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 December 5, 2016. 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 relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.


Alexis Strauss,

Acting Regional Administrator, Region IX.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(364)(i)(A)(4) and (c)(457)(i)(H) to read as follows:

§ 52.220 Identification of plan—in part.

(c) * * * * *

(364) * * * *

(i) * * * *

(A) * * * *

(4) Previously approved on October 11, 2009 in paragraph (c)(364)(i)(A)(2) of this section and now deleted with replacement in paragraph (c)(457)(i)(H)(1), Rule 4901, “Wood Burning Fireplaces and Wood Burning Heaters,” amended on October 16, 2008. * * * * *

(457) * * * *

(i) * * * *

(H) San Joaquin Valley Unified Air Pollution Control District.

(1) Rule 4901, “Wood Burning Fireplaces and Wood Burning Heaters,” amended on September 18, 2014. * * * * *

[FR Doc. 2016–24081 Filed 10–5–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52


Denial of Request for Extension of Attainment Date for 1997 PM2.5 NAAQS; California; San Joaquin Valley Serious Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is denying a request submitted by California for extension of the attainment date for the 1997 24-hour and annual fine particulate matter (PM2.5) national ambient air quality standards in the San Joaquin Valley Serious PM2.5 nonattainment area.

DATES: This rule is effective on November 7, 2016.

ADDRESSES: The EPA has established docket number EPA–R09–OAR–2015–0432 for this action. Generally, documents in the docket for this action are available electronically at http://www.regulations.gov or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the FOR FURTHER INFORMATION CONTACT section.

FOR FURTHER INFORMATION CONTACT: Rory Mays, Air Planning Office (AIR–2), EPA Region 9, (415) 972–3227, mays.rory@epa.gov.

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

Table of Contents

I. Background

II. Final Action on Section 188(e) Extension Request

III. Statutory and Executive Order Reviews

I. Background

On February 9, 2016, the EPA proposed to approve, conditionally approve, and disapprove state implementation plan (SIP) revisions submitted by California (the “State” or California Air Resources Board (CARB)) to address Clean Air Act (CAA or “Act”) requirements for the 1997 24-hour and annual PM2.5 national ambient air quality standards (NAAQS) in the San Joaquin Valley (SJV) Serious PM2.5 nonattainment area.1 The SIP revisions on which we proposed action are the “2015 Plan for the 1997 PM2.5 Standard,” which the State submitted on June 25, 2013, and the “2018 Transportation Conformity Budgets for the San Joaquin Valley PM2.5 SIP, Plan Supplement,” submitted on August 13, 2015. We refer to these SIP submissions collectively as the “2015 Plan,” “the Plan,” “the 2015 PM2.5 Plan,” or “the Plan.” The 2015 PM2.5 Plan is a PM2.5 Serious area attainment plan for the SJV and includes a request to extend the applicable attainment date for the 24-hour and annual PM2.5 standards by three and five years, respectively, on the basis that attainment by December 31, 2015 is impracticable, in accordance with CAA section 188(e).

The EPA proposed to approve the following elements of the Plan as satisfying applicable CAA requirements: (1) The 2012 base year emissions inventories; (2) the best available control measures (BACM)/best available control technology demonstration; (3) the attainment demonstration; (4) the reasonable further progress demonstration; (5) the State’s application for an extension of the Serious area attainment date to December 31, 2018 for the 1997 24-hour PM2.5 NAAQS and to December 31, 2020 for the 1997 annual PM2.5 NAAQS; (6) the San Joaquin Valley Unified Air Pollution Control District (the “District”

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1 81 FR 6936 (February 9, 2016).
substituting excess reductions in the condition that trades are limited to proposed to approve the Plan’s inter-
and 2020. Additionally, the EPA schedule; and (7) the motor vehicle for under-fired charbroilers on a specific 
requirements, the EPA interprets the longer attainment time frames 
expeditious date practicable depends on the determination of whether such a plan 
attainment by the most expeditious 
area; and (5) submit a demonstration of the implementation plan of any state or 
attainment by the most expeditious 
are achieved in practice in any state, 
The EPA proposed to conditionally 
The EPA provided a 30-day period for public comment on the proposed rule and received comment letters from Mr. Paul Cort, on behalf of Earthjustice, and from Mr. Shawn Dolan. The comments from Earthjustice primarily argued that EPA Method 9 should be phased out in favor of other methods for evaluating visible emissions such as the Digital Camera Opacity Technique (DCOT).

II. Final Action on Section 188(e) Extension Request

Based on our reevaluation of the 2015 PM2.5 Plan and related control measures and consideration of the comments we received, the EPA is denying CARB’s request for extension of the December 31, 2015 Serious area attainment date for the 1997 PM2.5 NAAQS in the SJV. As explained in our proposed rule, one of the minimum criteria for extension of an attainment date under CAA section 188(e) is that the state 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. The EPA’s determination of whether such a plan provides for attainment by the most expeditious date practicable depends on whether the plan provides for implementation of BACM no later than the statutory implementation deadline, the most stringent measures (MSM) as expeditiously as practicable, and any other technologically and economically feasible measures that will result in attainment as expeditiously as practicable.

Given the strategy in the nonattainment provisions of the Act to offset longer attainment time frames with more stringent control requirements, the EPA interprets the MSM provision to assure that additional controls that can feasibly be implemented in the area beyond the set of measures adopted as BACM are implemented. Two ways to do this are (1) to require that more sources and source categories be subject to MSM analysis than to BACM analysis and controlled as necessary—i.e., by expanding the applicability provisions in the MSM control requirements to cover more sources, and (2) to require reanalysis of any measures adopted in other areas that were rejected during the BACM analysis because they could not be implemented by the BACM implementation deadline to see if they are now feasible for the area given the longer attainment timeframe.3

The EPA provided a 30-day period for public comment on the proposed rule and received comment letters from Mr. Paul Cort, on behalf of Earthjustice, and from Mr. Shawn Dolan. The comments from Earthjustice primarily argued that EPA Method 9 should be phased out in favor of other methods for evaluating visible emissions such as the Digital Camera Opacity Technique (DCOT).

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Given the strategy in the nonattainment provisions of the Act to offset longer attainment time frames with more stringent control requirements, the EPA interprets the

2 Id. at 6940.

3 Id. at 6941.
measures”8 in lieu of the mitigation measures listed in the rule, without any requirement to ensure that such alternative mitigation measures achieve any particular level of ammonia emission reductions.9 We find these analyses in the 2015 PM2.5 Plan insufficient to demonstrate that the plan includes MSM for ammonia emissions from CAFs in the SJV. Because emissions from CAFs account for more than half of all ammonia emissions in the SJV,10 a more robust analysis of potential ammonia emission reduction measures for this source category is necessary to satisfy the MSM requirement.

Similarly, the 2015 PM2.5 Plan states that SJVUAPCD Rule 4565 (“Biosolids, Animal Manure, and Poultry Litter Operations”), as adopted March 15, 2007, and SJVUAPCD Rule 4566 (“Organic Material Composting Operations”), as adopted August 18, 2011, limit ammonia emissions from composting operations but does not specifically identify any enforceable requirement in either of these rules that reduces ammonia emissions, nor does it identify a basis for the District’s statement that “the [ammonia] control efficiencies are assumed to be the same as the VOC control efficiencies . . . since the same control measures will reduce both VOC and [ammonia] from these operations.”11 By contrast, South Coast Air Quality Management District (SCAQMD) Rule 1133.2 (“Emission Reductions from Co-Composting Operations”), as adopted January 10, 2003, and SCAQMD Rule 1133.3 (“Emission Reductions from Greenwaste Composting Operations”), as adopted July 8, 2011, both contain specific requirements to reduce ammonia emissions and, in some cases, to achieve an overall ammonia emission reduction of at least 80% by weight from specified baseline levels.12

With respect to fertilizer application, the 2015 PM2.5 Plan discusses ongoing research on improved methods of fertilizer application to maximize nitrogen use efficiency and minimize air and water quality impacts and states that “the weight of evidence suggests that managing nutritional applications to fields . . . has significantly reduced losses of nitrogen compounds to the environment, including leaching of nitrogen compounds to groundwater and air emissions such as ammonia and nitrous oxide.”13 The 2015 PM2.5 Plan does not, however, provide any specific analysis of potential control measures to reduce ammonia emissions from fertilizer application or identify any enforceable SIP requirement that reduces ammonia emissions from this source category.

In sum, the 2015 PM2.5 Plan fails to identify any specific, enforceable requirement to reduce ammonia emissions in the SIP for the area and does not demonstrate that the State or District adequately considered potential control measures to strengthen the reasonably available control measure (RACM) strategy for ammonia emission sources.14 We therefore find the District’s analyses in the 2015 PM2.5 Plan insufficient to demonstrate that the plan includes MSM for ammonia emission sources in the SJV.

Second, the 2015 PM2.5 Plan does not adequately demonstrate that it includes MSM for NOX emissions from internal combustion engines used in agricultural operations in the SJV. SJVUAPCD Rule 4702, as amended November 14, 2013, regulates NOX emissions from two types of agricultural internal combustion (IC) engines rated at 25 brake horsepower (bhp) or greater: Spark-ignited (SI) engines and compression-ignited (CI) engines.15 For SI engines used in agricultural operations, the rule establishes NOX emission limits of 90 parts per million by volume (ppmv) for rich-burn engines and 150 ppmv for lean-burn engines.16 For CI engines used in agricultural operations, Rule 4702 requires compliance by specified dates with EPA Tier 3 or Tier 4 NOX emission standards for non-road CI engines in 40 CFR part 89 or part 1039, as applicable, or an 80 ppmv NOX emission limit, depending on engine type.17

SCAQMD Rule 1110.2, by contrast, establishes an 11 ppmv NOX emission limit for all stationary SI and CI engines rated over 50 bhp, effective July 1, 2011, with limited exceptions for agricultural engines that meet certain conditions.18 According to the SCAQMD, three natural gas-fired SI engines used in agricultural operations are currently subject to the 11 ppmv NOX emission limit in Rule 1110.2 and use nonselective catalytic reduction (NSCR, also called “three-way catalysts”) control technology to comply with this emission limit.19 The Feather River Air Quality Management District (FRAQMD) Rule 3.22, as amended October 6, 2014, establishes NOX emission limits of 25 parts per million (ppm) and 65 ppm for rich-burn and lean-burn agricultural engines in southern FRAQMD, respectively, except for agricultural engines that emit less than 50% of the major source thresholds for regulated air pollutants and/or hazardous air pollutants.20 The NOX emission limits for agricultural engines in SCAQMD Rule 1110.2 and FRAQMD Rule 3.22 are significantly more stringent than the 90 ppmv and 150 ppmv limits applicable to agricultural engines.

17 Id. at section 5.2.4 and Table 4 and section 3.37 (defining Tier 1, Tier 2, Tier 3, and Tier 4 engines).
18 SCAQMD Rule 1110.2 (amended February 1, 2008), section 3.1(b) (referencing Tables I and II).
19 1110.2 provides an exemption from the 11 ppmv emission limit for agricultural engines that meet EPA Tier 4 emission standards and either of two additional conditions: (1) The engine operator submits documentation to the SCAQMD, by the deadline for a permit application, that the applicable electric utility has rejected an application for an electrical line extension to the location of the engines, or (2) the SCAQMD determines that the operator does not qualify for funding under California Health and Safety Code Section 44229 to replace, retrofit or repower the engine. SCAQMD Rule 1110.2 at section (h)(9).
19 Id. dated May 3, 2016, from Kevin Orellana (SCAQMD) to Nicole Law (EPA), regarding “Question on Engines under Rule 1110.2.”
20 FRAQMD Rule 3.22 (amended October 6, 2014), section D.1, Table 2 (South FRAQMD Emission Limits) and section B.1.e (Exemptions).
21 Id. at section 5.2.4 and Table 4.
22 Email dated June 26, 2016, from Alamjit Mangat (FRAQMD) to Nicole Law (EPA), regarding “Engines in FRAQMD” (stating that all 423 agricultural engines currently operating in the Feather River area qualify for an exemption from the NOX emission limits in FRAQMD Rule 3.22).
23 Nonetheless, because these NOX emission limits are approved into the California SIP as part of an earlier version of FRAQMD Rule 3.22 (see 77 FR 12493, March 1, 2012), they are required as MSM if they can feasibly be implemented in the SJV.
engines in SJVUAPCD Rule 4702. Moreover, SJVUAPCD Rule 4702 itself establishes NO\textsubscript{X} emission limits for IC engines used in other (non-agricultural) operations that range from 11 to 50 ppmv for rich-burn engines and 11 to 75 ppmv for lean-burn engines, depending on type of fuel and use.\textsuperscript{21}

In Appendix C of the 2015 PM\textsubscript{2.5} Plan, the SJVUAPCD estimated the following costs of replacing agricultural SI engines: $76,209 per ton to replace a lean-burn engine to meet an 11 ppmv NO\textsubscript{X} limit; $42,146 per ton to replace a lean-burn engine to meet a 65 ppmv NO\textsubscript{X} limit; $59,754 per ton to replace a rich-burn engine to meet an 11 ppmv NO\textsubscript{X} limit; and $69,521 per ton to replace a rich-burn engine to meet a 25 ppmv NO\textsubscript{X} limit.\textsuperscript{22} The District subsequently submitted additional information indicating that the cost of replacing a lean-burn engine to meet 65 ppmv or 25 ppmv NO\textsubscript{X} limits would be the same as the replacement cost to meet an 11 ppmv NO\textsubscript{X} limit ($76,209 per ton), as selective catalytic reduction (SCR) would be necessary for a lean-burn engine to meet any of these limits, and indicating that the cost of replacing a rich-burn engine to meet a 65 ppmv NO\textsubscript{X} limit would also be the same as the replacement cost to meet 25 ppmv or 11 ppmv NO\textsubscript{X} limits ($59,754 or $69,521 per ton), as three-way catalysts (NSCR) would be necessary for a rich-burn engine to meet any of these limits.\textsuperscript{23} The SJVUAPCD did not, however, identify the bases for any of these cost estimates or submit related technical documentation. At the EPA’s request, the SJVUAPCD provided additional information about the technological and economic feasibility of IC engine retrofits to meet lower NO\textsubscript{X} limits but similarly did not identify the bases for its cost estimates or provide any related technical documentation.\textsuperscript{24} Moreover, according to the SCAQMD, the cost-effectiveness of replacing an agricultural SI engine ranges from $5,650 to $29,000 per ton of NO\textsubscript{X} reduced and, for most engine categories, is below $20,000 per ton.\textsuperscript{25}

Given the absence of a technical basis for the SJVUAPCD’s cost estimates for engine replacements or retrofits, the contrary information presented by the SCAQMD regarding costs for the same type of engines, and the significantly lower NO\textsubscript{X} emission levels achieved in practice in the South Coast area, as well as the lower NO\textsubscript{X} limits for similar engines required in SIP-approved rules for both the Feather River area and the SJV, we find the District’s analyses in the 2015 PM\textsubscript{2.5} Plan insufficient to demonstrate that the plan includes MSM for NO\textsubscript{X} emissions from IC engines used in agricultural operations. Third, the 2015 PM\textsubscript{2.5} Plan does not adequately demonstrate that it includes MSM for NO\textsubscript{X} emissions from container glass melting furnaces in the SJV. SJVUAPCD Rule 4354, as amended May 19, 2011, establishes a NO\textsubscript{X} emission limit of 1.5 pounds of NO\textsubscript{X} per ton (lbs NO\textsubscript{X}/ton) of glass pulled, over a 30-day rolling average.\textsuperscript{26} Under the SCAQMD’s Regional Clean Air Incentives Market (RECLAIM) Program, the SCAQMD determined in 2000 that a NO\textsubscript{X} limit of 1.2 lbs NO\textsubscript{X}/ton of glass pulled represented Best Available Retrofit Control Technology (BARCT)\textsuperscript{27} for glass melting furnaces, and in 2015 the SCAQMD determined that a lower NO\textsubscript{X} limit of 0.24 lbs NO\textsubscript{X}/ton of glass pulled represents BARCT for this source category based on use of SCR or the “Ultra Cat ceramic filter system,” which the SCAQMD found is guaranteed to achieve an 80% NO\textsubscript{X} reduction and has been installed or is under construction at 12 glass manufacturing locations worldwide.\textsuperscript{28} The Owens-Brockway Glass Container facility, which manufactures clear and colored beer bottles, is the only glass melting facility currently operating in the South Coast area.\textsuperscript{29} At the EPA’s request, the SCAQMD provided continuous emission monitoring system (CEMS) data from February 2015 for the Owens-Brockway facility. The CEMS data shows that the facility operated at approximately 90% production capacity and consistently emitted below 0.72 lbs NO\textsubscript{X}/ton of glass pulled during that month, using oxyfuel firing to control NO\textsubscript{X} emissions.\textsuperscript{30}

According to the SJVUAPCD, NO\textsubscript{X} emissions from glass melting facilities operating oxyfuel or SCR systems can vary widely depending on multiple factors, including the stability of the glass pull rate and the condition and age of the furnace refractory and insulation.\textsuperscript{31} The SJVUAPCD states that glass melting facilities in the SJV manufacture a large variety of sizes and shapes of still and sparkling wine glass bottles and often must respond to fluctuating demands in the wine industry, which require operators to use their furnaces in a manner that results in a less stable pull rate compared to facilities located in the South Coast, which mainly produce beer bottles. Additionally, according to the SJVUAPCD, as furnaces age the refractory is not as effective at retaining heat in the furnace and the burner fire rate must be increased over time to maintain the same overall furnace and glass temperature, which increases NO\textsubscript{X} emissions on a lb/ton basis. The District states that all of these factors result in varied NO\textsubscript{X} emission rates depending on production conditions, furnace age, and furnace design.\textsuperscript{32} The District did not, however, submit or reference any technical documentation to support its conclusions about the feasibility of lower NO\textsubscript{X} emission limits for glass melting furnaces in the SJV. Given the absence of a technical basis for the SJVUAPCD’s conclusions about the feasibility of more stringent controls for glass melting furnaces, and the available information from the SCAQMD about significantly lower NO\textsubscript{X} emission levels that have been achieved in practice both in the South Coast and elsewhere, we find the District’s analyses in the 2015 PM\textsubscript{2.5} Plan insufficient to demonstrate that the plan includes MSM for NO\textsubscript{X} emissions from container glass melting furnaces.

Finally, the 2015 PM\textsubscript{2.5} Plan does not adequately demonstrate that the State and District reevaluated, for potential adoption, control measures rejected

\textsuperscript{21} SJVUAPCD Rule 4702 (amended November 14, 2013), section 5.2.1. Table 1 and section 5.2.2. Table 2.

\textsuperscript{22} 2015 PM\textsubscript{2.5} Plan, Appendix C, pp. C–132 to C–139.

\textsuperscript{23} Email dated April 27, 2016, from Sheraz Gill (SJVUAPCD) to Andrew Steckel (EPA), regarding “Additional SJV info.”

\textsuperscript{24} Email dated June 25, 2015, from Sheraz Gill (SJVUAPCD) to Andrew Steckel (EPA), regarding “Requested Information.”

\textsuperscript{25} Email dated May 3, 2016, from Kevin Orellana (SCAQMD) to Nicole Law (EPA), regarding “Question on Engines under Rule 1110.2.”

\textsuperscript{26} SJVUAPCD Rule 4354 (amended May 19, 2011), section 5.1.

\textsuperscript{27} BARCT is defined as “an emission limitation that is based on the maximum degree of reduction achievable taking into account environmental, energy, and economic impacts by each class or category of source.” California Health & Safety Code Section 40406.

\textsuperscript{28} The RECLAIM program requires that container glass melting facilities achieve NO\textsubscript{X} reductions consistent with the 2015 BARCT determination (0.24 lbs NO\textsubscript{X}/ton of glass pulled) by 2022. SCAQMD Rule 2002 (as amended December 4, 2015), subparagraph (ff)(1)(L) and Table 6 (“RECLAIM NO\textsubscript{X} 2022 Ending Emission Factors”); see also SCAQMD, Draft Final Staff Report, “Proposed Regulation XX, Regional Clean Air Incentives Market (RECLAIM). NO\textsubscript{X} RECLAIM,” December 4, 2015, at pp. 170–171.

\textsuperscript{29} Email dated May 13, 2016, from Kevin Orellana (SCAQMD) to Idalia Perez (EPA) regarding “question regarding SCAQMD boilers and container glass facility.”

\textsuperscript{30} Email dated April 13, 2016, from Kevin Orellana (SCAQMD) to Idalia Perez (EPA) regarding “question regarding SCAQMD boilers and container glass facility.”

\textsuperscript{31} Email dated April 27, 2016, from Sheraz Gill (SJVUAPCD) to Andrew Steckel (EPA) regarding “Additional SJV info.”

\textsuperscript{32} Id.
during the State’s and District’s development of the previous attainment plan for the 1997 PM$_{2.5}$ NAAQS in the SJV area (the “2008 PM$_{2.5}$ Plan”) in accordance with the EPA’s longstanding interpretation of the MSM requirement. As explained in our proposed rule, given the strategy in the non attainment provisions of the Act to offset longer attainment time frames with more stringent control requirements, the EPA interprets the MSM provision to assure that additional controls that can feasibly be implemented in the area beyond the set of measures adopted as BACM are implemented. Two ways to do this are (1) to require that more sources and source categories be subject to MSM analysis than to BACM analysis and controlled—i.e., by expanding the applicability provisions in the MSM control requirements to cover more sources, and (2) to require reanalysis of any measures adopted in other areas that were rejected during the BACM analysis because they could not be implemented by the BACM implementation deadline to see if they are now feasible for the area given the longer attainment timeframe. In this case, because CARB submitted both the BACM demonstration required under CAA section 189(b)(1)(B) and the MSM demonstration required under CAA section 186(e) simultaneously, we compared the BACM and MSM analyses in the 2015 PM$_{2.5}$ Plan with the previous RACM analysis carried out by the District to support the 2008 PM$_{2.5}$ Plan.

The 2015 PM$_{2.5}$ Plan identifies four District control measures not included in the RACM control strategy that the EPA approved as part of the 2008 PM$_{2.5}$ Plan. Collectively, these four District measures are projected to achieve a total of 0.0357 tpd of NO$_X$ emission reductions and 3.3 tpd of direct PM$_{2.5}$ emission reductions by 2018 and to achieve a total of 0.4011 tpd of NO$_X$ emission reductions and 2.0 tpd of direct PM$_{2.5}$ emission reductions by 2020. The MSM evaluation in the 2015 PM$_{2.5}$ Plan provides little discussion of actions to either expand the applicability provisions in the RACM control measures to cover more sources, or to reanalyze measures that were rejected during the previous RACM analysis to see if they are now feasible for the area given the longer attainment timeframe (i.e., the extended attainment dates requested by the State). While the Plan provides the District’s conclusions that its existing SIP control measures satisfy BACM and MSM requirements and that no additional control measures are feasible, it provides limited technical support for these conclusions. We note that many of the SJVUAAPCD rules that the 2015 PM$_{2.5}$ Plan relies on to address the MSM requirement have not been revised in many years and that the State and District should conduct a more comprehensive evaluation of potential measures to strengthen these regulations, subject to notice-and-comment rulemaking, to ensure expeditious attainment of the 1997 PM$_{2.5}$ NAAQS in the SJV.

In light of the deficiencies in the MSM analyses, we find that the State and District have not demonstrated to the EPA’s satisfaction that the 2015 PM$_{2.5}$ Plan 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, in accordance with the requirements of CAA section 188(e). For these reasons, the EPA is denying CARB’s request for extension of the December 31, 2015 Serious area attainment date under CAA section 188(e) for the 1997 PM$_{2.5}$ NAAQS in the SJV.

We note that the EPA had proposed to grant the State’s requested extension of the Serious area attainment date in the SJV for the reasons explained in our February 9, 2016 proposed rule on the 2015 PM$_{2.5}$ Plan. Public comments on our proposal, however, presented information indicating that our proposal to grant the requested extension would not be consistent with the requirements of the Act. Our proposal to grant the State’s request for extension of the Serious area attainment date raised the question as to whether the 2015 PM$_{2.5}$ Plan satisfied the minimum criteria in CAA section 188(e) for such extensions. Implicit in any such proposal to grant an extension requested by a state is the possibility that the EPA may decide to deny the extension, after considering public comments. Because our February 9, 2016 proposed rule provided adequate notice of both the possibility that the EPA would grant the State’s request for extension of the attainment date for the SJV and the possibility that the EPA would deny this request, we are not providing additional opportunity for comment before this final action takes effect.

The EPA is taking final action only to deny the State’s requested extension of the attainment date for the 1997 PM$_{2.5}$ NAAQS in the SJV and is not finalizing its proposed actions on other elements of the 2015 PM$_{2.5}$ Plan at 81 FR 6936 (February 9, 2016) at this time. The EPA will take final action on the remaining portions of the submitted 2015 PM$_{2.5}$ Plan, as appropriate, in a subsequent rulemaking.

III. Statutory and Executive Order Reviews

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

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose any requirements on small entities beyond those imposed by state law.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law.
Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and EPA will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

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

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

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

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

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

L. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 5, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ammonia, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.


Alexis Strauss,
Acting Regional Administrator, EPA Region 9.

[FR Doc. 2016–24082 Filed 10–5–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180


Dichlormid; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of dichlormid in or on all commodities for which there is a tolerance for metolachlor and S-metolachlor. Drexel Chemical Company requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective October 6, 2016. Objections and requests for hearings must be received on or before December 5, 2016, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the SUPPLEMENTARY INFORMATION).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2016–0121, is available at http://www.regulations.gov or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at http://www.epa.gov/dockets.

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Acting Director, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: RDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA’s tolerance