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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2024-0301; FRL-12060-01-R9]

Clean Air Plans; 1997 Fine Particulate Matter Nonattainment Area Requirements; San Joaquin Valley, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or “Agency”) is proposing to approve through parallel processing a state implementation plan (SIP) revision submitted by the State of California to meet Clean Air Act (CAA or “Act”) requirements for the 1997 fine particulate matter (PM_{2.5}) national ambient air quality standards (NAAQS or “standards”) in the San Joaquin Valley “Serious” nonattainment area. Specifically, the EPA proposes to approve through parallel processing the “Amendments to the 15 µg/m³ SIP Revision and Agricultural Equipment Incentive Measure for the 1997 PM_{2.5} Standard” (“15 µg/m³ Plan Amendments”), which revises the State’s aggregate tonnage commitment made for the purpose of attaining the 1997 annual PM_{2.5} NAAQS, amends an existing SIP measure related to certain state mobile source incentive funding programs, and demonstrates that those programs under the SIP-approved measure have achieved specified amounts of reductions in emissions of nitrogen oxides (NO_x) and PM_{2.5} in the San Joaquin Valley area in the year 2023. If finalized, the effect of this action would be to approve these amounts of emissions reductions for credit toward the emissions reduction commitment in the California SIP.

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

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-

OAR-2024-0301, at <https://www.regulations.gov>. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.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, Geographic Strategies and Modeling Section (AIR-2-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, phone: (415) 972-3877; email: graham.ashleyr@epa.gov.

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

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I. Background

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_{2.5}).¹ The EPA established primary and secondary annual and 24-hour standards for PM_{2.5}.² The EPA set the annual primary and secondary standards at 15.0 micrograms per cubic meter (µg/m³), based on a three-year average of annual mean PM_{2.5} concentrations, and set the 24-hour primary and secondary standards at 65 µg/m³, based on the three-year average of the 98th percentile of 24-hour PM_{2.5} concentrations at each monitoring site within an area.³ This proposed action pertains only to the 1997 annual PM_{2.5} NAAQS; therefore, we discuss only those NAAQS in the remainder of this document.

On January 15, 2013, the EPA revised the level of the primary annual PM_{2.5} NAAQS to 12.0 µg/m³,⁴ and on February 7, 2024, the EPA revised the level of the primary annual PM_{2.5} NAAQS once more to 9.0 µg/m³.⁵ Even though the EPA lowered the annual PM_{2.5} NAAQS, the 1997 primary annual PM_{2.5} NAAQS remains in effect in areas designated nonattainment for that NAAQS.⁶

The EPA established each of the PM_{2.5} NAAQS after considering substantial evidence from numerous health studies demonstrating that serious health effects are associated with exposures to PM_{2.5} concentrations above these levels. PM_{2.5} can be particles emitted by sources directly into the atmosphere as a solid or liquid particle (“primary PM_{2.5}” or

¹ 62 FR 38652.

² 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).

³ 40 CFR 50.7.

⁴ 78 FR 3086.

⁵ 89 FR 16202.

⁶ 40 CFR 50.13(d).

“direct PM_{2.5}”) or can be particles that form in the atmosphere as a result of various chemical reactions from PM_{2.5} precursor emissions emitted by sources (“secondary PM_{2.5}”). The EPA has identified the precursors of PM_{2.5} to be oxides of nitrogen (“NO_x”), sulfur oxides (“SO_x”), volatile organic compounds (“VOC”), and ammonia.⁷

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 PM_{2.5} NAAQS, using air quality monitoring data for the three-year periods of 2001–2003 and 2002–2004.⁸ The EPA designated the San Joaquin Valley as nonattainment for the 1997 annual PM_{2.5} NAAQS (15.0 µg/m³).⁹

On June 2, 2014, the EPA classified the San Joaquin Valley as a “Moderate” nonattainment area for the 1997 annual PM_{2.5} NAAQS.¹⁰ Effective May 7, 2015, the EPA reclassified the San Joaquin Valley as a “Serious” nonattainment area for the 1997 annual PM_{2.5} 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, 2015.¹¹ Upon reclassification as a Serious area, the State became subject to the requirement of CAA section 188(c)(2) to attain the 1997 annual PM_{2.5} NAAQS as expeditiously as practicable but no later than ten years after designation, *i.e.*, by no later than December 31, 2015.

On November 23, 2016, the EPA determined that the San Joaquin Valley had failed to attain the 1997 annual PM_{2.5} NAAQS by the December 31, 2015 Serious area attainment date.¹² This determination triggered a requirement for California to submit a new SIP submission for the 1997 annual PM_{2.5} NAAQS for the San Joaquin Valley that satisfied the requirements of CAA section 189(d). The statutory deadline for this additional SIP submission was December 31, 2016.

On December 6, 2018, the EPA determined that California had failed to submit a complete section 189(d) attainment plan for the 1997 annual

PM_{2.5} NAAQS, among other required SIP submissions for the San Joaquin Valley, by the statutory deadlines.¹³ This finding, which became effective on January 7, 2019, triggered the requirement for a new SIP submission addressing the identified failure to submit deficiencies.¹⁴

On May 10, 2019, the California Air Resources Board (CARB) submitted the “2018 Plan for the 1997, 2006, and 2012 PM_{2.5} Standards,” adopted by the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) on November 15, 2018, and by CARB on January 24, 2019 (“2018 PM_{2.5} Plan”).¹⁵ The 2018 PM_{2.5} Plan addressed the Serious area nonattainment plan and CAA section 189(d) requirements for the 1997 annual PM_{2.5} NAAQS, in addition to other requirements for the 1997 24-hour, 2006, and 2012 PM_{2.5} NAAQS. CARB clarified in its submittal letter that the 2018 PM_{2.5} Plan superseded past submissions to the EPA that the agency had not yet acted on for the 1997 annual PM_{2.5} NAAQS.¹⁶

On July 22, 2021, the EPA proposed to partially approve and partially disapprove portions of the 2018 PM_{2.5} Plan that addressed attainment of the 1997 annual PM_{2.5} NAAQS in the San Joaquin Valley nonattainment area.¹⁷ The EPA proposed to approve the 2013 base year emissions inventories and 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_{2.5} NAAQS by December 31, 2020, as projected in the 2018 PM_{2.5} Plan. On November 26, 2021, the EPA finalized the partial approval and partial disapproval of the 2018 PM_{2.5} Plan for the 1997 annual PM_{2.5} NAAQS as proposed.¹⁸

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_{2.5} NAAQS. 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.”¹⁹

On November 8, 2021, CARB submitted the “Attainment Plan Revision for the 1997 Annual PM_{2.5} Standard” (“15 µg/m³ SIP Revision”), adopted by the SJVUAPCD on August 19, 2021, and adopted by CARB on September 23, 2021.²⁰ In the letter accompanying the submission, CARB clarified that the 15 µg/m³ SIP Revision amended the 2018 PM_{2.5} Plan.²¹

On December 14, 2023, the EPA approved the 15 µg/m³ SIP Revision as a revision to the California SIP, establishing an applicable attainment date of December 31, 2023, for the 1997 annual PM_{2.5} NAAQS in the San Joaquin Valley.²² As a part of that approval, the EPA approved CARB’s commitment to achieve aggregate emissions reductions of 3.0 tons per day (tpd) of NO_x and 0.04 tpd of direct PM_{2.5} (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.²³ The 15 µg/m³ SIP Revision also included discussion of the “Accelerated Turnover of Agricultural Equipment Incentive Projects” (“Valley Incentive Measure”), which was expected to provide for further emissions reductions by the 2023 attainment year. No specific emissions

⁷ For example, see 72 FR 20586, 20589 (April 25, 2007).

⁸ 70 FR 944 (January 5, 2005).

⁹ 40 CFR 81.305.

¹⁰ 79 FR 31566.

¹¹ 80 FR 18528 (April 7, 2015).

¹² 81 FR 84481.

¹³ 83 FR 62720.

¹⁴ *Id.* at 62723.

¹⁵ Letter dated May 9, 2019, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region 9.

¹⁶ 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_{2.5}) National Ambient Air Quality Standards (NAAQS) and Termination of Clean Air Act (CAA) Sanction Clocks.”

¹⁷ 86 FR 38652.

¹⁸ 86 FR 67329.

¹⁹ 81 FR 84481, 84482 (final EPA action determining that the San Joaquin Valley had failed to attain the 1997 PM_{2.5} NAAQS by the December 31, 2015, Serious area attainment date).

²⁰ Letter dated November 8, 2021, from Richard W. Corey, Executive Officer, CARB, to Deborah Jordan, Acting Regional Administrator, EPA Region 9. The 15 µg/m³ SIP Revision was developed jointly by CARB and the District.

²¹ *Id.* at 1.

²² 88 FR 86581. As discussed in the EPA’s proposal to approve the 15 µg/m³ SIP Revision, the attainment date for the 189(d) plan was established consistent with CAA sections 179(d)(3) and 172(a)(2).

²³ CARB Resolution 21–21, September 23, 2021, p. 6; and August 2021 Staff Report, pp. 4–5.

reductions were attributed to this measure.²⁴

CARB adopted the Valley Incentive Measure on December 12, 2019,²⁵ and submitted the measure to the EPA on February 11, 2020.²⁶ The EPA approved portions of the Valley Incentive Measure into the California SIP on December 27, 2021.²⁷ The SIP-approved Valley Incentive Measure contains a set of enforceable commitments by CARB to monitor, assess, and regularly report on emissions reductions from off-road mobile, diesel agricultural equipment replacement projects implemented through CARB's Carl Moyer Memorial Air Quality Standards Attainment Program ("Carl Moyer") and CARB's Funding Agricultural Replacement Measures for Emission Reductions (FARMER) Program, according to specific guidelines and/or program criteria. These program requirements ensure, among other things, that older, dirtier agricultural equipment currently in operation in the San Joaquin Valley will be replaced with less-polluting equipment.

The Valley Incentive Measure obligates CARB to achieve specific amounts of NO_x and PM_{2.5} emissions reductions through implementation of these programs by specific years, to submit annual reports to the EPA beginning on May 15, 2021, detailing the implementation of specific projects and the projected emissions reductions, and to adopt and submit substitute measures by specific dates if the EPA determines that the identified projects will not achieve the necessary emissions reductions by the applicable implementation deadlines.

The Valley Incentive Measure included commitments by CARB to (1) monitor, assess, and report on emissions reductions, and to (2) achieve emissions reductions by 2024 of 4.83 tpd of NO_x and 0.24 tpd of direct PM_{2.5} and emissions reductions by 2025 of 4.46 tpd of NO_x and 0.26 tpd of direct PM_{2.5}.²⁸ The EPA's final partial approval of this measure on December 27, 2021, credited CARB's tonnage

commitments for 2024 (for attaining the 2006 24-hour PM_{2.5} NAAQS) and 2025 (for attaining the 2012 annual PM_{2.5} NAAQS).²⁹ While the State did not take credit for any emissions reductions from this measure in the 15 µg/m³ SIP Revision, it asserted in its "Staff Report, Proposed SIP Revision for the 15 µg/m³ Annual PM_{2.5} Standard for the San Joaquin Valley," release date August 13, 2021 ("August 2021 Staff Report"),³⁰ that a large portion of those emissions reductions would in fact be achieved by 2023.³¹

II. The State's Submittal

A. Revision of the Aggregate Tonnage Commitment for the 15 µg/m³ SIP Revision

The 15 µg/m³ Plan Amendments are included in the CARB Staff Report, "Review of the San Joaquin Valley 2024 Plan for the 2012 12 µg/m³ Annual PM_{2.5} Standard and Amendments to the Agricultural Equipment Incentive Measure and the 1997 15 µg/m³ State Implementation Plan Revision," which otherwise includes the CARB staff assessment of the 2024 PM_{2.5} Plan for the 2012 annual PM_{2.5} NAAQS.³² In the 15 µg/m³ Plan Amendments, CARB seeks to revise the 15 µg/m³ SIP Revision commitment to achieve aggregate emissions reductions of 3.0 tpd of NO_x and 0.04 tpd of direct PM_{2.5} from CARB's Heavy-Duty I/M Program by replacing it with a commitment to achieve the same reductions from the Valley Incentive Measure.³³ CARB states that, per its "2022 Annual Demonstration Report, San Joaquin Valley Agricultural Equipment Incentive Measure, Covering Projects Completed Through 12/31/2022" ("2022 Annual Demonstration Report"),³⁴ "the Carl Moyer and FARMER agricultural equipment projects completed by December 31, 2022, achieved reductions of 5.0 tpd of NO_x and 0.27 tpd PM_{2.5} emission reductions, well in excess of the 3.0 tpd of NO_x and 0.04 tpd aggregate commitment in the 15 µg/m³

SIP Revision."³⁵ The 2022 Annual Demonstration Report includes CARB's quantification of the emissions reductions from the Valley Incentive Measure based on detailed information about each agricultural equipment replacement project completed under the Carl Moyer and FARMER programs leading up to the 2023 attainment year established in the 15 µg/m³ SIP Revision.³⁶

B. Revision to the State's Valley Incentive Measure

The 15 µg/m³ Plan Amendments seek to amend the SIP-approved Valley Incentive Measure to include a quantification of emissions reductions for 2023 from existing Carl Moyer and FARMER agriculture equipment projects and for the EPA to approve those emissions reductions for SIP credit.³⁷ CARB's submittal explains that the EPA "approved the portions of the Valley Incentive Measure that were attributed to projects funded through Carl Moyer and FARMER Programs," and that the emissions reductions resulting from the two projects were specifically credited against CARB's 2024 and 2025 aggregate tonnage emissions reduction commitment for the 2006 24-hour PM_{2.5} and 2012 annual PM_{2.5} standards in the Valley.³⁸ CARB asserts that because the Valley Incentive Measure included projects to achieve SIP credit in 2024, the projects through December 31, 2022, should also be SIP-creditable for 2023 and that they similarly meet the EPA integrity elements: enforceable, quantifiable, surplus, and permanent.³⁹

III. The EPA's Evaluation of the State's Submittal

A. Completeness Review of the 15 µg/m³ Plan Amendments

On June 21, 2024, CARB submitted the 15 µg/m³ Plan Amendments for parallel processing.⁴⁰ Parallel processing refers to a process that utilizes concurrent state and federal proposed rulemaking actions.⁴¹ Generally, the state submits a copy of the proposed regulation or other revisions to the EPA before conducting its public hearing and completing its public comment process under state law. The EPA reviews this proposed

²⁴ August 2021 Staff Report, pp. 3–4.

²⁵ CARB Resolution 19–26, December 12, 2019.

²⁶ Letter dated February 11, 2020, from Richard W. Corey, Executive Officer, CARB, to Ms. Deborah Jordan, Acting Regional Administrator, EPA Region 9.

²⁷ 86 FR 73106. 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 Agricultural Equipment Incentive Measure.

²⁸ Id. at 73108–73109.

²⁹ Id.

³⁰ CARB's August 2021 Staff Report includes CARB's review of, among other things, the control strategy in the 15 µg/m³ SIP Revision.

³¹ CARB's August 2021 Staff Report, p. 3.

³² CARB, "Staff Report, Review of the San Joaquin Valley 2024 Plan for the 2012 12 µg/m³ Annual PM_{2.5} Standard and Amendments to the Agricultural Equipment Incentive Measure and the 1997 15 µg/m³ State Implementation Plan Revision" (June 14, 2024).

³³ 15 µg/m³ Plan Amendments, pp. 54–55.

³⁴ CARB, "2022 Annual Demonstration Report, San Joaquin Valley Agricultural Equipment Incentive Measure, Covering Projects Completed Through 12/31/2022," (May 15, 2023) (included as Appendix B to the 15 µg/m³ Plan Amendments).

³⁵ 15 µg/m³ Plan Amendments, 55.

³⁶ 2022 Annual Demonstration Report, Appendix A.

³⁷ 15 µg/m³ Plan Amendments, p. 55.

³⁸ Id.

³⁹ Id.

⁴⁰ Letter dated June 21, 2024, from Steven S. Cliff, Executive Office, CARB, to Martha Guzman, Regional Administrator, EPA Region 9, with enclosure.

⁴¹ 40 CFR part 51, Appendix V, section 2.3.

state action and prepares a notice of proposed rulemaking under federal law. In some cases, the EPA publishes its notice of proposed rulemaking in the **Federal Register** during the same time frame that the state is holding its own public hearing and public comment process. The state and the EPA then provide for concurrent public comment periods on both the state action and federal action on the initial SIP submission from the state. If, after completing its public comment process and after the EPA's public comment process has run, the state materially changes its final SIP submission to the EPA from the initial proposed submission, the EPA evaluates those changes and decides whether to publish another notice of proposed rulemaking in light of those changes or to proceed to taking final action on its proposed action and describe the state's changes in its final rulemaking action. Any final rulemaking action by the EPA will occur only after the state formally adopts and submits its final submission to the EPA.

Section 110(k)(1)(B) of the CAA requires the EPA to determine whether a SIP submission is complete within 60 days of receipt. This section also provides that if the EPA has not affirmatively determined a SIP submission to be complete or incomplete, it will become complete by operation of law six months after the date of submission. The EPA's SIP completeness criteria are found in 40 CFR part 51, Appendix V. The EPA has reviewed the 15 $\mu\text{g}/\text{m}^3$ Plan Amendments and finds that it fulfills the completeness criteria of Appendix V, with the exception of the requirements of paragraphs 2.1(e)–2.1(h), which do not apply to plans submitted for parallel processing.

CAA sections 110(a)(1) and (2) and 110(l) require each state to provide reasonable public notice and opportunity for public hearing prior to the adoption and submission of a SIP submission to the EPA. To meet this requirement, a state's SIP submission must include evidence that the state provided adequate public notice and an opportunity for a public hearing, consistent with the EPA's implementing regulations in 40 CFR 51.102. However, because CARB submitted the 15 $\mu\text{g}/\text{m}^3$ Plan Amendments for parallel processing, this initial submission is exempt from this requirement pursuant to 40 CFR part 51 Appendix V, Section 2.3.1. CARB is required to meet these procedural criteria during the parallel processing period and prior to adopting and submitting the final SIP submission to the EPA. The EPA will evaluate whether the final submission meets

these requirements at the time of any final action on the 15 $\mu\text{g}/\text{m}^3$ Plan Amendments.

B. Review of the Revision to the Aggregate Tonnage Commitment for the 15 $\mu\text{g}/\text{m}^3$ SIP Revision

Section 110(l) of the CAA prohibits the EPA from approving a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the CAA.⁴² In this instance, the EPA-approved 15 $\mu\text{g}/\text{m}^3$ SIP Revision includes an aggregate tonnage commitment to achieve 3.0 tpd of NO_x emissions reductions and 0.04 tpd of direct PM_{2.5} emissions reductions in 2023 through the implementation of CARB's Heavy-Duty I/M measure and/or through SIP-approved substitute measures.⁴³ In its 15 $\mu\text{g}/\text{m}^3$ Plan Amendments and 2022 Annual Demonstration Report, CARB provided sufficient documentation to demonstrate that its aggregate tonnage commitment was achieved by implementation of the Valley Incentive Measure, specifically that the implementation of the Carl Moyer and FARMER programs completed by December 31, 2022, achieved reductions of 5.0 tpd of NO_x and 0.27 tpd of direct PM_{2.5} emissions. For this reason, we propose to find that the revision of this commitment to satisfy its terms through a substitute measure would not interfere with any applicable requirement of the CAA, and we are proposing to approve the revision to the State's aggregate tonnage commitment into the SIP.

C. Review of the Revision to the State's Valley Incentive Measure

1. The EPA's Evaluation Criteria

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

The CAA explicitly provides for the use of economic incentive programs

(EIPs) as one tool for states to use to achieve attainment of the NAAQS. EIPs use market-based strategies to encourage the reduction of emissions from stationary, area, and mobile sources in an efficient manner. The EPA has promulgated regulations for statutory EIPs required under section 182(g) of the Act and has issued guidance for discretionary EIPs.

The EPA has consistently stated that, where a state intends to rely on a nontraditional program, such as an EIP, to satisfy CAA requirements, the state must demonstrate that the program achieves emissions reductions that are quantifiable, surplus, enforceable, and permanent. In addition, where a State relies on a discretionary EIP or other voluntary measure to satisfy an attainment planning requirement under the CAA (e.g., to demonstrate that specific amounts of emissions reductions will occur by a future milestone date), the State must take responsibility for assuring that SIP emissions reduction requirements are met through an enforceable commitment, which becomes federally enforceable upon approval into the SIP. The purpose of the revision to the Valley Incentive Measure in the 15 $\mu\text{g}/\text{m}^3$ Plan Amendments, however, is to demonstrate that the emissions reductions required under a previously-approved SIP commitment (i.e., the aggregate tonnage commitment in the 15 $\mu\text{g}/\text{m}^3$ Plan) have in fact been achieved, not to satisfy a future emissions reduction requirement. Accordingly, it is not necessary to require the State to submit additional commitments for this purpose.

2. Does the measure meet the evaluation criteria?

In the EPA's December 2021 action partially approving the Valley Incentive Measure into the SIP and crediting emissions reductions for 2024 and 2025, we evaluated the Valley Incentive Measure according to the above criteria and found that portions of the submitted measure satisfied CAA requirements for SIP approval.⁴⁴ Specifically, we found that CARB's Carl Moyer and FARMER agricultural equipment replacement projects spanning a 2015–2024 timeframe satisfied the EPA integrity elements (that the emissions reductions from the programs were enforceable, permanent, quantifiable, and surplus), complied with required procedures for public disclosure of information, and adequately demonstrated State funding, resources, and legal authority to

⁴² 42 U.S.C. 7410(l).

⁴³ CARB's August 2021 Staff Report, pp. 4–5 (“[I]f a particular measure does not get its expected emission reductions, the State is still committed to achieving the total aggregate emission reductions . . . The SIP revision would outline the changes that have occurred and provide appropriate tracking to demonstrate that aggregate emission reductions sufficient for attainment are being achieved through enforceable emission reduction measures.”).

⁴⁴ 86 FR 73106.

implement the programs.⁴⁵ We also found that CARB had adequately explained how the projects implemented under the Valley Incentive Measure would achieve emissions reductions beyond those already accounted for in the baseline inventories in the 2018 PM_{2.5} Plan.⁴⁶

In the intervening years between the EPA's December 2021 partial approval of the Valley Incentive Measure and the current action, CARB has continued to implement the SIP-approved Valley Incentive Measure, including the submittal of annual demonstration reports to the EPA, *e.g.*, the 2022 Annual Demonstration Report, which covered projects completed through December 31, 2022 (*i.e.*, prior to the 2023 attainment year in the 15 µg/m³ SIP Revision).⁴⁷ We also note that the 15 µg/m³ SIP Revision relied on the same baseline inventories in the 2018 PM_{2.5} Plan,⁴⁸ and therefore the reductions from projects implemented under the Valley Incentive Measure through December 31, 2022, are surplus relative to the inventories in the 15 µg/m³ SIP Revision.⁴⁹ Thus, the EPA finds that our December 2021 determination that the Carl Moyer and FARMER programs satisfied the EPA's evaluation criteria extends to the emissions reductions from projects completed under the Valley Incentive Measure by December 31, 2022. Specifically, we find that these reductions were enforceable, permanent, quantifiable, and surplus with respect to the 2023 baseline inventory in the 15 µg/m³ SIP Revision, and they are therefore creditable as a substitute measure to meet the aggregate tonnage commitment in the 15 µg/m³ SIP Revision.

⁴⁵ Id. See also 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).

⁴⁶ Id. at 28.

⁴⁷ See CARB, "2021 Annual Demonstration Report, San Joaquin Valley Agricultural Equipment Incentive Measure, Covering Projects Completed Through 3/31/2022," (May 15, 2022); CARB, 2022 Annual Demonstration Report; CARB, "2023 Annual Demonstration Report, San Joaquin Valley Agricultural Equipment Incentive Measure Covering Projects Completed Through 12/31/2023," (May 15, 2024).

⁴⁸ 88 FR 45276, 45279.

⁴⁹ See 86 FR 73106, 73110 ("to satisfy the surplus (*i.e.*, additionality) criterion in the EPA's longstanding guidance, the Amended Valley Incentive Measure need only be surplus to the control measures and programs that are accounted for in the attainment plan(s) in which CARB relies upon this measure.").

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.⁵⁰ 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,⁵¹ 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.⁵²

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_{2.5} in the San Joaquin Valley using the EPA's environmental justice (EJ) screening and mapping tool ("EJSCREEN").^{53 54} 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 12898.⁵⁵ All eight

⁵⁰ 59 FR 7629 (February 16, 1994).

⁵¹ 86 FR 7009 (January 25, 2021).

⁵² 86 FR 7619 (February 1, 2021).

⁵³ 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.

⁵⁴ EPA Region IX, "EJSCREEN Analysis for the Eight Counties of the San Joaquin Valley Nonattainment Area," August 2022.

⁵⁵ EJSCREEN reports environmental indicators (*e.g.*, air toxics cancer risk, Pb paint exposure, and

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_{2.5} index and seven of the eight counties in the San Joaquin Valley are at or above the 90th percentile nationally for the PM_{2.5} EJ index, which is a combination of the Demographic Index and the PM_{2.5} 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).⁵⁶

This proposed action would approve a State SIP revision related to the 1997 annual PM_{2.5} NAAQS into the California SIP. Information on the 1997 annual PM_{2.5} NAAQS and its relationship to negative health impacts can be found at 62 FR 38652 (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.

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 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).

⁵⁶ Notably, Tulare County is above the 90th percentile for 6 of the 12 EJ indices in the EPA's EJSCREEN analysis, including the PM_{2.5} EJ Index, which is the highest value among all San Joaquin Valley counties.

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/m³ 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/m³ 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_x and 0.27 tpd of direct PM_{2.5} 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_{2.5} 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_{2.5}) 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