



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R09-OAR-2014-0813; FRL-9925-30-Region 9]

**Designation of Areas for Air Quality Planning Purposes;
California; San Joaquin Valley; Reclassification as Serious
Nonattainment for the 1997 PM_{2.5} Standards**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to reclassify the San Joaquin Valley (SJV) Moderate nonattainment area, including areas of Indian country within it, as a Serious nonattainment area for the 1997 PM_{2.5} national ambient air quality standards (NAAQS) based on EPA's determination that the area cannot practicably attain these NAAQS by the applicable attainment date of April 5, 2015 and in response to a request from the SJV Air Pollution Control District that we reclassify the area. As a consequence of this reclassification, California must submit a Serious area plan including a demonstration that the plan provides for attainment of the 1997 annual and 24-hour PM_{2.5} standards in the SJV area by the applicable attainment date, which is no later than December

31, 2015, or by the most expeditious alternative date practicable, in accordance with the requirements of part D of title I of the Clean Air Act.

DATES: This rule is effective on **[insert date 30 days after publication in the Federal Register]**.

ADDRESSES: The index to the docket (docket number EPA-R09-OAR-2014-0813) for this action is available electronically on the www.regulations.gov website and in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105. While all documents in the docket are listed in the index, some information may be publicly available for viewing only at the hard copy location (e.g., copyrighted material, voluminous records, large maps), and some may not be publicly available at either location (e.g., CBI). To inspect the docket materials in person, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Anita Lee, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region 9, (415) 972-3958, lee.anita@epa.gov.

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

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I. Proposed Action

On January 12, 2015 (80 FR 1482), EPA proposed to reclassify the SJV nonattainment area, including areas of Indian country within it, from Moderate nonattainment to Serious nonattainment for the 1997 annual and 24-hour PM_{2.5} standards based on EPA's determination that the area cannot practicably attain these NAAQS by the applicable attainment date of April 5, 2015.¹ Under section 188(b)(1) of the CAA, prior to an area's attainment date, EPA has discretionary authority to reclassify as a Serious nonattainment area "any area that the Administrator determines cannot practicably attain" the PM_{2.5} NAAQS by the applicable Moderate area attainment date.² On September 25, 2014,

¹ See proposed rule at 80 FR 1482 (January 12, 2015) for a more detailed discussion of the background for this action, including the history of the PM_{2.5} NAAQS established in 1997, health effects and sources of PM_{2.5}, designation of the SJV as nonattainment for the PM_{2.5} standards, and EPA's actions on the submittals from the state of California to address the nonattainment area planning requirements for the 1997 PM_{2.5} NAAQS in the SJV.

² Section 188(b)(1) of the Act is a general expression of delegated rulemaking authority. See "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR

the District requested that EPA reclassify the SJV nonattainment area as Serious nonattainment for the 1997 PM_{2.5} standards. This request included a demonstration that the SJV area cannot practicably attain the 1997 annual PM_{2.5} standard by the April 5, 2015 attainment date.³ EPA's proposed reclassification of the SJV area was based upon our evaluation of ambient air quality data for the 2003-2014 period indicating that it is not practicable for certain monitoring sites within the SJV area to show PM_{2.5} design values at or below the level of the 1997 PM_{2.5} NAAQS by April 5, 2015.

In our proposed rule, EPA identified the additional SIP revisions that California would, upon reclassification, have to submit to satisfy the statutory requirements that apply to Serious areas, including the requirements of subpart 4 of part D, title I of the Act.⁴ EPA explained that under section 189(b)(2) of the Act, the State must submit the required provisions to implement best available control measures (BACM), including best available control technology (BACT), no later than 18 months after reclassification and must submit the

13498 (April 16, 1992) (hereafter "General Preamble") at 13537, n. 15. Although subparagraphs (A) and (B) of section 188(b)(1) mandate that EPA reclassify by specified timeframes any areas that it determines appropriate for reclassification by those dates, these subparagraphs do not restrict the general authority but simply specify that, at a minimum, EPA's authority must be exercised at certain times. See *id.*

³ See letter titled "Sadredin Memo" in the docket for this rulemaking at EPA-R09-OAR-2014-0813-0002.

⁴ See 80 FR 1482 at 1488 (January 12, 2015).

required attainment demonstration no later than 4 years after reclassification. Given the December 31, 2015, Serious area attainment date applicable to this area under CAA section 188(c)(2), however, we noted that we expect the State to adopt and submit a Serious area plan for these NAAQS well before the statutory SIP submittal deadlines in CAA section 189(b)(2).⁵

With respect to the nonattainment new source review (NNSR) program revisions to establish appropriate "major stationary source" thresholds for direct PM_{2.5} and PM_{2.5} precursors in accordance with CAA section 189(b)(3), EPA proposed to require the State to submit these NNSR SIP revisions no later than 12 months after the effective date of final reclassification. EPA requested comment on this proposed 12-month timeframe but also noted that if California intended to seek an extension of the Serious area attainment date, the State would need to submit a request that satisfies the requirements of CAA section 188(e), including the required NNSR SIP revisions, in time for EPA to approve such an extension prior to the December 31, 2015 Serious area attainment date.

II. Public Comments and EPA Responses

EPA received one comment letter on our proposed action. The comment letter was submitted by the San Joaquin Valley Air

⁵ *Id.* at 1489.

Pollution Control District ("SJVAPCD" or "District") on February 11, 2015, prior to the close of the comment period on our proposal.⁶ We summarize the District's comments and provide our responses below.

Comment: The SJVAPCD expresses support for EPA's proposed 12-month timeframe for California's submission of the required NNSR SIP revisions but objects to EPA's statement indicating that, to obtain an extension of the attainment date under CAA section 188(e), the state must submit these NNSR revisions "in time for EPA to approve such an extension prior to the December 31, 2015 Serious area attainment date." The District asserts that EPA "provides no valid justification for this requirement" and that section 188(e) of the Act contains "no mention of NSR, either directly or by implication, that would lead one to believe that the updated NSR rule is required prior to approval of the attainment deadline extension." The District contends that delays in EPA's regulatory actions related to implementation of the 1997 PM_{2.5} standards justify a different schedule for this submission.

⁶ See letter dated February 11, 2015, from Seyed Sadredin, Executive Director/Air Pollution Control Officer of the SJVAPCD, to Anita Lee, EPA Region 9, "Re: Docket No. EPA-R09-OAR-2014-0813: Comments on Designation of Areas for Air Quality Planning Purposes; California; San Joaquin Valley; Reclassification as Serious Nonattainment for the 1997 PM_{2.5} Standards. Proposed Rule (80 Fed. Reg. 7, pp. 1482-1491, January 12, 2015)."

In sum, the District asserts that EPA is asking the District to begin an expedited process to adopt a serious area NSR rule before the area is reclassified as a Serious area and without implementation rules or guidance. The SJVAPCD requests that EPA decide in the final rule to require the District to submit a revised NNSR rule within 12 months after EPA's final reclassification action and also to decide that "such an NSR rule adoption deadline does not interfere with EPA's ability to approve an attainment deadline extension under 188(e)."

Response: As a preliminary matter, EPA notes that nothing in the CAA requires the Agency to promulgate any implementation rules or guidance with respect to implementation of the 1997 PM_{2.5} NAAQS. The statutory provisions of the 1990 CAA Amendments addressing implementation of the PM₁₀ NAAQS and EPA guidance for implementation of the PM₁₀ NAAQS dating back to 1992 and 1994 are still applicable and relevant to this action.⁷ Thus, the absence of revised implementation rules or additional guidance is not itself a basis for setting a particular schedule for a state to make a statutorily required SIP submission.

⁷ See generally subpart 4 of part D, title I of the CAA ("Additional Provisions for Particulate Matter Nonattainment Areas"); the General Preamble, 57 FR 13498 (April 16, 1992); and the Addendum, 59 FR 41998 (August 16, 1994); see also *Natural Resources Defense Council (NRDC) v. EPA*, 706 F.3d 428 (D.C. Cir. 2013) (ruling that the CAA requires implementation of the PM_{2.5} standards under subpart 4 because PM_{2.5} particles fall within the statutory definition of PM₁₀).

Upon further consideration of this question, however, EPA has determined that the specific factual circumstances in this instance justify the 12 months sought by SJVAPCD for the submission of the NNSR revisions. Accordingly, we are finalizing our proposal to require that California adopt and submit NNSR SIP revisions to implement the subpart 4 requirements for Serious PM_{2.5} nonattainment areas in the SJV area no later than 12 months after the effective date of this reclassification. In light of the unique circumstances in the SJV, as discussed below, we do not intend at this time to treat these NNSR SIP revisions as a precondition to a request for an extension of the Serious area attainment date under CAA section 188(e).

Under section 188(e) of the Act, a state may apply to EPA for a single extension of the Serious area attainment date by up to 5 years, which EPA may grant if the State satisfies certain conditions. Before EPA may extend the attainment date for a Serious area under section 188(e), the state must: (1) Apply for an extension of the attainment date beyond the statutory attainment date; (2) demonstrate that attainment by the statutory attainment date is impracticable; (3) have complied with all requirements and commitments pertaining to the area in the implementation plan; (4) demonstrate to the satisfaction of the Administrator that the plan for the area includes the most stringent measures that are included in the implementation plan

of any State or are achieved in practice in any State, and can feasibly be implemented in the area; and (5) submit a demonstration of attainment by the most expeditious alternative date practicable.⁸ Section 188(e) does not explicitly require the state to have a fully approved NNSR program that meets the Act's Serious area requirements before it may qualify for an extension of the Serious area attainment date.

As a result of today's reclassification of the SJV as Serious nonattainment for the 1997 PM_{2.5} NAAQS, California is required to submit NNSR SIP revisions consistent with the requirements of subpart 4, including revisions to establish appropriate "major stationary source" thresholds for direct PM_{2.5} and PM_{2.5} precursors in accordance with CAA section 189(b)(3). Given the timing of this reclassification, just months before the latest permissible Serious area attainment date (December 31, 2015), and the unusually short timeframe for the State's development and submission of a plan to provide for attainment

⁸For a discussion of EPA's interpretation of the requirements of section 188(e), see "State Implementation Plans for Serious PM₁₀ Nonattainment Areas, and Attainment Date Waivers for PM₁₀ Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 59 FR 41998 (August 16, 1994) (hereafter "Addendum") at 42002; 65 FR 19964 (April 13, 2000) (proposed action on PM₁₀ Plan for Maricopa County, Arizona); 66 FR 50252 (October 2, 2001) (proposed action on PM₁₀ Plan for Maricopa County, Arizona); 67 FR 48718 (July 25, 2002) (final action on PM₁₀ Plan for Maricopa County, Arizona); and *Vigil v. EPA*, 366 F.3d 1025, amended at 381 F.3d 826 (9th Cir. 2004) (remanding EPA action on PM₁₀ Plan for Maricopa County, Arizona, but generally upholding EPA's interpretation of CAA section 188(e)).

of the 1997 PM_{2.5} NAAQS by this date,⁹ we find it reasonable to provide the State a small amount of additional time to adopt and submit the Serious area NNSR SIP revisions required under subpart 4. Accordingly, under these particular circumstances, we do not expect the State to submit the required NNSR SIP revisions simultaneously with the Serious area attainment plan or with a request for an extension of the Serious area attainment date under CAA section 188(e). Instead, this final action requires the state to submit the NNSR SIP revisions required under subpart 4 no later than 12 months after the effective date of the reclassification.¹⁰ The State will need to submit the Serious area attainment plan and the section 188(e) extension request before December 31, 2015 to satisfy the statutory requirements.

EPA has recently issued a new proposed rulemaking to implement the PM_{2.5} NAAQS in accordance with the requirements of

⁹ As explained in our proposed rule (see 80 FR 1482 at 1483-1484), on January 4, 2013 the D.C. Circuit remanded EPA's 2007 and 2008 rules to implement the PM_{2.5} NAAQS and directed EPA to repromulgate these rules pursuant to subpart 4 of part D, title I of the Act. On June 2, 2014, EPA promulgated a rule classifying all PM_{2.5} nonattainment areas as Moderate under subpart 4 and establishing a deadline for states to submit SIPs necessary to satisfy the Moderate area requirements (see 79 FR 31566, June 2, 2014). By this time, just over 18 months remained before the Serious area attainment date applicable to the SJV area under CAA section 188(c)(2), which is December 31, 2015. See 80 FR 1482 at 1484, 1487 (January 12, 2015).

¹⁰ As explained in our proposed rule, a 12-month timeframe provides the State a reasonable amount of time to make these relatively straightforward NNSR SIP revisions while assuring that new or modified major stationary sources of PM_{2.5} in the SJV area will be subject to the applicable NNSR requirements as expeditiously as practicable. See 80 FR 1482 at 1489.

subparts 1 and 4 of part D, title I of the Act.¹¹ As part of this proposed rulemaking, the Agency is seeking comment on how to interpret the criteria in section 188(e) for granting state requests for an extension of a Serious area attainment date prospectively. Until the Agency finalizes that proposed rule, EPA encourages the State and District to review the statutory provisions of the CAA applicable to implementation of the PM₁₀ NAAQS, and EPA's prior guidance in the General Preamble and Addendum, as they develop the SIP revisions necessary to satisfy the Serious area requirements that now apply in the SJV PM_{2.5} nonattainment area.¹² Until EPA finalizes any new implementation rule for the 1997 PM_{2.5} NAAQS, the existing guidance in the General Preamble and Addendum provide the Agency's recommendations for SIP submissions required for the PM_{2.5} NAAQS.

III. Final Action

A. Reclassification as Serious Nonattainment and Applicable Attainment Date

In accordance with section 188(b)(1) of the Act, EPA is taking final action to reclassify the SJV area from Moderate to Serious nonattainment for the 1997 annual and 24-hour PM_{2.5} standards of 15.0 and 65 µg/m³, respectively, based on EPA's

¹¹ See <http://www.epa.gov/airquality/particlepollution/actions.html>.

¹² See generally the General Preamble, 57 FR 13498 (April 16, 1992) and Addendum, 59 FR 41998 (August 16, 1994).

determination that the SJV area cannot practicably attain these standards by the applicable attainment date of April 5, 2015.

Under section 188(c)(2) of the Act, the attainment date for a Serious area "shall be as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the area's designation as nonattainment..." The SJV area was designated nonattainment for the 1997 PM_{2.5} standards effective April 5, 2005.¹³ Therefore, as a result of our reclassification of the SJV area as a Serious nonattainment area, the latest permissible attainment date under section 188(c)(2) of the Act, for purposes of the 1997 PM_{2.5} standards in this area, is December 31, 2015.

B. Reclassification of Areas of Indian Country¹⁴

Eight Indian tribes are located within the boundaries of the San Joaquin Valley PM_{2.5} nonattainment area: The Big Sandy Rancheria of Mono Indians of California, the Cold Springs Rancheria of Mono Indians of California, the North Fork Rancheria of Mono Indians of California, the Picayune Rancheria of Chukchansi Indians of California, the Santa Rosa Rancheria of

¹³ See 70 FR 944 at 956, 957 (January 5, 2005).

¹⁴ "Indian country" as defined at 18 U.S.C. 1151 refers to: "(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same."

the Tachi Yokut Tribe, the Table Mountain Rancheria of California, the Tejon Indian Tribe, and the Tule River Indian Tribe of the Tule River Reservation.

We have considered the relevance of our final action to reclassify the SJV nonattainment area as Serious for the 1997 PM_{2.5} standards to each tribe located within the SJV area. As discussed in more detail in our proposed rule, we believe that the same facts and circumstances that support the reclassification for the non-Indian country lands also support reclassification for Indian country located within the SJV nonattainment area.¹⁵ In this final action, EPA is therefore exercising our authority under CAA section 188(b)(1) to reclassify areas of Indian country geographically located in the SJV nonattainment area. Section 188(b)(1) broadly authorizes EPA to reclassify a nonattainment area - including any area of Indian country located within such area - that EPA determines cannot practicably attain the relevant standard by the applicable attainment date.

The effect of reclassification would be to lower the applicable "major stationary source" emissions thresholds for direct PM_{2.5} and PM_{2.5} precursors for purposes of the NNSR program and the Title V operating permit program (CAA sections 189(b)(3)

¹⁵ See 80 FR 1482 at 1488 (January 12, 2015).

and 501(2)(B)) thus subjecting more new or modified stationary sources to these requirements. The reclassification may also lower the *de minimis* threshold under the CAA's General Conformity requirements (40 CFR part 93, subpart B) from 100 tpy to 70 tpy. Under the General Conformity requirements, Federal agencies bear the responsibility of determining conformity of actions in nonattainment and maintenance areas that require Federal permits, approvals, or funding. Such permits, approvals or funding by Federal agencies for projects in these areas of Indian country may be more difficult to obtain because of the lower *de minimis* thresholds.

Given the potential implications of the reclassification, EPA contacted tribal officials to invite government-to-government consultation on this rulemaking effort.¹⁶ EPA did not receive comments on our proposed rule from any tribe. On February 17, 2015, after the close of the comment period on our proposal, EPA received a letter dated January 30, 2015, from the Tejon Tribe expressing interest in developing a better understanding of the reclassification and implications for air quality.¹⁷ EPA invited the Tejon Tribe to participate in a

¹⁶ As discussed in more detail in our proposed rule, EPA sent letters to tribal officials inviting government-to-government consultation. All eight letters can be found in the docket for this proposed action.

¹⁷ See letter dated January 30, 2015 from Kathryn Montes Morgan, Tribal Chairwoman, Tejon Indian Tribe to Kerry Drake, Associate Director, EPA Region 9 Air Division.

conference call during the week of February 23, 2015, to discuss the Tribe's questions.¹⁸ We continue to invite Indian tribes in the SJV to contact EPA with any questions about the effects of this reclassification on tribal interests and air quality. We note that although eligible tribes may opt to seek EPA approval of relevant tribal programs under the CAA, none of the affected tribes will be required to submit an implementation plan to address this reclassification.

C. PM_{2.5} Serious Area SIP Requirements

As a consequence of our reclassification of the SJV area as a Serious nonattainment area for the 1997 PM_{2.5} NAAQS, California is required to submit additional SIP revisions to satisfy the statutory requirements that apply to Serious areas, including the requirements of subpart 4 of part D, title I of the Act.

The Serious area SIP elements that California must submit are as follows:

1. Provisions to assure that the best available control measures (BACM), including best available control technology (BACT) for stationary sources, for the control of direct PM_{2.5} and PM_{2.5} precursors shall be implemented no later than 4 years after the area is reclassified (CAA section 189(b)(1)(B));

¹⁸ See email dated February 19, 2015 from Maeve Clancy, EPA Region 9 Air Division, to Kathryn Montes Morgan, Tribal Chairwoman, Tejon Indian Tribe.

2. A demonstration (including air quality modeling) that the plan provides for attainment as expeditiously as practicable but no later than December 31, 2015, or where the State is seeking an extension of the attainment date under section 188(e), a demonstration that attainment by December 31, 2015 is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable (CAA sections 188(c)(2) and 189(b)(1)(A));
3. Plan provisions that require reasonable further progress (RFP) (CAA section 172(c)(2));
4. Quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate RFP toward attainment by the applicable date (CAA section 189(c));
5. Provisions to assure that control requirements applicable to major stationary sources of PM_{2.5} also apply to major stationary sources of PM_{2.5} precursors, except where the State demonstrates to EPA's satisfaction that such sources do not contribute significantly to PM_{2.5} levels that exceed the standard in the area (CAA section 189(e));
6. A comprehensive, accurate, current inventory of actual emissions from all sources of PM_{2.5} and PM_{2.5} precursors in the area (CAA section 172(c)(3));

7. Contingency measures to be implemented if the area fails to meet RFP or to attain by the applicable attainment date (CAA section 172(c)(9)); and
8. A revision to the NNSR program to establish appropriate "major stationary source"¹⁹ thresholds for direct PM_{2.5} and PM_{2.5} precursors (CAA section 189(b)(3)).

Section 189(b)(2) states, in relevant part, that the State must submit the required BACM provisions "no later than 18 months after reclassification of the area as a Serious Area" and must submit the required attainment demonstration "no later than 4 years after reclassification of the area to Serious." Thus, the Act provides the State with up to 18 months after the effective date of this reclassification (*i.e.*, until late 2016) to submit a BACM demonstration and up to 4 years after this date (*i.e.*, until early 2019) to submit a Serious area attainment demonstration. Given the December 31, 2015 Serious area attainment date for the 1997 PM_{2.5} standards in this area under CAA section 188(c)(2), however, EPA expects the State to adopt and submit a Serious area plan for the 1997 PM_{2.5} standards well before the statutory SIP submittal deadlines in section 189(b)(2).

¹⁹ For any Serious area, the terms "major source" and "major stationary source" include any stationary source that emits or has the potential to emit at least 70 tons per year of PM₁₀ (CAA section 189(b)(3)).

Additionally, in light of the available ambient air quality data and the short amount of time available before the December 31, 2015 attainment date under CAA section 188(c)(2), EPA anticipates that California may choose to submit a request for an extension of the Serious area attainment date pursuant to section 188(e) simultaneously with its submittal of a Serious area plan for the area. If California fails to submit a request for an extension of the Serious area attainment date that satisfies the requirements of section 188(e) and the SJV area fails to attain the 1997 PM_{2.5} standards by December 31, 2015, under CAA section 189(d) the State would be required to submit, within 12 months after December 31, 2015, plan revisions which provide for attainment of the PM_{2.5} standards and, from the date of such submission until attainment, for an annual reduction in emissions within the SJV area of not less than 5 percent of the amount of such emissions as reported in the most recent inventory prepared for the area (hereafter "section 189(d) plan"). If, however, California submits and EPA approves a section 188(e) request for an extension of the Serious area attainment date prior to the December 31, 2015 attainment date for the SJV area, the requirement to submit a section 189(d) plan would not apply unless and until the SJV area fails to attain the 1997 PM_{2.5} standards by the extended attainment date approved by EPA under section 188(e).

Given the short amount of time available for California's development of these SIP submittals, EPA anticipates that the Serious area attainment demonstration for the SJV area may rely to some extent on existing photochemical modeling analyses developed for previous PM_{2.5} plan submittals. EPA commits to work with the District and the State as they develop the necessary technical support for the Serious area plan and to provide guidance on the requirements that California must meet to qualify for an extension of the Serious area attainment date under CAA section 188(e).

Finally, for the reasons provided in our proposed rule²⁰ and in our responses to comments above, we are finalizing our proposal to require the State to submit the NNSR SIP revisions required for Serious areas under subpart 4 no later than 12 months after the effective date of this reclassification.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

²⁰ See 80 FR 1482 at 1489.

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

This action is exempt from review by the Office of Management and Budget (OMB) because it relates to a designation of an area for air quality purposes and will reclassify the SJV from its current air quality designation of Moderate nonattainment to Serious nonattainment for the 1997 PM_{2.5} NAAQS.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This action does not contain any information collection activities.

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. The final rule requires the state to adopt and submit SIP revisions to satisfy the statutory requirements that apply to Serious areas, and would not itself directly regulate any small entities (see section III.C of this final rule).

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of \$100 million or more and does not significantly or uniquely affect small governments, as described in UMRA (2 U.S.C. 1531-1538).

This action itself imposes no enforceable duty on any state, local, or tribal governments, or the private sector. The final action reclassifies the SJV nonattainment area as Serious nonattainment for the 1997 PM_{2.5} NAAQS, which triggers existing statutory timeframes for the state to submit SIP revisions. Such a reclassification in and of itself does not impose any federal intergovernmental mandate. The final action does not require any tribes to submit implementation plans.

E. Executive Order 13132: Federalism

This action does not have federalism implications.

F. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

This action may have tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. Eight Indian tribes are located within the boundaries of the SJV nonattainment area for the 1997 PM_{2.5} NAAQS: the Big Sandy Rancheria of Mono Indians of California, the Cold Springs Rancheria of Mono Indians of California, the North Fork Rancheria of Mono Indians of California, the Picayune Rancheria of Chukchansi Indians of California, the Santa Rosa Rancheria of the Tachi Yokut Tribe, the Table Mountain Rancheria of California, the Tejon Indian Tribe, and the Tule River Indian Tribe of the Tule River Reservation. We note that none of the

tribes located in the SJV nonattainment area have requested eligibility to administer programs under the Clean Air Act. This final action affects EPA's implementation of the new source review program because of the lower "major stationary source" threshold triggered by reclassification (CAA 189(b)(3)). The final action may also affect new or modified stationary sources proposed in these areas that require Federal permits, approvals, or funding. Such projects are subject to the requirements of EPA's General Conformity rule, and Federal permits, approvals, or funding for the projects may be more difficult to obtain because of the lower *de minimis* thresholds triggered by reclassification.

Given these potential implications, consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, EPA contacted tribal officials early in the process of developing this regulation to permit them to have meaningful and timely input into its development. EPA invited tribal officials to consult during the development of the proposed rule and following signature of the proposed rule. As discussed in more detail in our proposed action, we sent letters to leaders of the tribes with areas of Indian country in the SJV nonattainment area inviting government-to-government consultation on the rulemaking effort. On February 17, 2015, EPA received a letter dated January 30, 2015 from the Tejon Tribe expressing an

interest in developing a better understanding of, among other things, the effect of the reclassification on air quality. EPA invited the Tejon Tribe to participate in a conference call during the week of February 23, 2015, and EPA staff subsequently had preliminary conversations about this action with the Tribe but has not yet received confirmation of a request to schedule a conference call. No other Indian tribe has expressed an interest in discussing this action with EPA. We continue to invite Indian tribes in the SJV to contact EPA with any questions about the effects of this reclassification on tribal interests and air quality.

G. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it reclassifies the SJV nonattainment area as Serious nonattainment for the 1997 PM_{2.5} NAAQS, which triggers additional Serious area planning requirements under the CAA. This action does not establish an environmental standard intended to mitigate health or safety risks.

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

This final 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

This action is not subject to the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because it does not involve technical standards.

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

EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. This action reclassifies the SJV nonattainment area as Serious nonattainment for the 1997 PM_{2.5} NAAQS, which triggers additional Serious area planning requirements under the CAA.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take

effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. section 804(2). This rule will be effective on **[insert date 30 days after publication in the Federal Register]**.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects

40 CFR Part 52

Air pollution control, Incorporation by reference,
Intergovernmental relations, Particulate matter.

40 CFR Part 81

Environmental protection, Air pollution control, Incorporation
by reference.

Dated: March 27, 2015. Gina McCarthy,
Administrator.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 -- APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

2. Section 52.245 is amended by adding paragraph (c) as follows:

§52.245 New Source Review rules.

* * * * *

(c) By May 7, 2016, the New Source Review rules for PM_{2.5} for the San Joaquin Valley Air Pollution Control District must be revised and submitted as a SIP revision. The rules must satisfy the requirements of sections 189(b)(3) and 189(e) of the Clean Air Act.

PART 81 -- DESIGNATION OF AREAS FOR AIR QUALITY PLANNING

PURPOSES

3. The authority citation for part 81 continues to read as follows:

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

4. Section 81.305 is amended as follows:

- a. In the table titled "California - 1997 Annual PM_{2.5} NAAQS [Primary and secondary]," revise the entries under "San Joaquin Valley, CA"; and
- b. In the table titled "California - 1997 24-Hour PM_{2.5} NAAQS [Primary and secondary]," revise the entries under "San Joaquin Valley, CA".

The revisions read as follows:

§ 81.305 California.

* * * * *

CALIFORNIA - 1997 Annual PM_{2.5} NAAQS [Primary and secondary]

Designated Area	Designation ^a		Classification	
	Date ¹	Type	Date ²	Type
* * * * *				
San Joaquin Valley, CA:				
Fresno County		Nonattainment	[insert date 30 days after publication in <u>Federal Register</u>]	Serious.
Kern County (part)		Nonattainment	[insert date 30 days after publication in <u>Federal Register</u>]	Serious.
That portion of Kern County which lies west and north of a line described as follows: Beginning at the Kern-Los Angeles County boundary and running north and east along the northwest boundary of the Rancho La Libre Land Grant to the point of intersection with the range line common to R. 16 W. and R. 17 W., San Bernardino Base and Meridian; north along the range line to the point of intersection with the Rancho El Tejon Land Grant boundary; then southeast, northeast, and northwest along the boundary of the Rancho El				

Tejon Land Grant to the northwest corner of S. 3, T. 11 N., R. 17 W.; then west 1.2 miles; then north to the Rancho El Tejon Land Grant boundary; then northwest along the Rancho El Tejon line to the southeast corner of S. 34, T. 32 S., R. 30 E., Mount Diablo Base and Meridian; then north to the northwest corner of S. 35, T. 31 S., R. 30 E.; then northeast along the boundary of the Rancho El Tejon Land Grant to the southwest corner of S. 18, T. 31 S., R. 31 E.; then east to the southeast corner of S. 13, T. 31 S., R. 31 E.; then north along the range line common to R. 31 E. and R. 32 E., Mount Diablo Base and Meridian, to the northwest corner of S. 6, T. 29 S., R. 32 E.; then east to the southwest corner of S. 31, T. 28 S., R. 32 E.; then north along the range line common to R. 31 E. and R. 32 E. to the northwest corner of S. 6, T. 28 S., R. 32 E., then west to the southeast corner of S. 36, T. 27 S., R. 31 E., then north along the range line common to R. 31 E. and R.				
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32 E. to the Kern-Tulare County boundary.				
Kings County		Nonattainment	[insert date 30 days after publication in <u>Federal Register</u>]	Serious.
Madera County		Nonattainment	[insert date 30 days after publication in <u>Federal Register</u>]	Serious.
Merced County		Nonattainment	[insert date 30 days after publication in <u>Federal Register</u>]	Serious.
San Joaquin County		Nonattainment	[insert date 30 days after publication in <u>Federal Register</u>]	Serious.
Stanislaus County		Nonattainment	[insert date 30 days after publication in <u>Federal Register</u>]	Serious.
Tulare County		Nonattainment	[insert date 30 days after publication in <u>Federal Register</u>]	Serious.
* * * * *				

^aIncludes Indian Country located in each county or area, except as otherwise specified.

¹This date is 90 days after January 5, 2005, unless otherwise noted.

²This date is July 2, 2014, unless otherwise noted.

* * * * *

CALIFORNIA - 1997 24-Hour PM_{2.5} NAAQS [Primary and secondary]

Designated Area	Designation ^a		Classification	
	Date ¹	Type	Date ²	Type
* * * * *				
San Joaquin Valley, CA:				
Fresno County		Nonattainment	[insert date 30 days after publication in Federal Register]	Serious.
Kern County (part)		Nonattainment	[insert date 30 days after publication in Federal Register]	Serious.
That portion of Kern County which lies west and north of a line described as follows: Beginning at the Kern-Los Angeles County boundary and running north and east along the northwest boundary of the Rancho La Libre Land Grant to the point of intersection with the range line common to R. 16 W. and R. 17 W., San Bernardino Base and Meridian; north along the range line to the point of intersection with the Rancho El Tejon Land Grant boundary; then southeast, northeast, and northwest along the boundary of the Rancho El Tejon Land Grant to the northwest corner of S. 3, T. 11 N., R. 17 W.; then west 1.2				

miles; then north to the Rancho El Tejon Land Grant boundary; then northwest along the Rancho El Tejon line to the southeast corner of S. 34, T. 32 S., R. 30 E., Mount Diablo Base and Meridian; then north to the northwest corner of S. 35, T. 31 S., R. 30 E.; then northeast along the boundary of the Rancho El Tejon Land Grant to the southwest corner of S. 18, T. 31 S., R. 31 E.; then east to the southeast corner of S. 13, T. 31 S., R. 31 E.; then north along the range line common to R. 31 E. and R. 32 E., Mount Diablo Base and Meridian, to the northwest corner of S. 6, T. 29 S., R. 32 E.; then east to the southwest corner of S. 31, T. 28 S., R. 32 E.; then north along the range line common to R. 31 E. and R. 32 E. to the northwest corner of S. 6, T. 28 S., R. 32 E., then west to the southeast corner of S. 36, T. 27 S., R. 31 E., then north along the range line common to R. 31 E. and R. 32 E. to the Kern-Tulare County boundary.				
Kings County		Nonattainment	[insert date 30 days	Serious.

			after publication in Federal Register]	
Madera County		Nonattainment	[insert date 30 days after publication in Federal Register]	Serious.
Merced County		Nonattainment	[insert date 30 days after publication in Federal Register]	Serious.
San Joaquin County		Nonattainment	[insert date 30 days after publication in Federal Register]	Serious.
Stanislaus County		Nonattainment	[insert date 30 days after publication in Federal Register]	Serious.
Tulare County		Nonattainment	[insert date 30 days after publication in Federal Register]	Serious.
* * * * *				

^aIncludes Indian Country located in each county or area, except as otherwise specified.

¹This date is 90 days after January 5, 2005, unless otherwise noted.

²This date is July 2, 2014, unless otherwise noted.

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[FR Doc. 2015-07765 Filed: 4/6/2015 08:45 am; Publication Date: 4/7/2015]