”) and conducts periodic reviews of the NAAQS to determine whether the EPA should revise or establish new NAAQS to protect public health.

On July 18, 1997, the EPA revised the NAAQS for particulate matter by establishing new NAAQS for particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers

(PM<sub>2.5</sub>).<sup>1</sup> The EPA established primary and secondary annual and 24-hour standards for PM<sub>2.5</sub>.<sup>2</sup> The EPA set the annual primary and secondary standards at 15.0 micrograms per cubic meter (µg/m<sup>3</sup>), based on a three-year average of annual mean PM<sub>2.5</sub> concentrations, and set the 24-hour primary and secondary standards at 65 µg/m<sup>3</sup>, based on the three-year average of the 98th percentile of 24-hour PM<sub>2.5</sub> concentrations at each monitoring site within an area.<sup>3</sup> Collectively, we refer herein to the 1997 annual and 24-hour PM<sub>2.5</sub> NAAQS as the “1997 PM<sub>2.5</sub> NAAQS.”

On October 17, 2006, the EPA revised the level of the 24-hour PM<sub>2.5</sub> NAAQS to 35 µg/m<sup>3</sup>,<sup>4</sup> and on January 15, 2013, the EPA revised the level of the primary annual PM<sub>2.5</sub> NAAQS to 12.0 µg/m<sup>3</sup>.<sup>5</sup> On February 7, 2024, the EPA revised the level of the primary annual PM<sub>2.5</sub> NAAQS once more to 9.0 µg/m<sup>3</sup>.<sup>6</sup> Even though the EPA lowered the 24-hour and annual PM<sub>2.5</sub> NAAQS, the 1997 24-hour PM<sub>2.5</sub> NAAQS remain in effect and the 1997 primary annual PM<sub>2.5</sub> NAAQS remains in effect in areas designated nonattainment for that NAAQS.<sup>7</sup>

The EPA established each of the PM<sub>2.5</sub> NAAQS after considering substantial evidence from numerous health studies demonstrating that serious health effects are associated with exposures to PM<sub>2.5</sub> concentrations above these levels. Epidemiological studies have shown statistically significant correlations between elevated PM<sub>2.5</sub> levels and premature mortality. Other important health effects associated with PM<sub>2.5</sub> exposure include aggravation of respiratory and cardiovascular disease (as indicated by increased hospital admissions, emergency room visits, absences from school or work, and restricted activity dates), changes in lung function and increased respiratory symptoms, and new evidence for more subtle indicators of cardiovascular health. Individuals particularly sensitive to PM<sub>2.5</sub> exposure include

older adults, people with heart and lung disease, and children.<sup>8</sup>

PM<sub>2.5</sub> can be particles emitted by sources directly into the atmosphere as a solid or liquid particle (“primary PM<sub>2.5</sub>” or “direct PM<sub>2.5</sub>”) or can be particles that form in the atmosphere as a result of various chemical reactions from PM<sub>2.5</sub> precursor emissions emitted by sources (“secondary PM<sub>2.5</sub>”). The EPA has identified the precursors of PM<sub>2.5</sub> to be oxides of nitrogen (“NO<sub>x</sub>”), sulfur oxides (“SO<sub>x</sub>”), volatile organic compounds (“VOC”), and ammonia.<sup>9</sup>

**B. San Joaquin Valley PM<sub>2.5</sub> Designations, Classifications, and SIP Revisions**

Following promulgation of a new or revised NAAQS, the EPA is required under CAA section 107(d) to designate areas throughout the nation as attainment, nonattainment, or unclassifiable for the NAAQS. Effective April 5, 2005, the EPA established the initial air quality designations for the 1997 annual and 24-hour PM<sub>2.5</sub> NAAQS, using air quality monitoring data for the three-year periods of 2001–2003 and 2002–2004.<sup>10</sup> The EPA designated the San Joaquin Valley as nonattainment for both the 1997 annual PM<sub>2.5</sub> NAAQS (15.0 µg/m<sup>3</sup>) and the 1997 24-hour PM<sub>2.5</sub> NAAQS (65 µg/m<sup>3</sup>).<sup>11</sup>

The San Joaquin Valley PM<sub>2.5</sub> nonattainment area encompasses over 23,000 square miles and includes all or part of eight counties: San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare, Kings, and the valley portion of Kern.<sup>12</sup> The area is home to four million people and is one of the nation’s leading agricultural regions. Stretching over 250 miles from north to south and averaging 80 miles wide, it is partially enclosed by the Coast Mountain range to the west, the Tehachapi Mountains to the south, and the Sierra Nevada range to the east. Under State law, the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD or “District”) has primary responsibility for developing plans to provide for attainment of the NAAQS in this area. The District works cooperatively with the California Air Resources Board (CARB) in preparing attainment plans. Authority for regulating sources under State jurisdiction in the San Joaquin Valley is

<sup>1</sup> 62 FR 38652.

<sup>2</sup> For a given air pollutant, “primary” NAAQS are those determined by the EPA as requisite to protect the public health, allowing an adequate margin of safety, and “secondary” standards are those determined by the EPA as requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. See CAA section 109(b).

<sup>3</sup> 40 CFR 50.7.

<sup>4</sup> 71 FR 61144.

<sup>5</sup> 78 FR 3086.

<sup>6</sup> 89 FR 16202.

<sup>7</sup> 40 CFR 50.13(d).

<sup>8</sup> EPA, Air Quality Criteria for Particulate Matter, No. EPA/600/P-99/002aF and EPA/600/P-99/002bF, October 2004.

<sup>9</sup> For example, see 72 FR 20586, 20589 (April 25, 2007).

<sup>10</sup> 70 FR 944 (January 5, 2005).

<sup>11</sup> 40 CFR 81.305.

<sup>12</sup> For a precise description of the geographic boundaries of the San Joaquin Valley nonattainment area, see 40 CFR 81.305.

split under State law between the District, which has responsibility for regulating stationary and most area sources, and CARB, which has responsibility for regulating most mobile sources.

At the time of the initial designations for the 1997 PM<sub>2.5</sub> NAAQS, the EPA interpreted the CAA to require implementation of the NAAQS under the general nonattainment plan requirements of subpart 1.<sup>13</sup> Under subpart 1, states were required to submit nonattainment plan SIP submissions within three years of the effective date of designations that, among other things, provided for implementation of reasonably available control measures (RACM), reasonable further progress (RFP), contingency measures, and a modeled attainment demonstration showing attainment of the NAAQS as expeditiously as practicable, but no later than five years from the designation (in this instance, no later than April 5, 2010), unless the state justified an attainment date extension of up to five years.<sup>14</sup>

Between 2007 and 2011, California submitted six nonattainment plan and supporting SIP revisions to address nonattainment area planning requirements for the 1997 PM<sub>2.5</sub> NAAQS in the San Joaquin Valley,<sup>15</sup> which we refer to collectively as the “2008 PM<sub>2.5</sub> Plan.” On November 9, 2011, the EPA approved the portions of the 2008 PM<sub>2.5</sub> Plan, as revised in 2009 and 2011, that addressed attainment of the 1997 PM<sub>2.5</sub> NAAQS in the San Joaquin Valley nonattainment area, except for the attainment contingency measures, which we disapproved.<sup>16</sup> We also granted the State’s request to extend the attainment deadline for the 1997 PM<sub>2.5</sub> NAAQS in the San Joaquin Valley to April 5, 2015.<sup>17</sup>

Following a January 4, 2013 decision of the U.S. Court of Appeals for the D.C. Circuit remanding the EPA’s 2007 implementation rule for the 1997 PM<sub>2.5</sub> NAAQS,<sup>18</sup> the EPA published a final

rule on June 2, 2014, classifying the San Joaquin Valley as a “Moderate” nonattainment area for the 1997 PM<sub>2.5</sub> NAAQS under subpart 4, part D of title I of the Act.<sup>19</sup> In that action, the EPA acknowledged that states must meet both subpart 1 and subpart 4 requirements in nonattainment plan SIP submissions for the 1997 24-hour and annual PM<sub>2.5</sub> NAAQS and provided states with additional time to supplement or withdraw and resubmit any pending nonattainment plan SIP submissions.

Effective May 7, 2015, the EPA reclassified the San Joaquin Valley as a Serious nonattainment area for the 1997 PM<sub>2.5</sub> NAAQS based on our determination that the State could not practically attain these NAAQS in the San Joaquin Valley nonattainment area by the latest statutory Moderate area attainment date, *i.e.*, April 5, 2015.<sup>20</sup> Upon reclassification as a Serious area, the State became subject to the requirement of CAA section 188(c)(2) to attain the 1997 PM<sub>2.5</sub> NAAQS as expeditiously as practicable but no later than ten years after designation, *i.e.*, by no later than December 31, 2015. California submitted its Serious area plan for the 1997 PM<sub>2.5</sub> NAAQS for the San Joaquin Valley in two submissions dated June 25, 2015, and August 13, 2015, including a request under section 188(e) to extend the attainment date for the 1997 24-hour PM<sub>2.5</sub> NAAQS by three years (to December 31, 2018) and to extend the attainment date for the 1997 annual PM<sub>2.5</sub> NAAQS by five years (to December 31, 2020). On February 9, 2016, the EPA proposed to approve most of the Serious area plan and to grant the State’s request for extensions of the December 31, 2015 attainment date.<sup>21</sup> However, on October 6, 2016, after considering public comments, the EPA denied California’s request for these extensions of the attainment dates.<sup>22</sup> Consequently, on November 23, 2016, the EPA determined that the San Joaquin Valley had failed to attain the 1997 24-hour and annual PM<sub>2.5</sub> NAAQS by the December 31, 2015 Serious area attainment date.<sup>23</sup> This determination triggered a requirement for California to

submit a new SIP submission for the 1997 24-hour and annual PM<sub>2.5</sub> NAAQS for the San Joaquin Valley that satisfies the requirements of CAA section 189(d). The statutory deadline for this additional SIP submission was December 31, 2016. The EPA did not finalize the actions proposed on February 9, 2016, with respect to the submitted Serious area plan.<sup>24</sup>

On December 6, 2018, the EPA determined that California had failed to submit a complete section 189(d) attainment plan for the 1997 24-hour and annual PM<sub>2.5</sub> NAAQS, among other required SIP submissions for the San Joaquin Valley, by the statutory deadlines.<sup>25</sup> This finding, which became effective on January 7, 2019, triggered clocks under CAA section 179(a) for the application of emissions offset sanctions 18 months after the finding, and highway funding sanctions 6 months thereafter, unless the EPA affirmatively determined that the State made a complete SIP submission addressing the identified failure to submit deficiencies.<sup>26</sup> The finding also triggered the obligation under CAA section 110(c) for the EPA to promulgate a federal implementation plan no later than two years after the finding, unless the State submitted, and the EPA approved, the required SIP submission.<sup>27</sup>

On May 10, 2019, CARB submitted the “2018 Plan for the 1997, 2006, and 2012 PM<sub>2.5</sub> Standards,” adopted by the SJVUAPCD on November 15, 2018, and by CARB on January 24, 2019 (“2018 PM<sub>2.5</sub> Plan”).<sup>28</sup> The 2018 PM<sub>2.5</sub> Plan addressed the Serious area nonattainment plan and CAA section 189(d) requirements for the 1997 24-hour and annual PM<sub>2.5</sub> NAAQS, among other requirements for the 2006 and 2012 PM<sub>2.5</sub> NAAQS. CARB clarified in its submittal letter that the 2018 PM<sub>2.5</sub> Plan superseded past submissions to the EPA that the agency had not yet acted on for the 1997 PM<sub>2.5</sub> NAAQS, including the 2015 Serious area attainment plan submissions.<sup>29</sup> On June 24, 2020, the EPA issued a letter finding these submissions complete and

<sup>13</sup> 72 FR 20586.

<sup>14</sup> CAA sections 172(a)(2), 172(c)(1), 172(c)(2), and 172(c)(9).

<sup>15</sup> 76 FR 69896, n. 2 (November 9, 2011).

<sup>16</sup> *Id.* at 69924.

<sup>17</sup> *Id.*

<sup>18</sup> *Natural Resources Defense Council v. EPA*, 706 F.3d 428 (D.C. Cir. 2013) (“*NRDC*”). In *NRDC*, the court held that the EPA erred in implementing the 1997 PM<sub>2.5</sub> NAAQS solely pursuant to the general implementation requirements of subpart 1, without also considering the requirements specific to nonattainment areas for particles less than or equal to 10 µm in diameter (PM<sub>10</sub>) in subpart 4, part D of title I of the CAA. The court reasoned that the plain meaning of the CAA requires implementation of the 1997 PM<sub>2.5</sub> NAAQS under subpart 4 because PM<sub>2.5</sub> falls within the statutory definition of PM<sub>10</sub> and is thus subject to the same statutory

requirements as PM<sub>10</sub>. The court remanded the rule, without vacatur, and instructed the EPA “to promulgate these rules pursuant to Subpart 4 consistent with this opinion.”

<sup>19</sup> 79 FR 31566.

<sup>20</sup> 80 FR 18528 (April 7, 2015).

<sup>21</sup> 81 FR 6936. California’s request for extension of the Serious Area attainment date for the San Joaquin Valley accompanied its Serious Area attainment plan for the 1997 PM<sub>2.5</sub> NAAQS and related motor vehicle emissions budgets, submitted June 25, 2015, and August 13, 2015, respectively.

<sup>22</sup> 81 FR 69396.

<sup>23</sup> 81 FR 84481.

<sup>24</sup> 81 FR 69396, 69400.

<sup>25</sup> 83 FR 62720.

<sup>26</sup> *Id.* at 62723.

<sup>27</sup> *Id.*

<sup>28</sup> Letter dated May 9, 2019, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region 9.

<sup>29</sup> The 2015 Serious area attainment plan submissions include the “2015 Plan for the 1997 Standard” (submitted by CARB on June 25, 2015) and motor vehicle emissions budgets (submitted by CARB August 13, 2015).

terminating the sanctions clocks under CAA section 179(a).<sup>30</sup>

On January 28, 2022, the EPA approved those portions of the 2018 PM<sub>2.5</sub> Plan that pertain to the 1997 24-hour PM<sub>2.5</sub> NAAQS, except for the contingency measure element, which the EPA disapproved.<sup>31</sup> As part of that action, the EPA also finalized a determination that the San Joaquin Valley attained the 1997 24-hour PM<sub>2.5</sub> NAAQS by the applicable attainment date of December 31, 2020, and that therefore the requirement for contingency measures no longer applies in the San Joaquin Valley nonattainment area for the 1997 24-hour PM<sub>2.5</sub> NAAQS.<sup>32</sup>

On July 22, 2021, the EPA proposed to partially approve and partially disapprove portions of the 2018 PM<sub>2.5</sub> Plan that addressed attainment of the 1997 annual PM<sub>2.5</sub> NAAQS in the San Joaquin Valley nonattainment area.<sup>33</sup> The EPA proposed to approve the 2013 base year emissions inventories and disapprove the attainment demonstration and related elements, including the comprehensive precursor demonstration, five percent annual emissions reductions demonstration, best available control measures (BACM) demonstration, RFP demonstration, quantitative milestones, and motor vehicle emissions budgets established for 2017, 2020, and 2023. We proposed to disapprove the attainment demonstration and related elements because certified air quality data were available that established that the San Joaquin Valley area did not attain the 1997 annual PM<sub>2.5</sub> NAAQS by December 31, 2020, as projected in the 2018 PM<sub>2.5</sub> Plan. On November 26, 2021, the EPA finalized the partial approval and partial disapproval of the 2018 PM<sub>2.5</sub> Plan for the 1997 annual PM<sub>2.5</sub> NAAQS as proposed.<sup>34</sup>

As a result of the November 26, 2021 disapprovals, California was required to develop and submit a revised attainment plan for the San Joaquin Valley area that addressed the applicable CAA requirements, including the Serious area plan requirements and the requirements of CAA section 189(d), for the 1997 annual PM<sub>2.5</sub> NAAQS. In

accordance with sections 179(d)(3) and 172(a)(2) of the CAA, the revised plan was required to demonstrate attainment of these NAAQS as expeditiously as practicable and no later than 5 years from the date of the EPA's prior determination that the area failed to attain (*i.e.*, by November 23, 2021), except that the EPA could extend the attainment date to a date no later than 10 years from the failure to attain determination (*i.e.*, to November 23, 2026), "considering the severity of nonattainment and the availability and feasibility of pollution control measures."<sup>35</sup>

On November 8, 2021, CARB submitted the "Attainment Plan Revision for the 1997 Annual PM<sub>2.5</sub> Standard" ("15 µg/m<sup>3</sup> SIP Revision"), adopted by the SJVUAPCD on August 19, 2021, and adopted by CARB on September 23, 2021.<sup>36</sup> In the letter accompanying the submission, CARB clarified that the 15 µg/m<sup>3</sup> SIP Revision amended the 2018 PM<sub>2.5</sub> Plan.<sup>37</sup>

On December 14, 2023, the EPA approved the 15 µg/m<sup>3</sup> SIP Revision as a revision to the California SIP, establishing an applicable attainment date of December 31, 2023, for the 1997 annual PM<sub>2.5</sub> NAAQS in the San Joaquin Valley.<sup>38</sup>

### C. CAA Requirements for an Attainment Date Extension

Under CAA section 172(a)(2)(C), the EPA may grant a state's request to extend the attainment date established under CAA section 172(a)(2)(A) if: "(1) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and (2) in accordance with guidance published by the Administrator, no more than the minimal number of exceedances of the relevant national ambient air quality standard has occurred in the area in the year preceding the Extension Year." The EPA may grant a second 1-year extension if these same criteria are met at the end of the first extension year. The EPA cannot issue more than two one-year extensions under section

172(a)(2)(C) for a single nonattainment area.

In an August 24, 2016 final rule entitled, "Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements" ("PM<sub>2.5</sub> SIP Requirements Rule"), the EPA established regulatory requirements and provided further interpretive guidance on the statutory SIP requirements that apply to areas designated nonattainment for the PM<sub>2.5</sub> NAAQS,<sup>39</sup> including guidance on the extension provisions for particulate matter nonattainment areas under CAA section 188. Because CAA section 188(d) is nearly identical to CAA section 172(a)(2)(C), the EPA considers the guidance pertaining to the one-year extension requirements under CAA section 188(d) to persuasively inform the requirements for a one-year extension for a particulate matter nonattainment area under CAA section 172(a)(2)(C). Thus, our assessment of the State's extension request will rely on the guidance for one-year extensions under CAA section 188(d).

With regard to the first criterion for an extension of the attainment date, the EPA clarified in the PM<sub>2.5</sub> SIP Requirements Rule that a state must show that it has "submitted the necessary attainment plan for the area for the applicable PM<sub>2.5</sub> NAAQS and is implementing the control measures in the submission."<sup>40</sup> The EPA interprets this requirement to mean that a state must have adopted and be implementing the control measures and commitments in the approved SIP revisions it has submitted to address the CAA requirements for the applicable PM<sub>2.5</sub> NAAQS.<sup>41</sup>

With regard to the second criterion, the EPA explains in the PM<sub>2.5</sub> SIP Requirements Rule that we interpret that "a state seeking an attainment date extension for an annual PM<sub>2.5</sub> NAAQS would be required to demonstrate that the area had clean data for that particular standard . . . in the calendar year prior to the applicable attainment date for the area . . ." <sup>42</sup> That is, for the 1997 annual PM<sub>2.5</sub> NAAQS, a state

<sup>30</sup> Letter dated June 24, 2020, from Elizabeth J. Adams, Director, Air and Radiation Division, EPA Region IX, to Richard Corey, Executive Officer, CARB, Subject: "RE: Completeness Finding for State Implementation Plan (SIP) Submissions for San Joaquin Valley for the 1997, 2006, and 2012 Fine Particulate Matter (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS) and Termination of Clean Air Act (CAA) Sanction Clocks."

<sup>31</sup> 87 FR 4503 (January 28, 2022).

<sup>32</sup> *Id.* at 4506.

<sup>33</sup> 86 FR 38652.

<sup>34</sup> 86 FR 67329.

<sup>35</sup> 81 FR 84481, 84482 (final EPA action determining that the San Joaquin Valley had failed to attain the 1997 PM<sub>2.5</sub> NAAQS by the December 31, 2015, Serious area attainment date).

<sup>36</sup> Letter dated November 8, 2021, from Richard W. Corey, Executive Officer, CARB, to Deborah Jordan, Acting Regional Administrator, EPA Region 9. The 15 µg/m<sup>3</sup> SIP Revision was developed jointly by CARB and the District.

<sup>37</sup> *Id.* at 1.

<sup>38</sup> 88 FR 86581. As discussed in the EPA's proposal to approve the 15 µg/m<sup>3</sup> SIP Revision, the attainment date for the 189(d) plan was established consistent with CAA sections 179(d)(3) and 172(a)(2).

<sup>39</sup> 81 FR 58010.

<sup>40</sup> *Id.* at 58070.

<sup>41</sup> See *Delaware Dept. of Nat. Resources and Env'tl. Control v. EPA*, 895 F.3d 90, 101 (D.C. Cir. 2018) (holding that for the purposes of an attainment date extension, the CAA requires only that an applying state with jurisdiction over a nonattainment area comply with the requirements in its applicable SIP, not every requirement of the Act); see also *Vigil v. Leavitt*, 381 F.3d 826, 846 (9th Cir. 2004). A state may meet this requirement by certifying its compliance, and in the absence of such certification, the EPA may make a determination as to whether the criterion has been met. See *Delaware*, 895 F.3d, pp. 101–102.

<sup>42</sup> 81 FR 58010, 58071.

would need to show that the annual mean value in the year proceeding the attainment year (in this case, 2023) did not exceed the 15.0  $\mu\text{g}/\text{m}^3$  level of the standard.

If the EPA finds that a state has satisfied the criteria for an extension and grants an extension of the attainment date, the EPA must determine whether the area attained the relevant NAAQS following the end of the extension year (unless the state requests a second one-year extension and the EPA finds that the requirements for such extension are satisfied and extends the attainment date by an additional year). In the absence of an attainment date extension, upon a determination of failure to attain by the EPA, the state would be required to develop a revised attainment plan for the area.

## II. The State's Request for an Extension

As discussed in Section I.B of this document, on December 14, 2023, the EPA approved California's plan to address the Serious area and CAA section 189(d) plan requirements for the 1997 annual  $\text{PM}_{2.5}$  NAAQS, establishing a December 31, 2023 attainment date. On May 23, 2024, the State of California transmitted a letter to the EPA requesting that the EPA grant a one-year extension under CAA section 172(a)(2)(C) to the applicable Serious area attainment date for the San Joaquin Valley from December 31, 2023, to December 31, 2024.<sup>43</sup> In its request, the State certified that it has complied with all requirements and commitments pertaining to the area in the approved implementation plan and that complete, certified monitoring data for the San Joaquin Valley for 2023 are below the level of the 1997 annual  $\text{PM}_{2.5}$  NAAQS.

The State's May 23, 2024 extension request includes documentation in three enclosures in support of its certification that it has complied with the requirements for an attainment date extension under CAA section 172(a)(2)(C):

(1) A letter dated May 14, 2024, from Samir Sheikh, Executive Director/Air Pollution Control Officer, SJVUAPCD, to Dr. Steven S. Cliff, Executive Officer, CARB. Subject: "RE: Attainment Date Extension for the 1997 Annual  $\text{PM}_{2.5}$  Standard for the San Joaquin Valley Nonattainment Area;"

(2) A document titled "Documentation of CARB Having Met Previous State Implementation Plan Obligations for the 15  $\mu\text{g}/\text{m}^3$   $\text{PM}_{2.5}$  Standard for the San Joaquin Valley" ("2024 CARB Compliance Demonstration"); and

<sup>43</sup> Letter dated May 23, 2024, from Steven S. Cliff, Executive Officer, CARB, to Martha Guzman, Regional Administrator, EPA Region 9, with enclosures.

(3) A letter dated April 29, 2024, from Sylvia Vanderspek, Chief, Air Quality Planning Branch, CARB, to Dena Vallano, Manager, Monitoring and Analysis Section, EPA Region 9, with enclosures, certifying 2023 ambient data collected by State and Local Air Monitoring Stations and Special Purpose Monitors operated by CARB in the San Joaquin Valley.

We briefly describe each of these documents in the remainder of this section and provide more detail as part of our evaluation in Section III.

The District's May 14, 2024 extension request letter includes a discussion of the State's SIP submittals to address CAA requirements, including the control measure requirements under CAA sections 189(b) and 189(d); the State's submission of quantitative milestone reports documenting its progress towards attaining the 1997 annual  $\text{PM}_{2.5}$  NAAQS; and the District's amendments to Rule 4901 ("Wood Burning Fireplaces and Wood Burning Heaters") to address contingency measure requirements and achieve reductions in  $\text{PM}_{2.5}$  emissions for purposes of meeting the NAAQS. The District's letter also presents certified ambient air monitoring data for the San Joaquin Valley for the 2023 calendar year, which show that the annual mean concentration was less than 15.0  $\mu\text{g}/\text{m}^3$  (*i.e.*, the level of the 1997 annual  $\text{PM}_{2.5}$  NAAQS) at all monitoring sites.

The 2024 CARB Compliance Demonstration documents how CARB has complied with all requirements and commitments pertaining to the San Joaquin Valley for the 1997 annual  $\text{PM}_{2.5}$  NAAQS by addressing the requirements in each of the SIP submittals for those NAAQS (*i.e.*, the 2008  $\text{PM}_{2.5}$  Plan, the 2015  $\text{PM}_{2.5}$  Plan, the 2018  $\text{PM}_{2.5}$  Plan, and the 15  $\mu\text{g}/\text{m}^3$  SIP Revision). For each attainment plan submittal, CARB discusses the control measure and emissions reductions it committed to in the plan and the actions the State has taken to meet those commitments (*i.e.*, by adopting the measures identified in the plan or by adopting substitute measures). CARB also discusses the measures the State has adopted and submitted to the EPA to address contingency measure requirements and submissions it has made to meet its obligations to submit quantitative milestone reports for the 1997 annual  $\text{PM}_{2.5}$  NAAQS.

Lastly, in support of the State's assertion that it has met the air quality criterion for a one-year attainment date extension for the 1997 annual  $\text{PM}_{2.5}$  NAAQS, CARB included with its extension request a letter certifying 2023 ambient data for the San Joaquin Valley

collected by monitors operated by CARB.

## III. The EPA's Evaluation

### A. Compliance With the Applicable SIP

The first requirement for an extension of the attainment date under CAA section 172(a)(2)(C) is a showing that the state has complied with all requirements and commitments pertaining to that area in the implementation plan. As discussed in Section I.C of this document, the EPA interprets this requirement to mean that a state must have adopted and be implementing the control measures and commitments in the SIP revisions it has submitted to address the CAA requirements for the applicable  $\text{PM}_{2.5}$  NAAQS. For the San Joaquin Valley for the 1997 annual  $\text{PM}_{2.5}$  NAAQS, the EPA has approved control measure requirements and commitments in the 2008  $\text{PM}_{2.5}$  Plan and the 15  $\mu\text{g}/\text{m}^3$  SIP Revision to the 2018  $\text{PM}_{2.5}$  Plan into the California SIP. Therefore, in the remainder of this section, we describe the State's and District's implementation of the control measures and commitments in those plans.

#### 1. 2008 $\text{PM}_{2.5}$ Plan

The specific State and District commitments that the EPA approved into the California SIP as part of the 2008  $\text{PM}_{2.5}$  Plan are as follows:

(1) A commitment by CARB to propose specific measures identified in Appendix B of the "Progress Report on Implementation of  $\text{PM}_{2.5}$  State Implementation Plans (SIP) for the South Coast and San Joaquin Valley Air Basins and Proposed SIP Revisions," dated April 28, 2011 ("2011 Progress Report"), in accordance with the timetable specified therein;<sup>44</sup>

(2) A commitment by the District to "adopt and implement the rules and measures in the 2008  $\text{PM}_{2.5}$  Plan" in accordance with the timetable specified in Table 6–2 of the 2008  $\text{PM}_{2.5}$  Plan, as amended June 17, 2010, and to submit these rules and measures to CARB for transmittal to the EPA as SIP revisions;<sup>45</sup>

(3) A commitment by CARB to achieve a total of 17.1 tons per day (tpd) of  $\text{NO}_x$  emissions reductions and 2.3 tpd of direct  $\text{PM}_{2.5}$  emissions reductions by 2014 as described in CARB Resolution No. 07–28, Attachment B, as amended in 2009 and 2011;<sup>46</sup> and

<sup>44</sup> 40 CFR 52.220(c)(395)(ii)(A)(2), CARB Resolution No. 07–28, Attachment B (September 27, 2007), CARB Resolution No. 09–34 (April 24, 2009), and CARB Resolution No. 11–24 (April 28, 2011); see also 76 FR 69896, 69921–69922, Table 2.

<sup>45</sup> 40 CFR 52.220(c)(392)(ii)(A)(2), SJVUAPCD Governing Board Resolution No. 08–04–10 (April 30, 2008), and SJVUAPCD Governing Board Resolution No. 10–06–18 (June 17, 2010); see also 76 FR 69896 at 69921, Table 1.

<sup>46</sup> 40 CFR 52.220(c)(356)(ii)(B)(2).

(4) A commitment by the District to achieve a total of 8.97 tpd of NO<sub>x</sub> emissions reductions and 0.92 tpd of SO<sub>x</sub> emissions reductions by 2014, as described in Table 6–3a, Table 6–3b, and Table 6–3c, respectively, of the 2008 PM<sub>2.5</sub> Plan.<sup>47</sup>

As of November 9, 2011, the date of the EPA's final action on the 2008 PM<sub>2.5</sub> Plan, CARB and the District had each satisfied substantial portions of these control measure and emissions reduction commitments. Specifically, CARB had proposed action on six of the seven measures it had committed to propose for Board consideration, leaving one additional measure that was scheduled for proposal in 2013 (“New Emissions Standards for Recreational Boats”).<sup>48</sup> The District had adopted 12 of the 13 measures it had committed to adopt and implement, leaving one additional measure that was scheduled for adoption in 2014, amendments to Rule 4905 (“National Gas-Fired, Fan-Type Central Furnaces”).<sup>49</sup> Finally, together CARB and the District had achieved all of the SO<sub>x</sub> emissions reduction commitments and substantial portions of the direct PM<sub>2.5</sub> and NO<sub>x</sub> emissions reductions commitments through implementation of State and District control strategy measures, leaving 3.0 tpd of direct PM<sub>2.5</sub> emissions reductions and 12.9 tpd of NO<sub>x</sub> emissions reductions yet to be achieved by the beginning of 2014.<sup>50</sup>

Subsequently, CARB submitted a staff report, entitled “Review of San Joaquin Valley PM<sub>2.5</sub> State Implementation Plan” (“2015 CARB Compliance Demonstration”), that contains CARB's demonstration that both CARB and the District had satisfied the commitments in the 2008 PM<sub>2.5</sub> Plan that remained outstanding as of November 9, 2011.<sup>51</sup> As discussed in the 2015 CARB Compliance Demonstration, on January 22, 2015, the District adopted amendments to Rule 4905 and on April 7, 2015, CARB submitted this rule to the EPA as a revision to the California SIP.<sup>52</sup>

Second, on February 19, 2015, CARB proposed for Board consideration, and the Board adopted, new emissions standards for recreational boats entitled “Evaporative Emissions Control Requirements for Spark-Ignition Marine Watercraft.”<sup>53</sup> These State and District rulemaking actions satisfied the last remaining control measure commitments in the 2008 PM<sub>2.5</sub> Plan. All of these measures have been submitted to the EPA and approved into the California SIP.<sup>54</sup>

With respect to the remaining emissions reduction commitments, the 2015 CARB Compliance Demonstration, as amended by CARB's “Technical Clarifications to the 2015 San Joaquin Valley PM<sub>2.5</sub> State Implementation Plan,” identified State and District control measures that, according to CARB, achieved emissions reductions beyond those already credited towards the 2008 PM<sub>2.5</sub> Plan and satisfied the State's remaining 2014 emissions reduction obligations.<sup>55</sup> The EPA previously determined that the State and District measures identified in the State's demonstration achieved a total of 12.97 tpd of NO<sub>x</sub> emissions reductions and 3.0 tpd of direct PM<sub>2.5</sub> emissions reductions. These reductions had not previously been credited as part of the attainment demonstration in the 2008 PM<sub>2.5</sub> Plan and therefore could be credited toward the State's outstanding obligation to achieve 12.9 tpd of NO<sub>x</sub> emissions reductions and 3.0 tpd of direct PM<sub>2.5</sub> emissions reductions by the beginning of 2014.<sup>56</sup> Therefore, we concluded that the State had complied with all requirements and commitments pertaining to the San Joaquin Valley nonattainment area in the implementation plan for the 1997 PM<sub>2.5</sub> NAAQS.<sup>57</sup>

## 2. 15 µg/m<sup>3</sup> SIP Revision

The control strategy in the 15 µg/m<sup>3</sup> SIP Revision was based primarily on

(transmitting air district regulations to the EPA as California SIP revisions).

<sup>47</sup> 40 CFR 52.220(c)(392)(ii)(A)(2).  
<sup>48</sup> 76 FR 69896, 69922, Table 2 (“2007 State Strategy Defined Measures Schedule for Consideration and Current Status”).  
<sup>49</sup> Id. at 69921, Table 1 (“San Joaquin Valley Air Pollution Control District 2008 PM<sub>2.5</sub> Plan Specific Rule Commitments”).  
<sup>50</sup> Id. at 69923, Table 4 (“Reductions Needed for Attainment Remaining as Commitments Based on SIP-Creditable Measures”).  
<sup>51</sup> CARB, “Review of San Joaquin Valley PM<sub>2.5</sub> State Implementation Plan,” released April 20, 2015 (“2015 CARB Compliance Demonstration”), transmitted by email dated February 5, 2020, from Michael Benjamin, CARB to Meredith Kurpius, EPA Region IX, pp. 17–22 and Appendix B.  
<sup>52</sup> 2015 CARB Compliance Demonstration, p. 19, Table 7, and letter dated April 7, 2015, from Richard Corey, Executive Officer, CARB, to Jared Blumenfeld, Regional Administrator, EPA Region 9

ongoing emissions reductions from baseline control measures (*i.e.*, State and District regulations adopted prior to the development of the plan that continue to achieve emissions reductions through the projected attainment year and beyond).<sup>58</sup> However, the 15 µg/m<sup>3</sup> SIP Revision also identified several additional control measures to provide for expeditious attainment of the 1997 annual PM<sub>2.5</sub> NAAQS.<sup>59</sup> These measures include three regulatory measures adopted by CARB or the District following development of the 2018 PM<sub>2.5</sub> Plan and a commitment by CARB to adopt and implement an additional regulatory measure to meet an enforceable commitment.

The three regulatory measures adopted following development of the 2018 PM<sub>2.5</sub> Plan include CARB's “Lower Opacity Limits for Heavy-Duty Vehicles” regulation,<sup>60</sup> CARB's “Amended Warranty Requirements for Heavy-Duty Vehicles” regulation,<sup>61</sup> and the District's 2019 amendments to Rule 4901 (“Wood Burning Fireplaces and Wood Burning Heaters”).<sup>62</sup> As discussed in our July 14, 2023 proposal to approve the 15 µg/m<sup>3</sup> SIP Revision, all three of these measures have been adopted by the State and submitted to the EPA for SIP approval.<sup>63</sup> The EPA approved the District's 2019 amendments to Rule 4901 on July 22, 2020,<sup>64</sup> and as part of our final rule approving the 15 µg/m<sup>3</sup> SIP Revision, we credited this measure with annual average emissions reductions of 0.2 tpd of direct PM<sub>2.5</sub> for the purpose of attaining the 1997 annual PM<sub>2.5</sub> NAAQS by December 31, 2023.<sup>65</sup> The EPA did not credit CARB's Lower Opacity Limits for Heavy-Duty Vehicles regulation or the Amended Warranty Requirements for Heavy-Duty Vehicles regulation with any particular amount of emissions

<sup>58</sup> These baseline control measures include many EPA-approved regulations for on-road and non-road mobile sources, as well as District measures that limit NO<sub>x</sub> and PM<sub>2.5</sub> emissions from stationary and area sources. See discussion in the EPA's July 14, 2023, proposed approval of the plan (88 FR 45276, 45297–45299).

<sup>59</sup> Id. at 45299–45300.

<sup>60</sup> Initially adopted via CARB Resolution 18–20 (May 25, 2018). CARB Resolution 18–20 was repealed on July 26, 2018 via CARB Resolution 18–28, which included a modified version of the regulation to address public comments. Per direction from CARB Resolution 18–28, the regulation was adopted via Executive Order R19–001 (March 12, 2019).

<sup>61</sup> CARB Resolution 18–24, June 28, 2018.

<sup>62</sup> SJVUAPCD Resolution 19–06–22, June 20, 2019.

<sup>63</sup> 88 FR 45276, 45299–45300.

<sup>64</sup> 85 FR 44206.

<sup>65</sup> 88 FR 86581. See also the discussion regarding this measure in our July 14, 2023, proposed approval (88 FR 45276, 45299).

<sup>53</sup> 2015 CARB Compliance Demonstration, p. 20, Table 8 and CARB, Resolution 15–3, “Evaporative Emissions Control Requirements for Spark-Ignition Marine Watercraft,” February 19, 2015, available at <https://www.arb.ca.gov/regact/2015/simw2015/simw2015.htm>.

<sup>54</sup> See Technical Support Document, EPA General Evaluation, San Joaquin Valley PM<sub>2.5</sub> Plan for the 2006 PM<sub>2.5</sub> NAAQS, Table III–A.

<sup>55</sup> 2015 CARB Compliance Demonstration, pp. 21–22, and CARB, “Technical Clarifications to the 2015 San Joaquin Valley PM<sub>2.5</sub> State Implementation Plan,” transmitted by email dated February 5, 2020, from Michael Benjamin, CARB to Meredith Kurpius, EPA Region IX, pp. 1–4.

<sup>56</sup> 85 FR 44192 (July 22, 2020). Also see the EPA's proposed rulemaking at 85 FR 17382, 17405–17407 (March 27, 2020).

<sup>57</sup> Id.

reductions toward attainment of the 1997 annual PM<sub>2.5</sub> NAAQS for the reasons discussed in our proposal; however, we noted that the relatively small quantity of emissions reductions from these measures would not materially affect the attainment demonstration for the 1997 annual PM<sub>2.5</sub> NAAQS.<sup>66</sup>

CARB's commitment in the 15 µg/m<sup>3</sup> SIP Revision was to achieve aggregate emissions reductions of 3.0 tpd of NO<sub>x</sub> and 0.04 tpd of direct PM<sub>2.5</sub> (referred to as an "aggregate tonnage commitment") through adoption of CARB's "Heavy-Duty Vehicle Inspection and Maintenance Program" ("Heavy-Duty I/M") (referred to as a "control measure commitment") and/or substitute measures.<sup>67</sup> CARB adopted the Heavy-Duty I/M measure on December 9, 2021, fulfilling CARB's control measure commitment in the 15 µg/m<sup>3</sup> SIP Revision. On December 14, 2022, CARB submitted the measure to the EPA as a revision to the California SIP.<sup>68 69</sup> Implementation of the program began on January 1, 2023.

In addition to the baseline and additional measures discussed herein, CARB noted in its "Staff Report, Proposed SIP Revision for the 15 µg/m<sup>3</sup> Annual PM<sub>2.5</sub> Standard for the San Joaquin Valley," ("August 2021 Staff Report") accompanying the 15 µg/m<sup>3</sup> SIP Revision that the "Accelerated Turnover of Agricultural Equipment Incentive Projects" ("Valley Incentive Measure") was expected to provide for further emissions reductions by the 2023 attainment year.<sup>70</sup> The Valley Incentive Measure includes commitments by CARB to monitor, assess, and report on emissions reductions, and to achieve emissions reductions of 5.1 tpd of NO<sub>x</sub> and 0.3 tpd of direct PM<sub>2.5</sub> from the 2025 baseline inventory in the 2018 PM<sub>2.5</sub> Plan by December 31, 2024.<sup>71</sup> The EPA finalized a partial approval of this measure on December 16, 2021, wherein the EPA credited 4.83 tpd of NO<sub>x</sub> and 0.24 tpd of direct PM<sub>2.5</sub> towards CARB's tonnage

commitments for 2024 (for attaining the 2006 24-hour PM<sub>2.5</sub> NAAQS).<sup>72</sup> While the State did not take credit for any emissions reductions from this measure in the 15 µg/m<sup>3</sup> SIP Revision, it asserted in the August 2021 Staff Report that a large portion of those emissions reductions would in fact be achieved by 2023.<sup>73</sup>

To address how California has met the outstanding aggregate tonnage commitment in the 15 µg/m<sup>3</sup> SIP Revision, CARB provided updates on implementation of the Heavy-Duty I/M program and the Valley Incentive Measure in the 2024 CARB Compliance Demonstration. For the Heavy-Duty I/M program, CARB provided a summary of the vehicle screening, inspections, and citations issued in San Joaquin Valley cities in 2023.<sup>74</sup> CARB notes that these enforcement efforts led to a reduction in emissions from heavy-duty vehicles in the San Joaquin Valley. However, CARB explains that because of the "time-sensitive nature of documenting that we achieved the CARB emission reduction commitment," it is relying on the reductions achieved by a substitute measure, the Valley Incentive Measure, to demonstrate that it has met the aggregate tonnage commitment in the 15 µg/m<sup>3</sup> SIP Revision.

On June 21, 2024, CARB submitted the "Amendments to the 15 µg/m<sup>3</sup> SIP Revision and Agricultural Equipment Incentive Measure for the 1997 PM<sub>2.5</sub> Standard" ("15 µg/m<sup>3</sup> Plan Amendments") for parallel processing.<sup>75</sup> The 15 µg/m<sup>3</sup> Plan Amendments revises the State's aggregate tonnage commitment in the 15 µg/m<sup>3</sup> SIP Revision, amends the Valley Incentive Measure, and demonstrates that projects implemented under the SIP-approved Valley Incentive Measure achieved specified amounts of reductions in emissions of NO<sub>x</sub> and PM<sub>2.5</sub> in the San Joaquin Valley area in the year 2023. In a separate current action, the EPA is proposing to approve the 15 µg/m<sup>3</sup> Plan Amendments, credit the emissions reductions of 5.0 tpd of NO<sub>x</sub> and 0.27 tpd of direct PM<sub>2.5</sub> from

the Valley Incentive Measure in the year 2023, and formally substitute the Valley Incentive Measure for the Heavy-Duty I/M measure as the measure satisfying the aggregate tonnage commitment for the 15 µg/m<sup>3</sup> SIP Revision.<sup>76</sup> In this action, the EPA is proposing to find that, upon final approval of the 15 µg/m<sup>3</sup> Plan Amendments, the State will have adequately documented that it has complied with its commitment to achieve 3.0 tpd of NO<sub>x</sub> and 0.04 tpd of direct PM<sub>2.5</sub> emissions reductions by the beginning of 2023. Thus, based on the EPA's review of the requirements and commitments pertaining to the San Joaquin Valley in the 2008 PM<sub>2.5</sub> Plan and 15 µg/m<sup>3</sup> SIP Revision, the supporting information in the State's extension request, and additional information discussed herein, we find that the State has complied with all requirements for the 1997 annual PM<sub>2.5</sub> NAAQS in the applicable SIP. We therefore propose to find that the area meets the first criterion to qualify for a one-year attainment date extension under CAA section 172(a)(2)(C).

#### B. Air Quality Data

As discussed in Section I.C of this document, the second requirement for an extension of the attainment date under CAA section 172(a)(2)(C) is a showing that the area had clean data for the relevant standard in the calendar year preceding the applicable attainment date. Such determination is typically based upon complete, quality-assured data gathered at established State and Local Air Monitoring Stations (SLAMS) in a nonattainment area and entered into the EPA's Air Quality System (AQS) database. Data from ambient air monitors operated by state/local agencies in compliance with the EPA monitoring requirements must be submitted to AQS. Monitoring agencies annually certify that these data are accurate to the best of their knowledge. Accordingly, the EPA relies primarily on data in AQS when determining compliance with the NAAQS.<sup>77</sup> The EPA reviews all data to determine the area's air quality status in accordance with 40 CFR part 50, Appendix N. Under EPA regulations in 40 CFR 50.7 and in accordance with Appendix N, the 1997 annual PM<sub>2.5</sub> NAAQS are met when the annual arithmetic mean concentration, as determined in accordance with the rounding conventions in 40 CFR part 50,

<sup>76</sup> The EPA is proposing to approve the 15 µg/m<sup>3</sup> Plan Amendments in a separate rulemaking.

<sup>77</sup> See 40 CFR 50.7; 40 CFR part 50, Appendix L; 40 CFR part 53; 40 CFR part 58, and 40 CFR part 58, appendices A, C, D, and E.

<sup>66</sup> 88 FR, 45276, 45300.

<sup>67</sup> CARB Resolution 21–21, September 23, 2021, p. 6; and August 2021 Staff Report, pp. 4–5.

<sup>68</sup> Letter dated December 7, 2022, from Steven S. Cliff, Ph.D., Executive Officer, to Martha Guzman, Regional Administrator, EPA Region IX, with enclosures.

<sup>69</sup> At the time that this document was being prepared, the EPA had not yet proposed action on the Heavy-Duty I/M measure.

<sup>70</sup> August 2021 Staff Report, pp. 3–4.

<sup>71</sup> EPA Region IX "Technical Support Document for EPA's Rulemaking for the California State Implementation Plan California Air Resources Board Resolution 19–26 San Joaquin Valley Agricultural Equipment Incentive Measure," February 2020, pp. 4–5, 24–25, and 31.

<sup>72</sup> 86 FR 73106 (December 27, 2021). The EPA approved the Carl Moyer Memorial Air Quality Standards Attainment Program ("Carl Moyer Program") and Funding Agricultural Replacement Measures for Emission Reductions Program ("FARMER Program"). The EPA deferred action on the United States Department of Agriculture's Natural Resources Conservation Service (NRCS) Environmental Quality Incentive Program (EQIP) portion of the Valley Incentive Measure.

<sup>73</sup> CARB's August 2021 Staff Report, p. 3.

<sup>74</sup> 2024 CARB Compliance Demonstration, pp. 7–8.

<sup>75</sup> Letter dated June 21, 2024, from Steven S. Cliff, Ph.D., Executive Officer, CARB, to Martha Guzman, Regional Administrator, EPA Region 9, with enclosure.



Appendix N, is less than or equal to 15.0 µg/m<sup>3</sup> at each eligible monitoring site within the area. Data completeness requirements for a given year are met when at least 75 percent of the scheduled sampling days for each quarter have valid data.<sup>78</sup>

Section 110(a)(2)(B)(i) of the CAA requires states to establish and operate air monitoring networks to compile data on ambient air quality for all criteria pollutants. The monitoring requirements are specified in 40 CFR part 58. These requirements are applicable to state, and where delegated, local air monitoring agencies that operate criteria pollutant monitors. The regulations in 40 CFR part 58 establish specific requirements for operating air quality surveillance networks to measure ambient concentrations of PM<sub>2.5</sub>, including requirements for measurement methods, network design, quality assurance procedures, and, in the case of large urban areas, the minimum number of monitoring sites designated as SLAMS.

In section 4.7 of Appendix D to 40 CFR part 58, the EPA specifies minimum monitoring requirements for PM<sub>2.5</sub> to operate at SLAMS. SLAMS produce data comparable to the NAAQS, and therefore, the monitor must be an approved federal reference method (FRM) or federal equivalent method (FEM). The minimum number of SLAMS required is described in section 4.7.1 and can be met by either filter-based or continuous FRMs or FEMs. The monitoring regulations also provide that each core-based statistical area must operate a minimum number of PM<sub>2.5</sub> continuous monitors;<sup>79</sup> however, this requirement can be met by either an FEM or a non-FEM continuous monitor, and the continuous monitors can be located with other SLAMS or at a different location. Consequently, the monitoring requirements for PM<sub>2.5</sub> can be met with

filter-based FRMs/FEMs, continuous FEMs, continuous non-FEMs, or a combination of monitors at each required SLAMS.

During 2023, ambient PM<sub>2.5</sub> concentration data were collected at a total of 18 sites within the San Joaquin Valley: 5 sites in Fresno County; 3 sites in Kern County; 2 sites each in Kings, Merced, San Joaquin, and Stanislaus counties; and 1 site each in Madera and Tulare counties. The District operates 12 of these sites while CARB operates 6 of these sites. All of the sites are designated SLAMS for PM<sub>2.5</sub>.<sup>80</sup> The primary monitors are FRMs at 1 of the 18 sites and beta attenuation monitor FEMs at 17 of the 18 sites. Overall, the District's PM<sub>2.5</sub> monitoring network meets, and in several metropolitan statistical areas exceeds, the PM<sub>2.5</sub> minimum monitoring requirements for the San Joaquin Valley.

Based on our review of the PM<sub>2.5</sub> monitoring network as summarized above, we find that the monitoring network in the San Joaquin Valley is adequate for the purpose of collecting ambient PM<sub>2.5</sub> concentration data for use in determining whether the San Joaquin Valley had clean data for the 1997 annual PM<sub>2.5</sub> NAAQS during the 2023 calendar year.

Under 40 CFR 58.10, states are required to submit annual monitoring network plans to the EPA.<sup>81</sup> Within the San Joaquin Valley, CARB and the District are the agencies responsible for assuring that the area meets air quality monitoring requirements. CARB and SJVUAPCD submit monitoring network plans to the EPA annually. These plans describe and discuss the status of the air monitoring network, as required under 40 CFR 58.10. The EPA reviews these annual network plans for compliance with the applicable reporting requirements in 40 CFR part 58. With respect to PM<sub>2.5</sub>, we have found that the CARB and SJVUAPCD annual network

plans meet the applicable requirements under 40 CFR part 58.<sup>82</sup>

Under 40 CFR 58.15, monitoring agencies must certify, on an annual basis, that data collected at all SLAMS and at all FRM and FEM special purpose monitor stations meet the EPA's quality assurance requirements. In doing so, monitoring agencies must certify that the previous year of ambient concentration and quality assurance data are submitted to AQS and that the ambient concentration data are accurate. CARB annually certifies that the data the agency submits to AQS are quality assured, including the data collected at monitoring sites in the San Joaquin Valley.<sup>83</sup> SJVUAPCD does the same for data submitted to AQS from monitoring sites operated by the District.<sup>84</sup>

With respect to data completeness, we determined that the data collected by CARB and the District meet the quarterly completeness criterion for all four quarters of 2023 at most of the PM<sub>2.5</sub> monitoring sites in the San Joaquin Valley. More specifically, among the 18 PM<sub>2.5</sub> monitoring sites from which regulatory data are available, only the data from Stockton-University (AQS ID: 06-077-1003) did not meet the 75 percent completeness criterion for one quarter;<sup>85</sup> however, the data from the site are sufficient nonetheless to produce a valid design value for the 1997 annual PM<sub>2.5</sub> NAAQS pursuant to the rules governing design value validity in 40 CFR part 50, Appendix N, section 4.1.

The EPA evaluated data from calendar year 2023 to determine whether the San Joaquin Valley PM<sub>2.5</sub> nonattainment area met the air quality criterion for granting a one-year extension of the applicable attainment date for the 1997 annual PM<sub>2.5</sub> NAAQS from December 31, 2023, to December 31, 2024, under CAA section 172(a)(2)(C). Table 1 shows the PM<sub>2.5</sub> annual mean at each of the 18 SLAMS monitoring sites for 2023.

TABLE 1—2023 PM<sub>2.5</sub> ANNUAL MEAN FOR THE SAN JOAQUIN VALLEY NONATTAINMENT AREA

County	Site name	Site (AQS ID)	Annual mean (µg/m <sup>3</sup> )
Fresno .....	Fresno-Garland .....	06-019-0011	10.5
Fresno .....	Tranquillity .....	06-019-2009	4.8
Fresno .....	Fresno-Foundry .....	06-019-2016	12.5

<sup>78</sup> 40 CFR part 50, Appendix N, section 4.1(b).

<sup>79</sup> 40 CFR part 58, Appendix D, section 4.7.2.

<sup>80</sup> There are a number of other PM<sub>2.5</sub> monitoring sites within the valley, including other sites operated by the District, the National Park Service, and certain Indian tribes, but the data collected from these sites are non-regulatory and not eligible for comparison with the PM<sub>2.5</sub> NAAQS.

<sup>81</sup> 40 CFR 58.10(a)(1).

<sup>82</sup> Letter dated October 30, 2023, from Dena Vallano, Manager, Monitoring and Analysis

Section, EPA Region IX, to Sylvia Vanderspek, Manager, Air Quality Planning Branch, CARB; and letter dated October 31, 2023, from Dena Vallano, Manager, Monitoring and Analysis Section, EPA Region IX, to Jon Klassen, Director, Air Quality Science, SJVUAPCD.

<sup>83</sup> For example, see letter dated April 29, 2024, from Sylvia Vanderspek, Chief, Air Quality Planning Branch, CARB, to Dena Vallano, Manager, Monitoring and Analysis Section, EPA Region 9,

with enclosures, certifying calendar year 2023 ambient air quality data and quality assurance data.

<sup>84</sup> For example, see letter dated April 23, 2024, from Robert Gilles, Program Manager, SJVUAPCD, to Matt Lakin, Director, Air and Radiation Division, EPA Region IX, with attachments, certifying calendar year 2023 ambient air quality data and quality assurance data.

<sup>85</sup> EPA AQS Combined Site Sample Values, AMP355, accessed May 17, 2024 (User ID: STSAI, Report Request ID: 2193827).



TABLE 1—2023 PM<sub>2.5</sub> ANNUAL MEAN FOR THE SAN JOAQUIN VALLEY NONATTAINMENT AREA—Continued

County	Site name	Site (AQS ID)	Annual mean (µg/m <sup>3</sup> )
Fresno	Clovis-Villa	06-019-5001	8.6
Fresno	Fresno-Pacific	06-019-5025	12.6
Kern	Bakersfield-Golden/M-St	06-029-0010	13.7
Kern	Bakersfield-California	06-029-0014	12.0
Kern	Bakersfield-Airport (Planz)	06-029-0016	12.5
Kings	Corcoran-Patterson	06-031-0004	10.1
Kings	Hanford-Irwin	06-031-1004	12.5
Merced	Merced-M St	06-047-2510	9.6
Merced	Merced-Coffee	06-047-0003	8.4
San Joaquin	Stockton-University Park	06-077-1003	<sup>a</sup> 10.8
San Joaquin	Manteca	06-077-2010	7.9
Stanislaus	Modesto-14th Street	06-099-0005	10.5
Stanislaus	Turlock	06-099-0006	10.1
Madera	Madera-City	06-039-2010	9.9
Tulare	Visalia-W Ashland Avenue	06-107-2003	11.7

<sup>a</sup> Quarter 2 does not meet completeness criteria.

Source: EPA AQS Design Value Report, AMP480, accessed May 17, 2024 (User ID: STSAI, Report Request ID: 2193813).

Table 1 shows that the annual mean for the 2023 calendar year was less than 15.0 µg/m<sup>3</sup> (*i.e.*, the level of the 1997 annual PM<sub>2.5</sub> NAAQS) at each of the 18 SLAMS monitoring sites in the San Joaquin Valley. Thus, the EPA proposes to find that the area meets the air quality criterion to qualify for a one-year attainment date extension under CAA section 172(a)(2)(C).

#### IV. Environmental Justice Considerations

Executive Order 12898 requires that federal agencies, to the greatest extent practicable and permitted by law, identify and address disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations.<sup>86</sup> Additionally, Executive Order 13985 directs federal government agencies to assess whether, and to what extent, their programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups,<sup>87</sup> and Executive Order 14008 directs federal agencies to develop programs, policies, and activities to address the disproportionate health, environmental, economic, and climate impacts on disadvantaged communities.<sup>88</sup>

The CAA gives the EPA the discretion to extend an area's applicable attainment date by one year upon application by a state if the state has met the two criteria under CAA section 172(a)(2)(C) (see Section I.C of this document). To identify environmental burdens and susceptible populations in underserved communities in the San Joaquin Valley nonattainment area and

to better understand the context of our proposed action on these communities, we rely on the EPA's August 2022 screening-level analysis for PM<sub>2.5</sub> in the San Joaquin Valley using the EPA's environmental justice (EJ) screening and mapping tool ("EJSCREEN").<sup>89,90</sup> The results of this analysis are being provided for informational and transparency purposes.

Our screening-level analysis indicates that the "Demographic Index" for each of the eight counties in the San Joaquin Valley is above the national average, ranging from 48 percent in Stanislaus County to 61 percent in Tulare County, compared to 36 percent nationally. The Demographic Index is the average of an area's percent minority and percent low-income populations, *i.e.*, the two populations explicitly named in Executive Order 12898.<sup>91</sup> All eight

<sup>89</sup> EJSCREEN provides a nationally consistent dataset and approach for combining environmental and demographic indicators. EJSCREEN is available at <https://www.epa.gov/ejscreen/what-ejscreen>. The EPA used EJSCREEN to obtain environmental and demographic indicators representing each of the eight counties in the San Joaquin Valley. We note that the indicators for Kern County are for the entire county. While the indicators might have slightly different numbers for the San Joaquin Valley portion of the county, most of the county's population is in the San Joaquin Valley portion, and thus the differences would be small. These indicators are included in EJSCREEN reports that are available in the rulemaking docket for this action.

<sup>90</sup> EPA Region IX, "EJSCREEN Analysis for the Eight Counties of the San Joaquin Valley Nonattainment Area," August 2022.

<sup>91</sup> EJSCREEN reports environmental indicators (*e.g.*, air toxics cancer risk, Pb paint exposure, and traffic proximity and volume) and demographic indicators (*e.g.*, people of color, low income, and linguistically isolated populations). The value for a particular indicator measures how the community of interest compares with the state, the EPA region, or the national average. For example, if a given location is at the 95th percentile nationwide, this means that only 5 percent of the U.S. population

counties are above the national average for demographic indices of "Linguistically Isolated Population" and "Population with Less than High School Education."

With respect to pollution, all eight counties are at or above the 97th percentile nationally for the PM<sub>2.5</sub> index and seven of the eight counties in the San Joaquin Valley are at or above the 90th percentile nationally for the PM<sub>2.5</sub> EJ index, which is a combination of the Demographic Index and the PM<sub>2.5</sub> index. Most counties are also above the 80th percentile for each of 11 additional EJ indices included in the EPA's EJSCREEN analysis. In addition, several counties are above the 90th percentile for certain EJ indices, including, for example, the Ozone EJ Index (Fresno, Kern, Madera, Merced, and Tulare counties), the National Air Toxics Assessment (NATA) Respiratory Hazard EJ Index (Madera and Tulare counties), and the Wastewater Discharge Indicator EJ Index (Merced, San Joaquin, Stanislaus, and Tulare counties).<sup>92</sup>

This proposed action would grant an extension of attainment date for the 1997 annual PM<sub>2.5</sub> NAAQS. Information on the 1997 annual PM<sub>2.5</sub> NAAQS and its relationship to negative health impacts can be found at 62 FR 38652

has a higher value than the average person in the location being analyzed. EJSCREEN also reports EJ indexes, which are combinations of a single environmental indicator with the EJSCREEN Demographic Index. For additional information about environmental and demographic indicators and EJ indexes reported by EJSCREEN, see EPA, "EJSCREEN Environmental Justice Mapping and Screening Tool—EJSCREEN Technical Documentation," Section 2 (September 2019).

<sup>92</sup> Notably, Tulare County is above the 90th percentile for 6 of the 12 EJ indices in the EPA's EJSCREEN analysis, including the PM<sub>2.5</sub> EJ Index, which is the highest value among all San Joaquin Valley counties.

<sup>86</sup> 59 FR 7629 (February 16, 1994).

<sup>87</sup> 86 FR 7009 (January 25, 2021).

<sup>88</sup> 86 FR 7619 (February 1, 2021).

(July 18, 1997). We expect that this action will generally have neutral environmental and health impacts on all populations in the San Joaquin Valley, including people of color and low-income populations. This action would not worsen existing air quality and there is no information in the record indicating that this action is expected to have disproportionately high or adverse human health or environmental effects on a particular group of people.

## V. The EPA's Proposed Action

In response to a request from the State of California on May 23, 2024, the EPA is proposing to grant a one-year extension to the applicable Serious area attainment date for the 1997 annual PM<sub>2.5</sub> NAAQS for the San Joaquin Valley nonattainment area. The proposed action to extend the applicable Serious attainment date for this nonattainment area is based on the EPA's evaluation of air quality monitoring data and the extension request submitted by the State of California and our determination that the State has satisfied the two statutory criteria for a 1-year extension under CAA section 172(a)(2)(C).

If finalized, this action would extend the applicable Serious area attainment date for the San Joaquin Valley nonattainment area from December 31, 2023, to December 31, 2024. If we finalize this proposal, consistent with CAA section 172(a)(2)(C), the area will remain a Serious PM<sub>2.5</sub> nonattainment area with an applicable Serious area attainment date of December 31, 2024. Consistent with CAA section 172(a)(2)(C), the EPA will determine whether the area attained the standard within six months following the applicable attainment date.

## VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://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. This action merely proposes to approve a state request as meeting federal requirements and imposes no new requirements.

### B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This action merely proposes to approve a state request for an attainment date extension, and 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. Approval of a state's request for an attainment date extension does not create any new requirements and does not directly regulate any entities.

### 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. Pursuant to the CAA, this action merely proposes to approve a state request for an attainment date extension.

### 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 it 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. Therefore, this action is not subject to Executive Order 13045 because it merely proposes to approve a state request for an attainment date extension as meeting federal requirements. Furthermore, the EPA's Policy on Children's Health does not apply to this action.

### 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

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines EJ as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

Under the CAA, an extension of the attainment date under section

172(a)(2)(C) does not impose any additional regulatory requirements on sources beyond those imposed by state law. The State did not evaluate EJ considerations as part of its documentation supporting its request for an attainment date extension; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA performed an EJ analysis, as is described above in the section titled, "Environmental Justice Considerations." The analysis was included in this document for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. Due to the nature of the action being taken here, this action is expected to have a neutral impact on the air quality of the affected area. In addition, there is no information in the record upon which this decision is based inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

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

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

Dated: June 27, 2024.

**Cheree Peterson,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 2024-14617 Filed 7-5-24; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MB Docket No. 24-193; RM-11986; DA 24-614; FR ID 229399]

#### Radio Broadcasting Services; Huntley, Montana

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a Petition for Rulemaking filed by SSR Communications, Inc., proposing to amend the Table of FM Allotments, by adding Channel 284A at Huntley, Montana, as the community's first local service. To accommodate the proposed allotment, we issue Order to Show Cause to BMG Billings, LLC, licensee of KYSX, Billings, Montana to

show cause why the station license should not be modified to specify operation on Channel 286A in lieu of reserved Channel 283C1 at Billings, Montana. A staff engineering analysis indicates that Channel 284A can be allotted to Huntley, Montana, consistent with the minimum distance separation requirements of the Federal Communications Commission's (Commission) rules, with a site restriction of 13.9 km (8.6 miles) north of the community. The reference coordinates are 46-01-30 NL and 108-18-00 WL.

**DATES:** Comments must be filed on or before August 19, 2024, and reply comments on or before September 3, 2024.

**ADDRESSES:** Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.

- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.

- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

- *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530.

In addition to filing comments with the FCC, interested parties should serve

the petitioner as follows: Matthew K. Wesolowski, CEO, SSR Communications, Inc., 740 Highway 49 North, Suite R, Flora, MS 39071, [matt@wyab.com](mailto:matt@wyab.com).

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418-2054, [Rolanda-Faye.Smith@fcc.gov](mailto:Rolanda-Faye.Smith@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making and Order to Show Cause, in MB Docket No. 24-193, DA 24-614; adopted and released on June 27, 2024. The full text of this document is available online at <https://docs.fcc.gov/public/attachments/DA-24-614A1.pdf>.

*Paperwork Reduction Act.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

*Providing Accountability Through Transparency Act.* The Providing Accountability Through Transparency Act requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule. Accordingly, the Commission will publish the required summary of this NPRM on <https://www.fcc.gov/proposed-rulemakings>.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a notice of proposed rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

**Nazifa Sawez,**

*Assistant Chief, Audio Division, Media Bureau.*

#### Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows: