■ a. In paragraph (a), by removing ''which will not exceed 94 percent'' and adding ''policy'' before ''reserve'' in the first sentence; and
■ b. By revising paragraph (d).
The revision reads as follows:

§ 8.13 Policy loans.

* * * * *

(d) Notwithstanding any other provisions of this section, the variable loan rate shall not exceed 12 percent or be lower than 5 percent per annum. For policyholders with an existing fixed-rate loan who subsequently apply for an additional loan on the same policy, the existing fixed-rate loan shall be refinanced into the new variable-rate loan at the prevailing variable rate at the time of the new loan application.

[FR Doc. 2021–22208 Filed 10–12–21; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2021–0549; FRL–8856–01–R9]

Second 10-Year Maintenance Plan for the Indian Wells Valley PM_{10} Planning Area; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the ''Indian Wells Valley Second 10-Year PM_{10} Maintenance Plan'' (''Indian Wells Second Maintenance Plan'' or ''Plan'') as a revision to the state implementation plan (SIP) for the State of California. The Indian Wells Second Maintenance Plan includes, among other elements, a base year emissions inventory, a maintenance demonstration, contingency provisions, and motor vehicle emissions budgets for use in transportation conformity determinations. The EPA is proposing these actions because the SIP revision meets the applicable statutory and regulatory requirements for such plans and motor vehicle emissions budgets. Lastly, the EPA is beginning the adequacy process for the 2020 and 2025 motor vehicle emissions budgets in the Plan through this proposed rule.

DATES: Comments must be received on or before November 12, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2021–0549, at *https://www.regulations.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Ashley Graham, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3877 or by email at *graham.ashleyr@epa.gov.*

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

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I. Background

A. The PM_{10} National Ambient Air Quality Standards

Under section 109 of the Clean Air Act (CAA or ''Act''), the EPA established national ambient air quality standards (NAAQS or ''standards'') for certain pervasive air pollutants (referred to as ''criteria pollutants'') and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established. The EPA sets the NAAQS for criteria pollutants at levels required to protect public health and welfare.[1] Particulate matter is one of the ambient pollutants for which the EPA has established NAAQS.[2]

In 1987, the EPA established primary and secondary NAAQS for particles with an aerodynamic diameter less than or equal to a nominal 10 microns in diameter (PM_{10}).[3] At that time, the EPA established two PM_{10} standards; an annual standard and a 24-hour standard.[4] The annual PM_{10} standard was subsequently revoked.[5] More recently, the EPA announced that it was retaining the 24-hour PM_{10} NAAQS as a 24-hour standard of 150 micrograms per cubic meter ($\mu g/m^3$).[6] In this document, ''PM_{10} NAAQS'' or ''PM_{10} standard'' refer to the 24-hour PM_{10} NAAQS.

An area attains the 24-hour standard of 150 $\mu g/m^3$ when the expected number of days per calendar year with a 24-hour

[1] For a given air pollutant, ''primary'' standards are those determined by the EPA as requisite to protect the public health. ''Secondary'' standards are those determined by the EPA as requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. CAA section 109(b).

[2] Particulate matter is the generic term for a broad class of chemically and physically diverse substances that exist as discrete particles (liquid droplets or solids) over a wide range of sizes. Particles originate from a variety of anthropogenic stationary and mobile sources as well as from natural sources. Particles may be emitted directly or form in the atmosphere by transformations of gaseous emissions such as sulfur dioxide (SO_2), oxides of nitrogen (NO_X), volatile organic compounds (VOC), and ammonia (NH_3). The chemical and physical properties of particulate matter vary greatly with time, region, meteorology, and source category. SO_2, NO_X, VOC, and NH_3 are referred to as PM_{10} precursors. As discussed later in this proposed rule, precursors do not contribute significantly to elevated ambient PM_{10} concentrations in the Indian Wells Valley planning area. Some California air quality plans use the term reactive organic gases (ROG) instead of VOC. The terms cover essentially the same compounds, and herein we use the term VOC.

[3] 52 FR 24634 (July 1, 1987).

[4] The primary and secondary standards were set at the same level for both the 24-hour and the annual PM_{10} standards.

[5] In 2006, the EPA retained the 24-hour PM_{10} standards but revoked the annual standards. 71 FR 61144 (October 17, 2006).

[6] 78 FR 3086 (January 15, 2013).

concentration above the standard (referred to as an ''exceedance''),[7] averaged over three years, is equal to or less than one. The expected number of exceedances averaged over a three-year period at any given monitor is known as the PM_{10} design value. The PM_{10} design value for the area is the highest design value within the nonattainment area.[8]

Generally, the EPA determines whether an area's air quality is meeting the PM_{10} NAAQS based on the most recent complete,[9] quality-assured, and certified data measured at established state and local air monitoring stations (SLAMS) in the nonattainment area and entered into the EPA Air Quality System (AQS) database. Data from air monitoring sites operated by state, local, or tribal agencies in compliance with the EPA's monitoring requirements must be submitted to AQS. These monitoring agencies annually certify that these data are accurate to the best of their knowledge. Accordingly, the EPA relies primarily on data in AQS when determining the attainment status of an area.[10] All valid data are reviewed to determine the area's air quality status in accordance with 40 CFR part 50, appendix K.

B. The Indian Wells Valley PM_{10} Planning Area

Under section 107 of the CAA, the EPA is required to designate all areas of the country as attainment, nonattainment, or unclassifiable for each of the NAAQS. In response to an area designation of nonattainment, states are required to adopt and submit SIP revisions that, among other things, provide for attainment of the NAAQS within such area. Once a nonattainment area attains the NAAQS and meets certain other prerequisites, the state may request that the EPA redesignate the area to attainment.

Through its enactment of the CAA Amendments of 1990, Congress designated certain areas of the country as nonattainment areas for the PM_{10} NAAQS. The Searles Valley planning area was one of the areas designated as nonattainment.[11] In 1991, the EPA classified the Searles Valley planning area, as a ''Moderate'' PM_{10} nonattainment area.[12]

The Searles Valley planning area included three subregions (Coso Junction, Indian Wells Valley, and Trona) under the planning jurisdiction of different air pollution control agencies. On August 6, 2002, the EPA changed the boundaries of the Searles Valley PM_{10} nonattainment area by dividing this area into three separate, newly created PM_{10} nonattainment areas, including the Indian Wells Valley planning area.[13] The Indian Wells Valley planning area is under the planning jurisdiction of the Eastern Kern Air Pollution Control District (EKAPCD or ''District''). The planning area boundaries include the portion of Kern County contained within the United States Geological Survey Hydrologic Unit #108090205.[14] It covers approximately 300 square miles and is populated by about 30,000 persons, with only one community of significant size, Ridgecrest.

On May 7, 2003, the EPA determined that the Indian Wells Valley planning area had attained the 24-hour PM_{10} NAAQS.[15] The determination was based on complete, quality-assured, and certified ambient air monitoring data that showed the area monitored attainment of the PM_{10} NAAQS during 1999–2001.[16] Based on the determination, the EPA finalized approval of the maintenance plan and redesignated the Indian Wells Valley planning area to attainment, effective June 6, 2003.[17]

EKAPCD is a monitoring organization within the California Air Resources Board (CARB) Primary Quality Assurance Organization. EKAPCD operates the PM_{10} monitoring network in the Indian Wells Valley area. CARB submits annual monitoring network plans to the EPA that cover monitors operated by EKAPCD. These network plans describe the monitoring network operated by EKAPCD within the Indian Wells Valley area and discuss the status of the air monitoring network, as required under 40 CFR 58.10. The EPA regularly reviews these annual plans for compliance with the applicable reporting requirements in 40 CFR part 58. With respect to PM_{10}, the EPA has found that CARB's network plans meet the applicable reporting requirements for the area under 40 CFR part 58, appendix D.[18] EKAPCD and CARB annually certify that the data they submit to AQS are complete and quality-assured.[19]

EKAPCD operates one PM_{10} SLAMS monitoring site, Ridgecrest (AQS ID: 06–029–0018), within the Indian Wells Valley PM_{10} planning area.[20] The monitor is located at the northeast corner of Sydnor Avenue and Primavera Street in Ridgecrest, California [21] (see Figure 8 in the Indian Wells Second Maintenance Plan) and was sited to monitor the highest concentration in the area at a neighborhood scale. SLAMS monitors produce data comparable to the NAAQS, and therefore the monitor must be an approved federal reference method, federal equivalent method (FEM), or approved regional method. The Ridgecrest monitor measures hourly PM_{10} concentrations on a daily, year-round basis using a method that has been designated as an FEM by the EPA.

Table 1 shows the maximum monitored 24-hour PM_{10} concentrations at the Ridgecrest monitoring site for 2002–2020. The table reflects that values for the Indian Wells Valley area are typically well below the PM_{10} NAAQS of 150 $\mu g/m^3$.

[7] An exceedance is defined as a daily value that is above the level of the 24-hour standard (*i.e.,* 150 $\mu g/m^3$) after rounding to the nearest 10 $\mu g/m^3$ (*i.e.,* values ending in five or greater are to be rounded up). Thus, a recorded value of 154 $\mu g/m^3$ would not be an exceedance because it would be rounded to 150 $\mu g/m^3$. A recorded value of 155 $\mu g/m^3$ would be an exceedance because it would be rounded to 160 $\mu g/m^3$. 40 CFR part 50, Appendix K, section 1.0.

[8] 40 CFR 50.6 and 40 CFR part 50, appendix K. The comparison with the allowable expected exceedance rate of one per year is made in terms of a number rounded to the nearest tenth (fractional values equal to or greater than 0.05 are to be rounded up; *e.g.,* an exceedance rate of 1.05 would be rounded to 1.1, which is the lowest rate for nonattainment). 40 CFR part 50, appendix K, section 2.1(b).

[9] For PM_{10}, a complete year of air quality data includes all four calendar quarters with each quarter containing a minimum of 75 percent of the scheduled PM_{10} sampling days. 40 CFR part 50, Appendix K, section 2.3(a).

[10] 40 CFR 50.6; 40 CFR part 50, appendix J; 40 CFR part 53; and 40 CFR part 58, appendices A, C, D, and E.

[11] CAA section 107(d)(4)(B)(i) and 52 FR 29383 (August 7, 1987).

[12] 56 FR 56694 (November 6, 1991).

[13] 67 FR 50805.

[14] For the definition of the Indian Wells Valley planning area, see 40 CFR 81.305.

[15] 68 FR 24368.

[16] 67 FR 77196 (December 17, 2002).

[17] 68 FR 24368.

[18] For example, see letter dated November 5, 2020, from Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region IX, to Ravi Ramalingam, Chief, Consumer Products and Air Quality Assessment Branch, Air Quality Planning and Science Division, CARB.

[19] For example, see letter dated June 21, 2021, from Sylvia Vanderspek, Chief, Air Quality Planning Branch, CARB, to Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region 9.

[20] The EPA approved the relocation of the Ridgecrest monitor from the California Ave (06–029–0015) site to the Ward Ave site (06–029–0018) on June 27, 2018. See letter dated June 27, 2018, from Gwen Yoshimura, Manager, Air Quality Analysis Office, Air Division, EPA Region IX, to Glen E. Stephens, P.E., Air Pollution Control Officer, EKAPCD.

[21] Monitoring site address is 2051 Ward Ave., Ridgecrest, CA 93555.

TABLE 1—INDIAN WELLS VALLEY PM_{10} MAXIMUM 24-HOUR VALUES

[Ridgecrest monitor, AQS identification number 06–029–0015/06–029–0018]

Year	Maximum value ($\mu g/m^3$)
2002	84
2003	162
2004	47
2005	55
2006	65
2007	72
2008	57
2009	46
2010	52
2011	143
2012	43
2013	56
2014	51
2015	44
2016	66
2017	60
2018	107
2019	177
2020	401

Sources: EPA Air Quality System Quicklook Report 2001–2021, accessed February 8, 2021, and EPA Air Quality System Maximum Values Report 2019–2020, accessed August 10, 2021.

Table 2 shows the estimated number of exceedances for the Indian Wells Valley PM_{10} area for the three-year design value periods starting in 2002 and ending in 2020. As shown in Table 1, one exceedance of the PM_{10} NAAQS was recorded in 2003 at the Ridgecrest monitor. The District attributed the February 2, 2003 exceedance to transport of windblown dust from the Owens Lake area, citing high PM_{10} concentration readings at several nearby sites.[22] Because the monitor operated on a one-in-six day sampling schedule during that time, the resulting estimated number of exceedances (*i.e.,* 24-hour design values) for the 2001–2003, 2002–2004, and 2003–2005 periods are 2.0 at the Ridgecrest monitor. Since that time, the Indian Wells Valley has attained the PM_{10} NAAQS.

TABLE 2—INDIAN WELLS VALLEY PM_{10} DESIGN VALUES

[Ridgecrest monitor, AQS identification number 06–029–0015/06–029–0018]

Design value period	Design value ($\mu g/m^3$)
2000–2002	0.0
2001–2003	2.0
2002–2004	2.0
2003–2005	2.0
2004–2006	[a] 0.0
2005–2007	[a] 0.0
2006–2008	[a] 0.0
2007–2009	0.0
2008–2010	0.0
2009–2011	0.0
2010–2012	0.0
2011–2013	0.0
2012–2014	0.0
2013–2015	0.0
2014–2016	0.0
2015–2017	0.0
2016–2018	0.0
2017–2019	0.3
2018–2020	0.7

Sources: EPA Air Quality System Design Value Report 2001–2021, accessed February 8, 2021 and EPA Air Quality System Design Value Report 2020, accessed August 10, 2021.

[a] Invalid design value due to incomplete data in data years 2004, 2005, and 2006.

In California, CARB is the state agency responsible for the adoption and submission to the EPA of California SIPs and SIP revisions, and it has broad authority to establish emissions standards and other requirements for mobile sources. Local and regional air pollution control districts in California are responsible for the regulation of stationary sources and are generally responsible for the development of air quality plans. In the eastern portion of Kern County, EKAPCD develops and adopts air quality plans to address CAA planning requirements applicable to the Indian Wells Valley planning area. Such plans are then submitted to CARB for adoption and submittal to the EPA as revisions to the California SIP.

On July 30, 2020, CARB submitted the ''Revised PM_{10} Maintenance Plan for Indian Wells Valley Attainment/Maintenance Area'' (''Indian Wells Second Maintenance Plan'') for the 24-hour PM_{10} NAAQS.[23]

II. Procedural Requirements for Adoption and Submittal of State Implementation Plan Revisions

CAA sections 110(a)(1) and (2) and section 110(l) require states to provide reasonable notice and opportunity for public hearing prior to adoption and submission of a SIP or SIP revision. To meet these procedural requirements, every SIP submission should include evidence that the state provided adequate public notice and an opportunity for a public hearing consistent with the EPA's implementing regulations in 40 CFR 51.102.

CARB's July 30, 2020 SIP submittal package includes documentation of the public processes used by the District and CARB to adopt the Indian Wells Second Maintenance Plan. As documented in the submittal package, on April 1, 2020, the District published a notice in the Bakersfield Californian, a newspaper of general circulation in Kern County, that a public hearing to consider adoption of the Plan would be held on May 7, 2020. As documented in EKAPCD Resolution No. 2020–003–05 included in the SIP revision submittal package, the Air Pollution Control Board of the EKAPCD adopted the Indian Wells Second Maintenance Plan on May 7, 2020, following the public hearing. On May 22, 2020, CARB published on its website a notice of public hearing to be held on June 25, 2020, to consider adoption of the Plan. As evidenced by CARB Resolution 20–18, CARB adopted the Indian Wells Second Maintenance Plan on June 25, 2020, following a public hearing. Based on documentation included in the July 30, 2020 SIP revision submittal package, we find that both the District and CARB have satisfied the applicable statutory and regulatory requirements for reasonable public notice and hearing prior to adoption and submission of the Plan. Therefore, we find that the submission of the Indian Wells Second Maintenance Plan meets the procedural requirements for public notice and hearing in CAA sections 110(a) and 110(l) and in 40 CFR 51.102.[24]

III. Requirements for Second 10-Year Maintenance Plans

Section 175A of the CAA provides the general framework for maintenance plans. The initial 10-year maintenance plan must provide for maintenance of the NAAQS for at least 10 years after redesignation, including any additional control measures necessary to ensure such maintenance. In addition, maintenance plans are to contain contingency provisions necessary to ensure the prompt correction of a violation of the NAAQS that occurs after redesignation. The contingency

[22] Email dated August 20, 2021, from Jeremiah Cravens, EKAPCD, to Ashley Graham, EPA Region IX. See also EPA Air Quality System Raw Data Qualifier Report 2003, accessed August 10, 2021. The report shows that the District flagged the February 2, 2003 exceedance with the ''High Winds'' qualifier with a request to exclude the data as an exceptional event. The State did not submit documentation and a request for the EPA to concur on the exceedance as an exceptional event pursuant to 40 CFR 50.14.

[23] The submittal package included the following two documents that make up the Indian Wells Second Maintenance Plan: ''Revised PM_{10} Maintenance Plan for Indian Wells Valley Attainment/Maintenance Area'' and ''Indian Wells Valley Condensable PM_{10} Emission Inventory.''

[24] On January 30, 2021, the Indian Wells Second Maintenance Plan was deemed complete by operation of law under CAA section 110(k)(1)(B).

measures must include, at a minimum, a requirement that the state will implement all control measures contained in the nonattainment SIP prior to redesignation.

Section 175A(b) of the CAA requires states to submit a subsequent maintenance plan revision (''second 10-year maintenance plan'') eight years after redesignation. The Act requires only that this second 10-year maintenance plan maintain the applicable NAAQS for 10 years after the expiration of the first 10-year maintenance plan. Beyond these provisions, section 175A of the CAA does not define the content of a second 10-year maintenance plan.

The primary guidance on maintenance plans and redesignation requests is a September 4, 1992 memorandum from John Calcagni, titled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' (''Calcagni Memo'').[25] The Calcagni Memo outlines the key elements of a maintenance plan, which include an attainment emissions inventory, maintenance demonstration, monitoring and verification of continued attainment, and a contingency plan.

Maintenance plan submittals are SIP revisions, and as such, the EPA is obligated under CAA section 110(k) to approve them or disapprove them depending upon whether they meet the applicable CAA requirements for such plans.

IV. Evaluation of the Indian Wells Second Maintenance Plan

A. Emissions Inventories

A maintenance plan for the PM_{10} NAAQS should include an inventory of direct PM_{10} emissions in the area.[26] The inventory should be consistent with the EPA's most recent guidance on emissions inventories for nonattainment areas available at the time; must be comprehensive, including emissions from stationary point sources, area sources, and mobile sources; and must be based on actual emissions during the appropriate season, if applicable.[27]

The specific PM_{10} emissions inventory requirements are set forth in the Air Emissions Reporting Requirements rule,[28] which requires that emissions inventories report filterable and condensable components, as applicable.[29] The EPA has provided additional guidance for developing PM_{10} emissions inventories in ''PM_{10} Emissions Inventory Requirements,'' EPA–454/R–94–033 (September 1994) and ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations'' (May 2017).

The Indian Wells Second Maintenance Plan includes inventories for total primary PM_{10} and for the PM_{10} precursors NO_X, SO_X, and ammonia for the years 2013 (the final year of the first maintenance period) through 2025 (the final year of the second maintenance period).[30] The 2017 emissions inventory represents current emissions and was used to project emissions through 2025, as discussed further in section IV.B of this document. The emissions inventories in the Plan include estimates from all relevant source categories that the Plan divides among fuel combustion, waste disposal, cleaning and surface coatings, industrial processes, miscellaneous processes, on-road motor vehicles, and off-road motor vehicles.[31] CARB and the District developed the emissions inventories based on the methods and assumptions presented in detail in Appendix D (''IWV Precursor Emission Inventories 2002–2025'').[32] The direct PM_{10} and PM_{10} precursor emissions are presented in tables 2 and 3 and Appendix D of the Plan, and the specific filterable and condensable components of the direct PM_{10} emissions estimates are identified in the accompanying document titled ''Indian Wells Valley Condensable PM_{10} Emission Inventory.'' Table 3 provides a summary of the 2017 direct PM_{10} base year emissions inventory in tons per day (tpd) for the Indian Wells Valley area. Because the Indian Wells Second Maintenance Plan depends on direct PM_{10} emissions to demonstrate compliance, the EPA reviewed those direct PM_{10} emissions estimates and not the District's emissions estimates for PM_{10} precursor emissions.

TABLE 3—INDIAN WELLS PM_{10} BASE YEAR (2017) EMISSIONS INVENTORY

[Annual average, tpd]

Source category	Subcategory	PM_{10}
Stationary Point Sources	Fuel Combustion	0.031
	Waste Disposal	0.002
	Cleaning & Surface Coatings	0.001
	Industrial Processes	0.019
Areawide Sources	Miscellaneous Processes	1.199
Mobile Sources	On-Road Motor Vehicles	0.039
	Off-Road Motor Vehicles	1.172
Total	All Stationary, Areawide, and Mobile Sources	2.462

Source: Indian Wells Second Maintenance Plan, Table 3 and Appendix D.

[a] Emissions inventories are required to include direct PM_{10} emissions, separately reported as PM_{10} filterable and condensable emissions. 40 CFR 51.15(a)(1)(vii). The accompanying document titled ''Indian Wells Valley Condensable PM_{10} Emission Inventory'' provides this information.

Totals may not add up due to rounding.

[25] Memorandum dated September 4, 1992, from John Calcagni, Director, EPA Air Quality Management Division, to Regional Office Air Division Directors, Subject: Procedures for Processing Requests to Redesignate Areas to Attainment.

[26] PM_{10} precursor emissions should also be included depending upon the contribution of secondary particulate matter to high ambient PM_{10} concentrations in the area. In this instance, an inventory of PM_{10} precursor emissions is not required because PM_{10} precursor controls were not relied upon to achieve attainment of the PM_{10} NAAQS in the Indian Wells Valley planning area nor are they relied upon to demonstrate maintenance of the NAAQS (see Indian Wells Second Maintenance Plan, section IV, and 67 FR 77196, 77201 (December 17, 2002)). While not required, the Indian Wells Second Maintenance Plan includes inventories of NO_X, SO_X, and ammonia in appendix D (''IWV Precursor Emission Inventories'').

[27] CAA section 172(c)(3).

[28] 40 CFR part 51, subpart A.

[29] 40 CFR 51.15(a)(1)(vii).

[30] Indian Wells Second Maintenance Plan, sections IV.B and IV.D, and Appendix D.

[31] Indian Wells Second Maintenance Plan, sections IV.B and IV.D.

[32] While Appendix D is titled ''IWV Precursor Emission Inventories 2002–2005,'' the appendix presents the full emissions inventory documentation for direct PM_{10} in addition to PM_{10} precursors.

As discussed in Appendix D of the Indian Wells Second Maintenance Plan, direct PM_{10} emissions estimates for stationary point sources reflect actual emissions reported to the District in 2017 by owners or operators of industrial point sources in the Indian Wells Valley planning area. Areawide sources, such as consumer products and agricultural burning, occur over a wide geographic area. Emissions for these categories are estimated by both CARB and the District using various models and methodologies.

Emissions from on-road mobile sources, which include passenger vehicles, buses, and trucks, were estimated using outputs from CARB's EMFAC2017 model.[33] These emissions were calculated by applying EMFAC2017 emissions factors to the transportation activity data provided by the Kern Council of Governments (KCOG) from their 2018 Regional Transportation Plan/2019 Federal Transportation Improvement Program (2018 RTP/2019 FTIP).[34] KCOG is the metropolitan planning organization representing Kern County and the 11 incorporated cities within Kern County.

Emissions from off-road mobile sources (*e.g.,* cargo handling equipment, pleasure craft, recreational vehicles, and locomotives) were estimated using a suite of category-specific models or, where a new model was not available, the OFFROAD2007 model. Many of the newer models were developed to support recent regulations, including in-use off-road equipment.

Based on the estimates for the year 2017 in Table 3, areawide and off-road mobile sources account for a majority (approximately 96 percent) of total PM_{10} emissions in the Indian Wells Valley planning area.[35] Fugitive windblown dust and unpaved road dust account for a majority of the areawide emissions (54 percent and 17 percent, respectively), whereas aircraft account for a majority of the off-road mobile source emissions (98 percent).

The EPA considers the selection of the 2017 base year inventory to be appropriate given that it is the most recent emissions inventory associated with the triennial reporting schedule required under the Air Emissions Reporting Requirements rule. Moreover, preparation of an annual average daily inventory, as opposed to a seasonal or episodic inventory, is appropriate given that elevated PM_{10} concentrations in the Indian Wells Valley do not exhibit a clear seasonal or episodic pattern. Based on our review of the documentation provided with the plan, we find that the 2017 emissions inventory for direct PM_{10} is based on reasonable assumptions and methodologies, and that the inventory is comprehensive, current, accurate, and consistent with applicable CAA provisions and the Calcagni Memo.

B. Maintenance Demonstration

Section 175A(a) of the CAA requires that the maintenance plan ''provide for the maintenance of the national primary ambient air quality standard for such air pollutant in the area concerned for at least 10 years after the redesignation.'' A state may generally demonstrate maintenance of the NAAQS by either showing that future emissions of a pollutant or its precursors will not exceed the level of the attainment inventory, or by conducting modeling that shows that the future mix of sources and emissions rates will not cause a violation of the NAAQS.[36] Projected emissions inventories for future years must account for, among other things, the ongoing effects of economic growth and adopted emissions control requirements, and the inventories are expected to be the best available representation of future emissions. The plan submission should include documentation explaining how the state calculated the emissions data for the base year and projected inventories.

The Indian Wells Second Maintenance Plan demonstrates continued maintenance of the PM_{10} NAAQS by projecting the direct PM_{10} emissions in the area through 2025 and showing that future emissions of PM_{10} will not exceed the level of the attainment inventory. As discussed in section IV.A, the Plan includes emissions inventories representing actual emissions in 2013 (the final year of the first maintenance period) through 2017 (the Plan's base year inventory), and projected emissions for 2018 through 2025 (the final year of the second maintenance period) for sources in the Indian Wells Valley planning area.[37]

Projected inventories are derived by applying expected growth trends for each source category and are based on data that reflect historical trends, current conditions, and recent economic and demographic forecasts with expected emissions reductions resulting from adopted control measures to the base year inventory. For the Indian Wells Second Maintenance Plan, emissions projections for 2018 through 2025 were generated by applying growth and control profiles to the 2017 base year inventory. Growth forecasts for most point and areawide sources were developed by CARB. Mobile sources were forecast using total vehicle miles traveled projections provided by KCOG. Off-road sources were forecast using various growth surrogates as shown in Table 7 of Appendix D of the Plan. Appendix D documents the methods and assumptions used to develop the emissions projections upon which the maintenance demonstration relies and presents the detailed source-category-specific estimates for each of the analysis years.

Table 4 presents a summary of the Indian Wells Second Maintenance Plan's estimates of direct PM_{10} emissions in an interim year (2020) and the horizon year (2025) along with the corresponding emissions estimates for the year 2013 (the final year of the first maintenance period) and the 2017 base year. For simplicity, Table 4 shows emissions for just one of the interim years (*i.e.,* 2020) between the base year and the horizon year, but as discussed above, the Plan provides emissions estimates for each year from 2013 through 2025.[38]

[33] EMFAC is short for EMission FACtor. The EPA approved EMFAC2017 for SIP development and transportation conformity purposes in California on August 15, 2019. 84 FR 41717. EMFAC2017 was the most recently approved version of the EMFAC model that was available at the time of preparation of the Indian Wells Second Maintenance Plan.

[34] The Kern Council of Governments Board of Directors adopted the 2018 RTP/2019 FTIP on August 16, 2018.

[35] Indian Wells Second Maintenance Plan, Appendix C.

[36] Calcagni Memo, 9–11.

[37] Indian Wells Second Maintenance Plan, sections IV.B and IV.D, and Appendix D.

[38] Id. at Table 2 and Table 3.

TABLE 4—INDIAN WELLS PM_{10} EMISSIONS INVENTORY, 2013, 2017, 2020, AND 2025

[Annual average, tpd]

Source category	Subcategory	2013	2017	2020	2025
Stationary Point Sources	Fuel Combustion	0.018	0.031	0.027	0.018
	Waste Disposal	0.000	0.002	0.002	0.002
	Cleaning & Surface Coatings	0.000	0.001	0.001	0.001
	Industrial Processes	0.009	0.019	0.020	0.021
Areawide Sources	Miscellaneous Processes	1.424	1.199	1.193	1.262
Mobile Sources	On-Road Motor Vehicles	0.051	0.039	0.037	0.036
	Off-Road Motor Vehicles	1.228	1.172	1.167	1.161
Total	All Stationary, Areawide, and Mobile Sources.	2.679	2.462	2.446	2.501

Source: Indian Wells Second Maintenance Plan, Table 2 and Table 3.
Totals may not add up due to rounding.

The emissions estimates in the Plan predict a gradual change in direct PM_{10} emissions within the Indian Wells Valley planning area over time, with slight decreases in certain categories (*e.g.,* fuel combustion, on-road motor vehicles, off-road motor vehicles) nearly offsetting slight increases in certain other source categories (*i.e.,* industrial processes, miscellaneous processes) relative to the 2017 base year emissions. By 2025, overall direct PM_{10} emissions are estimated to be approximately 0.039 tpd (1.6 percent) higher than in the 2017 base year. However, despite the expected growth in the area, the Plan's projected PM_{10} emissions through 2025 are approximately 0.178 tpd (6.6 percent) lower than emissions in 2013, the final year of the first maintenance period and a year in which there were no recorded exceedances of the PM_{10} NAAQS.

Based on our review, we find that the projected emissions inventories for direct PM_{10} for years 2018 through 2025 are based on reasonable methods, growth factors, and assumptions, and are based on the most current and accurate information available to CARB and EKAPCD at the time the Plan and its inventories were being developed. Given that the projections of direct PM_{10} emissions show future emissions increases through 2025 are within 1.6 percent of those in 2017 and below those in 2013 (both of which reflect attainment conditions), we find that the Indian Wells Second Maintenance Plan provides an adequate basis to demonstrate maintenance of the PM_{10} NAAQS within the Indian Wells Valley planning area through 2025. Lastly, we find that by providing emissions projections through 2025, the Plan demonstrates maintenance of the PM_{10} NAAQS for more than 10 years after the expiration of the first 10-year maintenance plan (*i.e.,* 2023) in accordance with section 175A(b) of the CAA.

C. Verification of Continued Attainment

Once an area has been redesignated, the state should continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area.[39] Data collected by the monitoring network are also needed to implement the contingency provisions of the maintenance plan.

As discussed in section I.B, EKAPCD monitors ambient concentrations of PM_{10} in the Indian Wells Valley planning area at the Ridgecrest monitoring station. In section V.A (''Tracking'') of the Indian Wells Second Maintenance Plan, the District commits to continue to operate and maintain a PM_{10} air quality monitor in Ridgecrest in accordance with 40 CFR part 58. We find that the Indian Wells Second Maintenance Plan contains adequate provisions for continued ambient PM_{10} monitoring to verify continued attainment through the maintenance period.

The EPA also recommends that the state verify continued attainment through methods in addition to the ambient air monitoring program, *e.g.,* through periodic review of the factors used in development of the attainment inventory to show no significant change.[40] In the Indian Wells Second Maintenance Plan, EKAPCD commits to perform periodic reviews of the air monitoring data and emissions inventory, to review the inputs and assumptions used to develop the emissions inventory on an annual basis, and, if the District finds that these inputs have changed significantly, to request that CARB update the existing inventory and to compare the revised inventory with the inventories in the Indian Wells Second Maintenance Plan.[41] We find that the District's commitment to verify continued attainment of the PM_{10} NAAQS through continued ambient air monitoring and annual review of the inputs and assumptions used to develop the emissions inventories in the Indian Wells Second Maintenance Plan are acceptable.

D. Contingency Provisions

Section 175A(d) of the CAA requires that maintenance plans include contingency provisions, as the EPA deems necessary, to promptly correct any violations of the NAAQS that occur after redesignation of the area. Such provisions must include a requirement that the state will implement all measures with respect to the control of the relevant air pollutants that were contained in the SIP for the area before redesignation of the area as an attainment area. These contingency provisions are distinguished from contingency measures required for nonattainment areas under CAA section 172(c)(9) in that they are not required to be fully adopted measures that will take effect without further action by the state for the maintenance plan to be approved. However, the contingency provisions of a maintenance plan are considered to be an enforceable part of the SIP and should ensure that contingency measures are adopted expeditiously once they are triggered. The maintenance plan should clearly identify the measures to be adopted, include a schedule and procedure for adoption and implementation of the measures, and contain a specific timeline for action by the state. In addition, the state should identify the specific indicators or triggers that will

[39] Calcagni Memo, 11.

[40] Id.

[41] Indian Wells Second Maintenance Plan, section VI (''Subsequent Maintenance Plan Revisions'').

be used to determine when the contingency measures need to be implemented.

The District has adopted a contingency plan to address possible future PM_{10} air quality problems in the Indian Wells Valley planning area. The contingency plan is included in section V of the Plan.

As noted by the District in the Indian Wells Second Maintenance Plan, contingency provisions are typically implemented when air quality deteriorates beyond a specified level, such as a certain number of exceedances of the standard or a violation of the standard. In this case, the contingency provisions will be triggered when the number of exceedances at the monitor, averaged over three years, is greater than 1.05. However, the contingency plan also includes a screening process that allows the District and CARB, subject to EPA review, to exclude exceedances from the trigger calculation if the agencies collectively determine that information developed by the District is sufficient to support exclusion. The purpose of the screening process is to differentiate between exceedances that are not within the District or State control (*i.e.,* exceedances that occur despite the implementation of reasonable measures), and exceedances that are within the District's or State's control and should be included in the trigger calculation. It is important to note that, should the District or State exclude an exceedance from the contingency trigger calculation using this process, it would not constitute the EPA's concurrence that the exceedance was caused by an exceptional event. The exceedance will therefore continue to be included in design value calculations for the Indian Wells Valley planning area unless CARB, following opportunity for public comment, submits a request for the EPA to concur on the exceedance as an exceptional event pursuant to 40 CFR 50.14, and the EPA reviews the submittal and formally concurs.

Under the contingency trigger screening process, within 60 days of the end of each calendar quarter, the District will complete the following: Provide a list of exceedances that occurred during that previous quarter to CARB, identify those exceedances that the District believes to be exceedances that are not within the District's or State's control, and flag the relevant data and provide an initial description in AQS. The State then has 60 days to review the information, during which time it may request additional information from the District to supplement the District's analysis. Following CARB's review, CARB will transmit the information to the EPA, including information for those exceedances the District believes should be excluded from the contingency plan trigger calculation.

The Indian Wells Second Maintenance Plan anticipates that the EPA will review the submitted information, notify the District if the submitted information is insufficient to support exclusion from the contingency plan trigger calculation, include such exceedances in calculating the trigger for the contingency plan, and notify the District if the contingency plan has been triggered. The EPA intends to notify the District, within 60 days of receipt, whether submitted information is sufficient or insufficient to support the exclusion of a given exceedance from the contingency plan trigger calculation and to take the other actions described in the plan. If the submitted information is not sufficient, the EPA will include the exceedance in the calculation to determine if the contingency plan has been triggered. If the State or District subsequently provide additional information sufficient to support the conclusion that the exceedance meets the criteria for exclusion from the trigger calculation, the EPA will notify the District that the calculation will be adjusted.

Under the contingency plan, if the EPA determines that contingency provisions have been triggered, (*i.e.,* the number of exceedances, averaged over three years, is greater than 1.05 excluding those exceedances identified through the screening process), EKAPCD commits to the following steps:

(1) Within six months of EPA notification, EKAPCD will complete an analysis of the exceedances and available contingency measures. During this time, the District will determine the possible cause of the exceedances and will consult with community and local industry members to determine if any voluntary or incentive measures could be implemented to reduce the magnitude of or eliminate the source of emissions. If voluntary and incentive-based measures do not adequately address the problem, the EKAPCD will evaluate its fugitive dust rules (402, 402.2, and 419), or other rules as appropriate, to determine where such rules could be improved or expanded to achieve additional emissions reductions. The measures that EKAPCD would consider and analyze include but are not limited to those listed in Table 5.

(2) Within 12 months of completing its analysis, the District will adopt and implement the new contingency measures.

TABLE 5—EMISSIONS SOURCES AND ASSOCIATED CONTROL MEASURES; RULES TO REVISE IF CONTINGENCY TRIGGERED

Emissions source	Rule
Construction and Earthmoving Activities	402
Storage Piles/Bulk Materials	402
Track-out/Carry-out	402
Agricultural Operations	402.2
Paved and Unpaved Roads	402 & 402.2
Nuisance	419
Open Areas	402 & 419

Source: Indian Wells Second Maintenance Plan, Table 7.

Based on our review of the Indian Wells Second Maintenance Plan, as summarized herein, we propose to find that the contingency provisions of the Plan clearly identify specific contingency measures, contain a triggering mechanism to determine when contingency measures are needed, contain a description of the process of recommending and implementing contingency measures, and contain specific and appropriate timelines for action. We also propose to find that the contingency trigger screening process, including the associated EPA review, is reasonably designed to distinguish between exceedances that are not within the District or State control, and exceedances that are within the District's or State's control and for which new or tightened control measures might be effective. Thus, we propose to conclude that the contingency plan in the Indian Wells Second Maintenance Plan is adequate to ensure correction of any violation of the PM_{10} NAAQS that occurs after redesignation, as required by section 175A(d) of the CAA.

E. Motor Vehicle Emissions Budgets for Transportation Conformity

Section 176(c) of the CAA requires federal actions in nonattainment and maintenance areas to conform to the SIP's goals of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of the standards. Conformity to the SIP's goals means that such actions will not: (1) Cause or contribute to violations of the NAAQS, (2) worsen the severity of an existing violation, or (3) delay timely attainment of any NAAQS or any interim milestone.

Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the EPA's transportation conformity rule, codified

at 40 CFR part 93, subpart A. Under this rule, metropolitan planning organizations (MPOs) in nonattainment and maintenance areas coordinate with state and local air quality and transportation agencies, the EPA, FHWA, and FTA to demonstrate that an area's regional transportation plans and transportation improvement programs conform to the applicable SIP. This demonstration is typically done by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the motor vehicle emissions budgets (''budgets'') contained in submitted or approved control strategy SIPs and maintenance plans.[42]

These control strategy SIPs and maintenance plans typically set budgets for criteria pollutants and/or their precursors to address pollution from cars and trucks. Budgets are generally established for specific years and specific pollutants or precursors. PM_{10} maintenance plan submittals should identify budgets for transportation-related PM_{10} emissions in the last year of the maintenance period.[43]

For budgets in a maintenance plan to be approvable, they must meet, at a minimum, the EPA's adequacy criteria.[44] To meet these requirements, the budgets must be consistent, when considered with emissions from all other sources, with maintenance of the NAAQS and reflect all the motor vehicle control measures relied upon for the maintenance demonstration.

The EPA's process for determining adequacy of a budget consists of three basic steps: (1) Notifying the public of a SIP submittal, (2) providing the public the opportunity to comment on the budget during a public comment period, and (3) making a finding of adequacy or inadequacy. The process for determining the adequacy of a submitted budget is codified at 40 CFR 93.118(f). The EPA can notify the public by either posting an announcement that the EPA has received SIP budgets on the EPA's adequacy website,[45] or via a **Federal Register** notice of proposed rulemaking when the EPA reviews the adequacy of a maintenance plan budget simultaneously with its review and action on the SIP submittal itself.[46]

The Indian Wells Second Maintenance Plan includes budgets for direct PM_{10} for the last year of the maintenance Plan (2025) and an interim year (2020). The applicable source categories included in the budgets include vehicle emissions (including exhaust, brake wear, and tire wear), entrained dust from vehicle travel over paved and unpaved roads, and road construction dust. To develop the budgets, the District also rounded up the motor vehicle emissions estimates to the nearest tenth of a ton and included a safety margin.[47] The 2020 and 2025 annual average day conformity budgets for PM_{10} are provided in Table 6.

TABLE 6—TRANSPORTATION CONFORMITY BUDGETS FOR THE INDIAN WELLS VALLEY PM_{10} AREA

[PM_{10} tpd, annual average]

Source category	2020	2025
Vehicular Exhaust, Tire, and Brake Wear[a]	0.04	0.04
SAFE Rule Adjustment	0.00	0.00
Re-Entrained Paved Road Dust	0.11	0.12
Re-Entrained Unpaved Road Dust	0.13	0.13
Road Construction Dust	0.03	0.10
Safety Margin	0.0	0.10
Total[b]	0.31	0.49
Motor Vehicle Emissions Budget[c]	0.40	0.50

[a] This reflects the adjustment factor for the Safer Affordable Fuel-Efficient (SAFE) Vehicle Rule part one (84 FR 51310, September 27, 2019) using EMFAC2017.

[b] Values from California Emissions Projection Analysis Model v1.00 may not add up due to rounding.

[c] Motor vehicle emissions budgets calculated are rounded up to the nearest tenth of a tpd.

Source: Indian Wells Second Maintenance Plan, Table 5.

CARB developed the on-road mobile portion of the emissions inventory for the maintenance plan using California's on-road mobile source emissions projection model, EMFAC2017, and vehicle activity data provided by the KCOG from its 2019 Federal Transportation Improvement Program, as amended July 2019. The EMFAC2017 model calculated tire wear, brake wear, and exhaust emissions. Paved road dust emissions were estimated using AP–42 with California-specific silt loading data.[48] The unpaved road dust emissions were estimated using CARB's methodology 7.10, updated in 2012 for non-farm roads. The road construction dust emissions were estimated based on road miles constructed according to data from KCOG.

As discussed in the March 10, 2006 final transportation conformity rulemaking, unlike the exception for paved and unpaved road dust emissions in $PM_{2.5}$ analyses in 40 CFR 93.102(b)(3), the conformity rule does not include an exception for PM_{10} for paved and unpaved road dust emissions to be determined significant. The EPA intends for road dust emissions to be included in all conformity analyses of direct PM_{10} emissions because fugitive dust from roadways and other sources dominate PM_{10} emissions inventories. The budgets in the Indian Wells Second Maintenance Plan, therefore, include paved and unpaved road emissions.

Regional PM_{10} emissions analyses for transportation conformity

[42] Control strategy SIPs refer to reasonable further progress and attainment demonstration SIPs. 40 CFR 93.101.

[43] Transportation-related emissions of VOC and NO_X must also be specified in PM_{10} maintenance plans if the EPA or the state find that transportation-related emissions of one or both of these precursors within the nonattainment area are a significant contributor to the PM_{10} nonattainment problem and has so notified the MPO and the U.S. Department of Transportation (DOT), or the applicable SIP (or SIP revision submission) establishes an approved (or adequate) budget for such emissions as part of the reasonable further progress, attainment, or maintenance strategy. 40 CFR 93.102(b)(2)(iii). Neither of these conditions apply to the Indian Wells PM_{10} maintenance area.

[44] 40 CFR 93.118(e)(4).

[45] 40 CFR 93.118(f)(1).

[46] 40 CFR 93.118(f)(2).

[47] The text of the Plan identifies the safety margin for VOC in 2020 only. However, Table 5 in the Plan indicates that the safety margin is for PM_{10} emissions. CARB confirmed via email that the reference to VOC in the text is a typographic error and that the safety margin is for PM_{10} emissions. See email dated February 4, 2021, from Nesamani Kalandiyur, CARB, to Karina O'Connor, EPA Region IX, Subject: ''RE: Question Regarding Indian Wells 2nd Maintenance Plan.''

[48] AP–42 is an EPA document that includes a compilation of emissions factors.

determinations in PM_{10} nonattainment and maintenance areas must account for highway and transit project construction-related fugitive PM_{10} emissions if the control strategy or maintenance plan identifies such emissions as a contributor to the air quality problem, but it is not required if such emissions are not identified as a contributor to the air quality problem.[49] Emissions estimates developed for the Indian Wells Second Maintenance Plan show that fugitive PM_{10} emissions from highway and transit project construction represent approximately 1.2 percent and 4.0 percent of the total annual-average daily PM_{10} emissions in 2020 and 2025, respectively.[50] Based on these emissions estimates, the Indian Wells Second Maintenance Plan concludes that fugitive PM_{10} emissions from highways and transit project construction are significant and must be accounted for in regional emissions analyses for transportation conformity determinations made for the Indian Wells Valley planning area. Consequently, the budgets in the Indian Wells Second Maintenance Plan reflect highway and transit project construction-related fugitive dust.

We evaluated the budgets against our adequacy criteria in 40 CFR 93.118(e)(4) and (5) as part of our review of the budget's approvability and expect to complete the adequacy review of the budgets concurrent with our final action on the Indian Wells Second Maintenance Plan. The EPA is not required under its transportation conformity rule to find budgets adequate prior to proposing approval of them.[51] In this document, the EPA is announcing that the adequacy process for these budgets begins, and the public has 30 days to comment on their adequacy, per the transportation conformity rule at 40 CFR 93.118(f)(2)(i) and (ii).

As documented in the separate memorandum included in the docket for this rulemaking, we preliminarily conclude that the budgets in the Indian Wells Second Maintenance Plan meet each adequacy criterion.[52] While adequacy and approval are two separate actions, reviewing the budgets in terms of the adequacy criteria informs the EPA's decision to propose to approve the budgets. We have completed our detailed review of the Indian Wells Second Maintenance Plan and are proposing herein to approve the Plan including the demonstration of maintenance of the PM_{10} NAAQS in the area through the year 2025. We have also reviewed the budgets in the Indian Wells Second Maintenance Plan and found that they are consistent with the maintenance demonstration for which we are proposing approval, are clearly identified and precisely quantified, are based on control measures that have already been adopted and implemented, and meet all other applicable statutory and regulatory requirements including the adequacy criteria in 40 CFR 93.118(e)(4) and (5). For these reasons, the EPA proposes to approve the 2020 and 2025 motor vehicle emissions budgets in the Indian Wells Second Maintenance Plan. At the point when we either finalize the adequacy process or approve the budgets as proposed (whichever occurs first, although they could also occur concurrently),[53] the budgets must be used by KCOG (*i.e.,* the MPO for this area) for transportation conformity determinations for the Indian Wells Valley planning area.

V. Proposed Action and Request for Public Comment

Under CAA section 110(k)(3), and for the reasons set forth in this document, the EPA is proposing to approve the Indian Wells Second Maintenance Plan submitted by CARB by letter on July 30, 2020, as a revision to the California SIP. We are proposing to approve the maintenance demonstration and contingency provisions as meeting all of the applicable requirements for maintenance plans and related contingency provisions in CAA section 175A, and the motor vehicle emissions budgets for 2020 and 2025 (shown in Table 6) for transportation conformity purposes because we find they meet all applicable criteria for such budgets including the adequacy criteria under 40 CFR 93.118(e).

We are soliciting comments on these proposed actions. We will accept comments from the public for 30 days following publication of this proposal in the **Federal Register** and will consider any relevant comments before taking final action.

VI. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not 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).

In addition, there are no areas of Indian country within the Indian Wells Valley planning area, and the State plan for which the EPA is proposing approval does not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has

[49] 40 CFR 93.122(e).

[50] Indian Wells Second Maintenance Plan, Table 4.

[51] Under the transportation conformity rule, the EPA may review the adequacy of submitted budgets simultaneously with the EPA's approval or disapproval of the submitted control strategy or maintenance plan. 40 CFR 93.118(f)(2).

[52] Memorandum dated February 4, 2021, from Karina O'Connor, EPA, to Rulemaking Docket ID EPA–R09–OAR–0549, Subject: ''Adequacy Documentation for Plan Motor Vehicle Emissions Budgets in the Indian Wells Second PM_{10} Maintenance Plan.''

[53] 40 CFR 93.118(f)(2)(iii).

demonstrated that a tribe has jurisdiction. In those areas of Indian country, this proposed action does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: October 5, 2021.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2021–22168 Filed 10–12–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 210924–0196]

RIN 0648–BK69

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Navy Construction at Naval Station Newport in Newport, Rhode Island

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for authorization to take marine mammals incidental to construction activities for bulkhead replacement and repairs at Naval Station Newport (NAVSTA Newport) over the course of five years (2022–2027). As required by the Marine Mammal Protection Act (MMPA), NMFS is proposing regulations to govern that take, and requests comments on the proposed regulations. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than November 12, 2021.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2021–0096, by the following method:

- *Electronic submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2021–0096 in the Search box, click the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Stephanie Egger, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

A copy of the Navy's application and any supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-us-navy-construction-naval-station-newport-rhode-island*. In case of problems accessing these documents, please call the contact listed above (see **FOR FURTHER INFORMATION CONTACT**).

Purpose and Need for Regulatory Action

This proposed rule would establish a framework under the authority of the MMPA (16 U.S.C. 1361 *et seq.*) to allow for the authorization of take of marine mammals incidental to the Navy's construction activities for bulkhead replacement and repairs at NAVSTA Newport.

We received an application from the Navy requesting five-year regulations and authorization to take multiple species of marine mammals. Take would occur by Level A and Level B harassment incidental to impact and vibratory pile driving. Please see Background below for definitions of harassment.

Legal Authority for the Proposed Action

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1371(a)(5)(A)) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region for up to five years if, after notice and public comment, the agency makes certain findings and issues regulations that set forth permissible methods of taking pursuant to that activity and other means of effecting the ''least practicable adverse impact'' on the affected species or stocks and their habitat (see the discussion below in the Proposed Mitigation section), as well as monitoring and reporting requirements. Section 101(a)(5)(A) of the MMPA and the implementing regulations at 50 CFR part 216, subpart R provide the legal basis for issuing this proposed rule containing five-year regulations, and for any subsequent letters of authorization (LOAs). As directed by this legal authority, this proposed rule contains mitigation, monitoring, and reporting requirements.

Summary of Major Provisions Within the Proposed Rule

Following is a summary of the major provisions of this proposed rule regarding Navy construction activities. These measures include:

- Required monitoring of the construction areas to detect the presence of marine mammals before beginning construction activities;
- Shutdown of construction activities under certain circumstances to avoid injury of marine mammals; and
- Soft start for impact pile driving to allow marine mammals the opportunity to leave the area prior to beginning impact pile driving at full power.

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made, regulations are issued, and notice is provided to the public.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the