

Alexis Strauss, Acting Regional Administrator, EPA Region 9 signed the following notice of final rulemaking on July 8, 2016, and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this Internet version of this final, it is not the official version. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's FDsys website (<https://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>) and on Regulations.gov (<http://www.regulations.gov>) in Docket No. EPA-R09-OAR-2015-0711.

Billing Code: 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2015-0711; FRL-]

Approval and Promulgation of Implementation Plans; California; San Joaquin Valley; Revisions to Motor Vehicle Emissions Budgets for Ozone and Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve and conditionally approve revisions to the State of California's State Implementation Plan (SIP) for the San Joaquin Valley (SJV) area. The revisions consist of an update to the Motor Vehicle Emissions Budgets ("budgets") for nitrogen oxides (NO_x) and volatile organic compounds (VOCs) for the 1997 8-hour ozone national ambient air quality standard (NAAQS or "standard") for the SJV ozone nonattainment area and for NO_x and coarse particulate matter (PM₁₀) for the 1987 24-hour PM₁₀ standard for the SJV PM₁₀ maintenance area. The EPA is approving the SJV ozone revised budgets and conditionally approving the PM₁₀ budgets in accordance with the requirements of the Clean Air Act (CAA or "Act") and the EPA's regulations.

DATES: This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA-R09-OAR-2015-0711. All documents in the docket are listed on the <http://www.regulations.gov>

web site. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: John Ungvarsky, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region 9, (415) 972-3963, ungvarsky.john@epa.gov.

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

Table of Contents

I. Proposed Action

II. Public Comments

III. Final Action

IV. Statutory and Executive Order Reviews

I. Proposed Action

On May 18, 2016 (81 FR 31212), the EPA proposed, under section 110(k)(3) of the Clean Air Act (CAA or “Act”), to approve a revision to the California SIP submitted by the California Air Resources Board (CARB) on November 13, 2015.¹ The SIP submittal revises budgets applicable to control strategy or maintenance plans for the SJV for the 1997 8-hour ozone standard, 2006 24-hour PM_{2.5} standard, and the 1987 24-hour PM₁₀ standard.² In our May 18, 2016

¹ Letter, Richard W. Corey, Executive Officer, CARB to Jared Blumenfeld, Regional Administrator, EPA Region 9, November 13, 2015 with enclosures.

² For all three pollutants, the SJV nonattainment area includes all of seven counties, including Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare counties, and the western half of Kern County. See the

action, we proposed to approve revised budgets for the 1997 8-hour ozone standard and the 2006 24-hour PM_{2.5} standard. We also proposed to conditionally approve revised budgets for the 1987 24-hour PM₁₀ standard. CARB developed the revised budgets using EMFAC2014 and the travel activity projections provided by the SJV Metropolitan Planning Organizations (MPOs) consistent with the 2015 Federal Transportation Improvement Program (TIP). As such, the revised budgets reflect the most recent planning forecasts and are based on the most recent emission factor data and approved calculation methods.

The EPA previously approved the SJV budgets for the 1997 8-hour ozone standard and the 24-hour PM₁₀ standard. The ozone budgets were included in the EPA's approval of the SJV 2007 8-hour Ozone Plan ("2007 Ozone Plan") at 77 FR 12652 (March 1, 2012), which established NO_x and VOC³ budgets for 2011, 2014, 2017, 2020, and 2023.⁴ The PM₁₀ budgets were included in the EPA's approval of the 2007 PM₁₀ Maintenance Plan and Request for Redesignation ("2007 PM₁₀ Plan") at 73 FR 66759 (November 12, 2008), which established direct PM₁₀ and NO_x budgets for 2005 and 2020.⁵ The SJV budgets for the 2006 24-hour PM_{2.5} standard were included in the EPA's proposed approval of the SJV 2012 PM_{2.5} Plan ("2012 PM_{2.5} Plan") at 80 FR 1816 (January 13, 2015). The EPA found the 2017 PM_{2.5} budgets in the SJV 2012 PM_{2.5} Plan to be adequate at 81 FR 22194 (April 15, 2016), establishing direct PM_{2.5} and NO_x budgets for 2017. As of May 2, 2016, these budgets must be used to determine conformity of

NAAQS-specific tables in 40 CFR 81.305.

³ California plans sometimes use the term Reactive Organic Gases (ROG) for VOC. These terms are essentially synonymous. For simplicity, we use the term VOC herein to mean either VOC or ROG.

⁴ The approved 2007 Ozone Plan includes the SJV 2007 Ozone Plan (as revised 2008 and 2011) and SJV-related portions of CARB's 2007 State Strategy (revised 2009 and 2011).

⁵ The approved SIP includes the 2007 PM₁₀ Maintenance Plan and Request for Redesignation, September 20, 2007, and technical corrections by CARB to the 2020 budgets for Merced, San Joaquin, Stanislaus and Tulare counties in the 2007 PM₁₀ Plan. See May 13, 2008 letter to Wayne Nastri from James N. Goldstene.

transportation plans and TIPs to the control strategy plan for the SJV for the 2006 24-hour PM_{2.5} standard.⁶

In our May 18, 2016 proposed rule, we reviewed the revised budgets for the 1997 8-hour ozone standard in the November 13, 2015 submittal, evaluated them for compliance with statutory and regulatory requirements, and concluded that they meet all applicable requirements. More specifically, under CAA section 110(k)(3), we proposed to approve the revised VOC and NO_x budgets in table 1 for 2017, 2020, and 2023 for the 1997 8-hour ozone standard. We determined that replacement of the current approved budgets with the revised VOC and NO_x budgets would not interfere with the approved RFP and attainment demonstrations for the 1997 8-hour ozone standard in the SJV and emissions changes in non-motor vehicle emissions categories do not change the overall conclusions of the 2007 Ozone Plan.

County Subarea	NO_x (tons per summer day)			VOC (tons per summer day)		
	2017	2020	2023	2017	2020	2023
Fresno	29.9	24.3	14.6	8.7	6.8	5.6
Kern (SJV)	26.8	22.4	12.9	6.9	5.7	4.8
Kings	5.5	4.7	2.7	1.4	1.1	0.9

⁶ Also see letter, Elizabeth J. Adams, Deputy Director, Air Division, EPA Region 9, to Richard W. Corey, Executive Officer, CARB, April 1, 2016 with enclosures.

⁷ The county-specific budgets are set forth in attachment A to CARB Resolution 15-50. Attachment A constitutes the SIP revision adopted by CARB on October 22, 2015 and submitted on November 13, 2015. CARB provided information and analysis supporting the SIP revision in a staff report titled *Updated Transportation Conformity Budgets for the San Joaquin Valley Ozone, PM_{2.5}, and PM₁₀ State Implementation Plans*, release date September 21, 2015.

⁸ CARB calculated the revised budgets for the SJV plans by taking the sum of the county-by-county emissions results from EMFAC and rounding the SJV-wide total up to the nearest whole ton for NO_x and to the nearest tenth of a ton for VOC and PM₁₀; then re-allocating to the individual counties based on the ratio of each county's contribution to the total; and then rounding each county's emissions to the nearest tenth of a ton using the conventional rounding method.

Madera	5.5	4.5	2.7	2.0	1.6	1.3
Merced	10.3	8.5	5.1	2.7	2.1	1.7
San Joaquin	14.1	11.3	7.3	6.4	5.1	4.3
Stanislaus	11.3	9.2	5.8	4.1	3.2	2.7
Tulare	10.3	8.1	4.9	4.0	3.1	2.5

Second, under CAA section 110(k)(4), the EPA proposed to conditionally approve the revised direct PM₁₀ and NO_x budgets in table 2 for 2020 for the 24-hour PM₁₀ standard. We determined that, when combined with implementation of the contingency plan in the SIP-approved 2007 PM₁₀ Plan and fulfillment of the commitments in the State’s April 29, 2016 letter, the revised direct PM₁₀ and NO_x budgets will allow the SJV to continue to demonstrate maintenance of the 24-hour PM₁₀ standard. The contents of the State’s April 29, 2016 letter are described in detail in our proposed rule on pages 31220 and 31221. In our proposal, we explained that if the conditional approval is finalized, CARB must adopt and submit the SIP revisions that it has committed to submit by June 1, 2017. The resulting impacts if CARB fails to comply with this commitment are explained below in section III of today’s action.

Table 2. San Joaquin Valley Revised 2020 Budgets for the PM₁₀ Standard Developed Using EMFAC2014^{9, 10}		
County Subarea	Direct PM₁₀	NO_x

⁹ The county-specific budgets are set forth in attachment A to CARB Resolution 15-50. Attachment A constitutes the SIP revision adopted by CARB on October 22, 2015 and submitted on November 13, 2015. CARB provided information and analysis supporting the SIP revision in a staff report titled *Updated Transportation Conformity Budgets for the San Joaquin Valley Ozone, PM_{2.5}, and PM₁₀ State Implementation Plans*, release date September 21, 2015.

¹⁰ CARB calculated the revised budgets for the SJV plans by taking the sum of the county-by-county emissions results from EMFAC and rounding the SJV-wide total up to the nearest whole ton for NO_x and to the nearest tenth of a ton for VOC and PM₁₀; then re-allocating to the individual counties based on the ratio of each county’s contribution to the total; and then rounding each county’s emissions to the nearest tenth of a ton using the conventional rounding method

	(tons per annual day)	(tons per annual day)
Fresno	7.0	25.4
Kern (SJV)	7.4	23.3
Kings	1.8	4.8
Madera	2.5	4.7
Merced	3.8	8.9
San Joaquin	4.6	11.9
Stanislaus	3.7	9.6
Tulare	3.4	8.4

Third, the EPA also proposed to approve the revised direct PM_{2.5} and NO_x budgets for 2017 for the 2006 24-hour PM_{2.5} standard. We determined that: (1) replacement of the current adequate budgets with the revised budgets would be consistent with our separate proposal finding that the 2012 PM_{2.5} Plan demonstrates RFP for year 2017; (2) emissions changes in non-motor vehicle emissions categories do not change the overall conclusion of the 2012 PM_{2.5} Plan; and (3) the revised budgets meet the adequacy criteria in 40 CFR 93.118(e)(4)(i)-(vi). Because the EPA has yet to finalize its approval of 2012 PM_{2.5} Plan, we are not able to finalize, in today's action, our approval of the revised direct PM_{2.5} and NO_x budgets for 2017 in CARB's submittal dated November 13, 2015 for the 2006 24-hour PM_{2.5} standard. The EPA expects to take final action on the revised PM_{2.5} budgets for 2017 as part of its final action on the 2012 PM_{2.5} Plan for the 2006 24-hour PM_{2.5} standard.

Lastly, on the effective date of today's action, the previously-approved budgets for the 1997 8-hour ozone standard and the 1987 24-hour PM₁₀ standard would no longer be applicable

for transportation conformity purposes, and the SJV MPOs and the U.S. Department of Transportation (DOT) must use the revised budgets for future transportation conformity determinations.

Please see our May 18, 2016 proposed rule for more information concerning the background for this action and for a more detailed discussion of the rationale for approval of the revised budgets.

II. Public Comments

Our May 18, 2016 proposed rule provided a 30-day public comment period, which closed on June 17, 2016. We received no comments on our proposal during this period.

III. Final Action

For the reasons discussed in the May 18, 2016 proposed rule and summarized above, the EPA is approving, or conditionally approving, revised motor vehicle emissions budgets submitted on November 13, 2015 by CARB for the SJV area as a revision to the California SIP. More specifically, the EPA is approving, under CAA section 110(k)(3), revised VOC and NO_x budgets shown in table 1 above for 2017, 2020, and 2023 for the 1997 8-hour ozone standard. The EPA is conditionally approving, under CAA section 110(k)(4), the revised direct PM₁₀ and NO_x budgets shown in table 2 above for 2020 for the 24-hour PM₁₀ standard. CARB must adopt and submit the SIP revisions that it has committed to submit by June 1, 2017, as described in their April 29, 2016 letter. If CARB fails to comply with this commitment, the conditional approval will convert to a disapproval. Disapproval of the revised budgets for the 2007 PM₁₀ Plan would reinstate the existing approved budgets as the budgets that must be used in transportation plan

and TIP conformity determinations after the effective date of the disapproval. See 40 CFR 93.109(c)(1).¹¹

IV. 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 action merely approves revisions to motor vehicle emission budgets as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

¹¹ Because the submittal of the revised budgets is not a required submittal, disapproval would not trigger sanctions under CAA section 179(a)(2) but would nonetheless trigger a two-year clock for a federal implementation plan under CAA section 110(c). Disapproval would not trigger a transportation conformity freeze because the disapproval does not affect a control strategy implementation plan as defined in the transportation conformity rule. See 40 CFR 93.101 and 93.120(a).

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- 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; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires the EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have Tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes.”

Eight Indian tribes are located within the boundaries of the SJV air quality planning area for the 1997 8-hours ozone standard and 24-hour PM₁₀ standard: 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.

The EPA's approval into the SIP of the SJV revised budgets submitted by CARB would not have tribal implications 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. In those areas of Indian country, the SIP approvals do 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). Therefore, the EPA has concluded that the action will not have tribal implications for the purposes of Executive Order 13175, and will not impose substantial direct costs upon the tribes, nor will it preempt Tribal law. We note that none of the tribes located in the SJV has requested eligibility to administer programs under the CAA.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the 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. 804(2).

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 DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

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

Dated:

Alexis Strauss,
Acting Regional Administrator,
EPA Region 9

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

PART 52 — APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F — California

2. Section 52.220 is amended by adding paragraph (c)(477) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(477) The following revision was submitted on November 13, 2015 by the Governor’s designee.

(i) [Reserved]

(ii) Additional materials.

(A) California Air Resources Board.

(L) Attachment A to Resolution 15-50, “Updates to the Transportation Conformity Budgets for the San Joaquin Valley 2007 PM₁₀, 2007 Ozone and 2012 PM_{2.5} SIPs,” Table A-1 (Updated Transportation Conformity Budgets for the 2008 Ozone Plan (Tons per summer day) and Table A-3 (Updated Transportation Conformity Budgets for the 2008 PM₁₀ Maintenance Plan (Tons per annual day)).

* * * * *

3. Subpart F is amended by adding § 52.248 to read as follows:

§ 52.248 Identification of plan – conditional approval.

(a) The EPA is conditionally approving a California State Implementation Plan (SIP) revision submitted on November 13, 2015 updating the motor vehicle emissions budgets for nitrogen oxides (NO_x) and coarse particulate matter (PM₁₀) for the 1987 24-hour PM₁₀ standard for the San Joaquin Valley PM₁₀ maintenance area. The conditional approval is based on a commitment from the State to submit a SIP revision that demonstrates full implementation of the contingency provisions of the 2007 PM₁₀ Maintenance Plan and Request for Redesignation (September 20, 2007). If the State fails to meet its commitment by June 1, 2017, the approval is treated as a disapproval.