IV. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and 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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 10, 2026. 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* CAA section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Michael Martucci,

Regional Administrator, Region 2.

For the reasons set forth in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart HH–New York

■ 2. Amend § 52.1670, in the table in paragraph (e), by adding the entry ''New York Metropolitan Area Ten-Year Limited Maintenance Plan for the 2006 24-Hour $PM_{2.5}$ Standard'' at the end of the table to read as follows:

§ 52.1670 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED NEW YORK NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Action/SIP element	Applicable geographic or nonattainment area	New York submittal date	EPA approval date	Explanation
*	*	*	*	*
New York Metropolitan Area Ten-Year Maintenance Plan for the 2006 24-Hour $PM_{2.5}$ Standard.	New York portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT) 2006 $PM_{2.5}$ NAAQS maintenance area.	10/15/2024	6/11/2026, 91 FR [INSERT **FEDERAL REGISTER** PAGE WHERE THE DOCUMENT BEGINS].	• Full Approval.

■ 3. Section 52.1678 is amended by adding paragraph (k) to read as follows:

§ 52.1678 Control strategy and regulations: Particulate matter.

* * * * *

(k) Approval—The maintenance plan submitted on October 15, 2024 for the 2006 $PM_{2.5}$ National Ambient Air Quality Standard for the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT, $PM_{2.5}$ nonattainment area has been approved.

[FR Doc. 2026–11732 Filed 6–10–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2026–1257; FRL–13247–02–R9]

Finding of Failure To Attain the 2006 24-Hour $PM_{2.5}$ Standards; California; San Joaquin Valley; Error Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In response to a court decision, the Environmental Protection Agency (EPA) is correcting our July 22, 2020 final action erroneously granting a Clean Air Act (CAA) section 188(e) attainment date extension for the 2006 24-hour fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS or ''standards'') in the San Joaquin Valley from December 31, 2019, to December 31, 2024, and is now denying California's extension request. The EPA is also finalizing our determination that the San Joaquin Valley nonattainment area failed to attain the 2006 24-hour $PM_{2.5}$ NAAQS by the December 31, 2019 unextended attainment date. This determination is based on monitored air quality data from 2017 through 2019. As a result of this final determination, the State of California will be required to submit a revision to the California state implementation plan (SIP) that, among other elements, provides for expeditious attainment of the 2006 24-hour $PM_{2.5}$ NAAQS and for a five percent annual reduction in emissions of direct $PM_{2.5}$ or a $PM_{2.5}$ plan precursor pollutant.

DATES: This rule is effective July 13, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2026–1257. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Ashley Graham, Geographic Strategies and Modeling Section (AIR–2–2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; telephone number: (415) 972–3877; email address: *graham.ashleyr@epa.gov.*

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

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I. Background and Summary of the Proposed Action

Under section 109 of the CAA, the EPA has established NAAQS 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. In 2006, the EPA strengthened the 24-hour $PM_{2.5}$ NAAQS by lowering the level from 65 to 35 micrograms per cubic meter ($\mu g/m^3$).[1] The 24-hour standards are based on a three-year average of 98th percentile 24-hour average $PM_{2.5}$ concentrations. The EPA established these standards after considering substantial evidence from numerous health studies demonstrating that serious health effects are associated with exposures to $PM_{2.5}$ concentrations above these levels.

The EPA initially designated the San Joaquin Valley [2] as a nonattainment area for the 2006 24-hour $PM_{2.5}$ NAAQS effective December 14, 2009,[3] and subsequently reclassified the area as a ''Serious'' nonattainment area for these NAAQS on January 20, 2016.[4] On July 22, 2020, the EPA approved the State's attainment plan for meeting the Serious area attainment planning requirements for the 2006 24-hour $PM_{2.5}$ NAAQS (referred to herein as the ''SJV $PM_{2.5}$ Plan'') and approved the State's request for an extension of the attainment date from December 31, 2019, to December 31, 2024, under section 188(e) of the Act.

On April 2, 2026, the EPA proposed two actions related to the San Joaquin Valley and the 2006 24-hour $PM_{2.5}$ NAAQS.[5] First, the EPA proposed to correct our July 22, 2020, final rule granting a CAA section 188(e) attainment date extension for the 2006 24-hour $PM_{2.5}$ NAAQS from December 31, 2019, to December 31, 2024, and to instead deny the extension request. The EPA proposed this action in response to a decision from the Ninth Circuit Court of Appeals in *Medical Advocates for Healthy Air et al. vs. EPA* (''*Medical Advocates*''),[6] which established that the EPA was mistaken in its approval of the aggregate commitment in the SJV $PM_{2.5}$ Plan. Because the Agency had relied on its approval of the aggregate commitment in its decision to also grant the attainment date extension,[7] the EPA reasoned that it was in error to grant the extension. Thus, pursuant to CAA section 110(k)(6), the EPA proposed to revise its granting of the extension and to instead deny the extension. The EPA explained that if finalized, the action would have the effect of reestablishing the December 31, 2019 attainment date for the San Joaquin Valley for the 2006 24-hour $PM_{2.5}$ NAAQS.

Second, based on our proposal to reestablish the December 31, 2019 attainment date, and in accordance with CAA section 179(c)(1), the EPA proposed to determine that the San Joaquin Valley Serious nonattainment area failed to attain the 2006 24-hour $PM_{2.5}$ NAAQS by the December 31, 2019 applicable attainment date. This proposed determination was based on quality-assured and certified data from 2017 through 2019.

The April 2, 2026 proposed rulemaking described the CAA requirements that would apply if the EPA were to finalize the finding of failure to attain.[8] Our proposal explained that CAA section 189(d) establishes that a state will submit the required SIP revision within 12 months after the applicable attainment date; however, because the submission deadline for a revised plan pursuant to CAA section 189(d) has already passed, it is impossible for the State to submit a revision by that date. Consistent with the EPA's past practice when application of the PM-specific requirements of subpart 4 would be impractical, we proposed to apply the applicable deadline found in CAA subpart 1, section 179(d)(1) and require that California submit a SIP revision that complies with CAA sections 179(d) and 189(d) within one year of the EPA's final determination that the San Joaquin Valley area failed to attain the 2006 24-hour $PM_{2.5}$ NAAQS.[9]

[1] 71 FR 61144 (October 17, 2006); 40 CFR 50.13.

[2] The San Joaquin Valley $PM_{2.5}$ nonattainment area covers San Joaquin County, Stanislaus County, Merced County, Madera County, Fresno County, Tulare County, Kings County, and the valley portion of Kern County. For the precise boundaries of the San Joaquin Valley $PM_{2.5}$ nonattainment area, see 40 CFR 81.305.

[3] 74 FR 58688 (November 13, 2009).

[4] 81 FR 2993 (January 20, 2016).

[5] 91 FR 16614 (April 2, 2026).

[6] *Medical Advocates for Healthy Air et al.* vs. *EPA,* 20–72780 (9th Cir. 2022).

[7] 91 FR 16614, 16616, and 16617 (April 2, 2026).

[8] Id. at 16619–16620.

[9] CAA section 179(d)(1) states ''[w]ithin 1 year after the Administrator publishes the notice under subsection (c)(2) of this section (relating to notice of failure to attain), each State . . . shall submit a

Continued

Finally, the April 2, 2026 proposed rulemaking explained that a final determination by the EPA of failure to attain the 2006 24-hour $PM_{2.5}$ NAAQS in the San Joaquin Valley by the Serious area attainment date would trigger the requirement for the State to implement contingency measures in accordance with 40 CFR 51.1014.[10]

See our April 2, 2026 proposed rulemaking for additional background and detailed explanation of the rationale for our proposed actions.[11]

II. Public Comments and Responses

The public comment period for the proposed rulemaking opened on April 2, 2026, the date of its publication in the **Federal Register**, and closed on May 4, 2026.[12] During this period, the EPA received 1 comment submission from a coalition of 12 environmental and community organizations (collectively referred to herein as ''Commenters'').[13] The comment submission is included in the docket for this action. A summary of the comment submission and our response thereto follows.

Comment

Commenters express support for the EPA's finding of failure to attain, whether the attainment date was December 31, 2019, or December 31, 2024, and do not take a position on the EPA's proposed error correction.

However, Commenters oppose the EPA's proposed deadline for California to submit the attainment plan required under CAA section 189(d) (referred to herein as a ''five percent plan'' [14] within 12 months of the EPA's final determination that the area failed to attain by the December 31, 2019 attainment date. Commenters state that ''EPA unlawfully and arbitrarily relies on an inapplicable deadline in Subpart 1 of the Act to set this new deadline. The particulate matter-specific provisions in Subpart 4 and the $PM_{2.5}$ SIP Requirements Rule provide for the deadline and those provision [*sic*] control here.''

Citing to CAA section 189(d) and 40 CFR 51.1003(c)(2), Commenters state that if the attainment date remains December 31, 2024, ''both Subpart 4 and the $PM_{2.5}$ SIP Requirements Rule require California to submit a five percent plan by December 31, 2025.'' Commenters also assert that if the attainment date is reset to December 31, 2019, the State shall submit the five percent plan by December 31, 2020. Commenters note that both of these due dates have passed.

As a result, Commenters argue that ''EPA's proposed rationale for utilizing the Subpart 1 general provisions to govern the deadline for the five percent plan is nonsensical and arbitrary because the five percent plan is past due even if EPA does not correct the attainment date.'' They state that ''California knew or should have known it would fail to attain the standard and therefore should have prepared and submitted a five percent plan by December 31, 2025.'' Commenters explain that in their view, CAA section 189(d) mandates the deadline for submission of the five percent plan and does not contain an exception to this deadline nor any discretion to the EPA to apply the subpart 1 deadline if compliance is impracticable or impossible. Thus, they argue that ''the plain language and best reading of section 189(d) provide the deadline for a five percent plan and EPA's proposed action to depart from that deadline is unlawful and arbitrary.''

Regarding the EPA's citation in the proposed rulemaking to Ninth Circuit Court of Appeals case law regarding use of subpart 1 deadlines when compliance with a subpart 4 deadline is impracticable, Commenters state that the EPA's reliance on the *Association of Irritated Residents* v. *EPA,* 423 F.3d 989 (9th Cir. 2005) case (''*AIR*''), is incorrect. Commenters state that the problem in *AIR* was that subpart 4 did not provide an attainment date for a CAA section 189(d) five percent plan. They state that the Court affirmed the use of a subpart 1 date because CAA section 189(d) did not provide an attainment date, and nothing in subpart 4 prohibited the EPA from relying on subpart 1 to set a new attainment date. Commenters argue that the issue of when a CAA section 189(d) plan is due is different because ''section 189(d) expressly answers the question of when a state must submit a five percent plan.'' They argue that this CAA section 189 statutory language controls.

Finally, Commenters state that the fact that the deadline set forth in CAA section 189(d) has passed does not leave the EPA without a path forward, asserting that the ''statutory scheme'' requires the EPA to make a determination that the State has failed to submit a complete SIP, as provided in CAA section 110(k)(1)(B).

Response

We agree with the Commenters that both subpart 4 of the statute and the regulations implementing that part of the statute provide that a state shall submit a CAA section 189(d) five percent plan within 12 months of failing to attain by the applicable attainment date; [15] however, neither subpart 4 nor our implementing regulations establish a deadline for submittal of a plan if the date provided in CAA section 189(d) has already passed. Commenters suggest that the EPA must read the statute to require the EPA to use a retroactive deadline and to immediately issue a finding of failure to submit. Such a reading would start sanctions clocks against the State and empower the EPA to immediately regulate in place of the State because the State did not take an action that it had neither notice nor legal obligation to undertake at the time urged by the Commenters. For the reasons set forth in the remainder of this section, and consistent with the CAA's principles of cooperative federalism, we do not agree that this is the best reading of the statute.

CAA section 179 and implementing regulations at 40 CFR 52.31 establish a framework that imposes sanctions upon states in the event that the EPA finds that a state has failed to take a statutorily-required action, such as submittal of a required nonattainment plan, and fails to timely correct this deficiency. Under this framework, 18 months after such a finding an area that fails to correct the deficiency will be subject to increased emissions offset requirements for new or modified sources in the area and if such deficiency persists 24 months after the finding, the area will face the loss of Federal highway funds—a potentially

revision to the applicable implementation plan. . .''.

[10] 91 FR 16614, 16620 (April 2, 2026).

[11] Id.

[12] Id.

[13] Comment letter dated and received May 4, 2026, from Dan Ress, Policy Manager, Central Valley Air Quality Coalition, et al. to Ashley Graham, EPA Region 9, Subject: ''Re: Comments on Proposed Finding of Failure To Attain the 2006 24-Hour $PM_{2.5}$ Standards; California; San Joaquin Valley; Error Correction; Docket No. EPA–R09–OAR–2026–1257,'' including Exhibit 1. The 12 environmental and community organizations, in order of appearance in the letter, are the Central Valley Air Quality Coalition; Valley Improvement Projects (VIP); Little Manila Rising; Californians for Pesticide Reform; Central California Asthma Collaborative; Earthjustice; Center on Race, Poverty and the Environment; Clean Water Action; National Parks Conservation Association; Committee for a Better Arvin; Medical Advocates for Healthy Air; and Sierra Club, Kern-Kaweah Chapter.

[14] We refer to the attainment plan required under CAA section 189(d) as a ''five percent plan'' because among the requirements for such plan are that the plan provide for attainment of the standards and, from the date of the SIP submittal until attainment, for an annual reduction in the emissions of direct $PM_{2.5}$ or a $PM_{2.5}$ plan precursor within the area of not less than five percent of the amount of such emissions as reported in the most recent inventory prepared for such area. 81 FR 58010, 58100, and 58158 (August 24, 2016).

[15] CAA section 189(d); 40 CFR 51.1003(c)(2).

severe consequence for states relying on Federal highway funding.[16]

Moreover, in addition to sanctions, CAA section 110(c) requires the EPA to implement a Federal implementation plan (FIP) ''*at any time* within two years after the Administrator . . . finds that a state has failed to make a required submission. . . .'' [17] Importantly, the Act allows the EPA to issue a FIP ''at any time'' following such a finding.

Commenters essentially ask the EPA to resurrect a deadline for plan submittal that has long passed and to enforce the consequences of missing this retroactively-imposed deadline upon the State by issuing a finding of failure to submit. Such a finding would immediately start sanctions clocks and empower the EPA to issue a FIP, which would impose the EPA's direct regulatory authority on emissions sources in the San Joaquin Valley.

Given the Act's carefully constructed balance between state and Federal authority, the EPA believes that a clear indication from Congress would be required in order to interpret the statute in a way that would lead to the type of extraordinary results that Commenters suggest. The EPA does not believe that Congress intended the EPA to be able to impose sanctions clocks on a state by determining ''state failure'' to meet a deadline that it did not have notice of at the time. Even more so the EPA does not believe that Congress intended the EPA to be able to immediately impose its own regulatory requirements in place of a state's based on such a retroactive finding.

Commenters appear to suggest that the State should have submitted such a plan without an EPA finding that the area failed to attain. They write that ''California knew or should have known it would fail to attain the standard and therefore should have prepared and submitted a five percent plan by December 31, 2025.'' Such an anticipatory submission is not required under the Act.

A CAA section 189(d) five percent plan is required ''[i]n the case of a Serious [particulate matter] nonattainment area in which the [particulate matter] standard is not attained by the applicable attainment date.'' However, the statute tasks the EPA with determining whether or not an area has attained the standard by a particular date.[18] A state is not free to substitute its judgment for the EPA's on this question. Accordingly, a state is not required to submit a CAA section 189(d) five percent plan until the EPA makes a finding that the area has failed to attain the standard by the applicable attainment date.[19] A state is not required to guess whether the EPA will determine that the area attained and submit a plan based on the possibility that the EPA will find that the area failed to attain by the applicable deadline. While a state is free to begin to work on a plan if it expects that it may not attain the standard by the applicable attainment date, the best reading of the Act is that it does not empower the EPA to compel a state to submit a five percent plan in the absence of an EPA determination that an area failed to attain by the applicable deadline. By the same token, the best reading of the statute is that it does not require imposition of immediate sanction clocks or permit the EPA to issue an immediate FIP if the state does not submit a plan in advance of an EPA finding of failure to attain.[20]

In addition to such a submission not being required until the EPA issues a finding of failure to attain, the state will lack information necessary to make such a submission until the EPA issues such a finding. In the *AIR* case, cited in the EPA's proposal and in the comment, the Ninth Circuit Court of Appeals upheld the EPA's application of the subpart 1 attainment date provisions for the purpose of a CAA section 189(d) five percent plan. Critically, the CAA section 189(d) attainment date established by the EPA was ''as expeditiously as practicable, but no later than 5 years *from the date of [the EPA's finding of failure to attain*]. . . .rdquo;[21] Because the outermost attainment date for a CAA section 189(d) five percent plan depends on the date of the EPA's finding that the area failed to attain, the State lacks information that is critical to its CAA section 189(d) five percent plan submission until the EPA issues a finding of failure to attain. Accordingly, Commenters' suggestion that California should have submitted its plan by December 31, 2025, is simply not practical. The State cannot be expected to make an attainment plan submission without knowing the outermost attainment date. It is not until the EPA issues a finding of failure to attain that a state is on notice that the area has failed to attain and is in a position to determine the new date by which the CAA section 189(d) five percent plan must show attainment. Accordingly, the EPA believes that a state must have a reasonable amount of time after that point to do the work of designing and submitting the updated plan (including the necessary public engagement required under the Act).

The statute is also clear that Congress intended states to have sufficient time to adopt an updated plan before the threat of sanctions and a FIP are imposed. While Commenters suggest that the ''statutory scheme'' requires the EPA to implement a retroactive deadline and issue a finding of failure to submit, the EPA believes this is an overly narrow reading of the statute. The statutory scheme, both in subpart 1 and in subpart 4, acknowledges the need for a state to have a reasonable period of time to develop its plan. In subpart 1, which the EPA proposed to apply in this instance because compliance with subpart 4 is impracticable, Congress has given states a year from the EPA's finding of failure to attain to submit an updated plan.[22] However, subpart 4 as well evinces Congress's intent to provide states with time to develop and submit a plan. Because the Act provides up to six months after the attainment deadline for the EPA to make a determination of attainment,[23] the deadline in CAA section 189(d) for submittal of a plan within twelve months after the attainment date suggests that Congress intended a state to have 6 to 12 months from the EPA's attainment determination to submit its plan before the EPA would be able to start sanctions and FIP clocks. Accordingly, the EPA's proposed

[16] See 83 FR 62720 (December 6, 2018) (an EPA finding that California failed to submit complete SIP revisions for implementation of the 1997, 2006, and 2012 $PM_{2.5}$ NAAQS in the San Joaquin Valley, resulting in the start of sanctions and FIP clocks).

[17] CAA section 110(c)(1) (emphasis added).

[18] See CAA section 179(c).

[19] The EPA's determination that the San Joaquin Valley failed to attain the 2006 24-hour $PM_{2.5}$ NAAQS is not a simple ministerial act. It is an essential point in this process and one that relies on analyses by the EPA's technical experts. As stated in our proposal, the EPA reviews all data to determine an area's air quality status with respect to each NAAQS, an extensive data set that spans 17 ambient monitors over 3 years. Our proposal explains the EPA's role in assuring that complete, quality-assured data is evaluated in accordance with EPA regulations. In some instances, these regulations allow for or require extrapolation or exclusion of data and the EPA's eventual conclusion is not, in many instances, something that a state ''kn[ows] or should know.''

[20] In this case, not only did the State not have notice in the form of an EPA finding that the area failed to attain the standard by the applicable attainment date, but the State could not be aware, until the EPA finalizes the present action, of what the applicable attainment date actually is. As explained in our proposal, this is due to the uncertainty regarding how the *Medical Advocates* case impacted the CAA section 188(e) attainment date extension that the EPA erroneously granted.

[21] Emphasis added. The EPA applied the provisions of CAA section 179(d) to establish this attainment date.

[22] See CAA section 179(d)(1).

[23] CAA section 179(c)(1).

deadline of 12 months from the effective date of our final action is both expressly called for by subpart 1 and within the range of dates that the statute would provide under the prospective application of subpart 4. The EPA believes that this interpretation is more in line with the statutory scheme than retroactively applying a December 31, 2020 deadline that the State could not possibly make and then punishing the State for failing to make this deadline.

This interpretation is in line with past Agency actions in which unusual circumstances led to situations in which the CAA's statutory deadlines had passed.

In *Wildearth Guardians* v. *EPA,* 830 F.3d 529 (D.C. Cir. 2016) (''*Wildearth Guardians*''), the EPA, following a court decision clarifying the applicability of subpart 4 versus subpart 1 of the statute, ''made certain adjustments to those deadlines in an effort to avoid treating states as having already missed deadlines of which they were never aware.'' Petitioners challenged the EPA's action arguing that the EPA was bound to apply the statutory deadlines regardless of whether those deadlines had already passed, and that the EPA was obligated to issue immediate findings of failure to submit for those dates that had lapsed. The court held that ''EPA reasonably acted within its statutory authority in adopting new deadlines aimed to avoid imposing retroactive burdens on states seeking to achieve compliance with governing air quality standards.''

Similarly, in *Sierra Club* v. *EPA,* 356 F.3d 296 (D.C. Cir. 2004) (''*Sierra Club*'') the EPA reclassified the District of Columbia from ''Serious'' to ''Severe'' nonattainment. The Agency established a new deadline for the District's submission of a Severe-area nonattainment plan because the original statutory deadline for such plans had already passed. The Court rejected Sierra Club's argument that the original statutory deadline should govern, reasoning that such a result ''would give the reclassification retroactive effect by holding the States in default of their submission obligations before the events necessary to trigger that obligation (reclassification) occurred.'' [24]

In addition to the courts consistently upholding the EPA's authority to administer the statute in a way that avoids holding states to retroactive deadlines, courts have also looked favorably upon the EPA looking to subpart 1 when a workable deadline is not found in subpart 4. In *AIR,* the EPA applied the CAA subpart 1, section 179, requirements to set the outermost attainment date for a CAA section 189(d) five percent plan submission because subpart 4 was silent as to the attainment date requirements for such a plan. Petitioners challenged the EPA's application of the subpart 1 deadline, arguing that the more specific subpart 4 provisions foreclosed the EPA's use of the more general subpart 1 requirements. The court held that no language in subpart 4 prohibits the EPA's application of the general provisions and that the overall statutory scheme supported the EPA's position that the EPA may look to CAA section 179 to set a new attainment deadline.[25]

The EPA believes that the same principles that decided those cases apply here. Most notably, as in *Wildearth Guardians,* the EPA is here faced with the unusual circumstance of a court decision impacting the applicable deadlines for attainment planning. Here, as explained in our proposal, the Ninth Circuit's *Medical Advocates* decision vacated part of the EPA's rule approving a prior extension of the attainment deadline. In this action, the EPA is correcting its erroneous granting of a CAA section 188(e) attainment date extension for the area, resetting the deadline to December 31, 2019. Because the December 31, 2020 submission due date that would follow from that correction has long passed, the EPA believes that it is appropriate to similarly set a prospective deadline to avoid the consequences that would come with the retroactive application of the December 31, 2020 deadline. As the EPA explained in the action that was the subject of the *Sierra Club* decision, ''[a] failure to meet an obligation, especially one accompanied by sanctions, cannot occur in advance of the imposition of that obligation.'' [26]

In light of the consequences of adopting an interpretation that would retroactively hold the State to a deadline that it had no notice of at the time, the EPA concludes, as it did in the *AIR* case, that looking to subpart 1 for a prospective deadline for the State is most in line with the text of the Act and the overall statutory scheme.

III. Final Action

For the reasons discussed in our proposed action and herein, the EPA is finalizing the correction to our previous action erroneously granting a CAA section 188(e) attainment date extension for the 2006 24-hour $PM_{2.5}$ NAAQS in the San Joaquin Valley and is now finalizing our denial of the extension. With this action, we are reestablishing the December 31, 2019 unextended attainment date for the San Joaquin Valley for the 2006 24-hour $PM_{2.5}$ NAAQS.

Based on our final action reestablishing the December 31, 2019 attainment date, and in accordance with CAA section 179(c)(1), the EPA is finalizing our determination that the San Joaquin Valley Serious $PM_{2.5}$ nonattainment area failed to attain the 2006 24-hour $PM_{2.5}$ NAAQS by the applicable attainment date of December 31, 2019. This determination is based on quality-assured and certified air quality monitoring data from 2017 through 2019.

As a result of the final determination that the San Joaquin Valley failed to attain the 2006 24-hour $PM_{2.5}$ NAAQS, the State of California is required under CAA sections 179(d) and 189(d) to submit, within one year of this final determination, a revision to the SIP for the San Joaquin Valley.[27] The SIP revision must, among other elements, demonstrate expeditious attainment of the standards within the time period provided under CAA section 179(d), provide for an annual reduction in the emissions of $PM_{2.5}$ or a $PM_{2.5}$ precursor pollutant within the area of not less than five percent until attainment,[28] demonstrate reasonable further progress, and include contingency measures. The requirement for a new attainment demonstration under CAA section 189(d) also triggers the requirement for a SIP revision for quantitative milestones under CAA section 189(c) that are to be achieved every three years until redesignation to attainment.

The new attainment date is set by CAA section 179(d)(3), which relies upon section 172(a)(2) to establish a new attainment date but with a different starting point than provided in section

[24] *Sierra Club* v. *EPA,* 356 F.3d 296, 309 (D.C. Cir. 2004).

[25] The EPA notes that in a recent unreported decision, the Ninth Circuit Court of Appeals agreed with the EPA's construction of the statute as permitting the more general subpart 1 provisions in place of the subpart 4 requirements to grant the State's request for a one-year attainment date extension. Although the court ultimately remanded the EPA's extension based on the court's finding that the EPA's regulations unambiguously prohibited an extension in that particular situation, no such regulatory prohibition exists in the present case. See *Little Manila Rising* v. *EPA,* 24–6990 (9th Cir. February 24, 2026).

[26] 68 FR 3410, 3414 (January 24, 2003).

[27] The EPA notes that, based on the text of CAA section 179(d)(1), this one-year period is based on the date of publication of this action, not its effective date.

[28] 81 FR 58010, 58100, and 58158 (August 24, 2016). The EPA defines $PM_{2.5}$ plan precursor(s) as those $PM_{2.5}$ precursors required to be regulated in the applicable attainment plan and/or nonattainment new source review program. Id. at 58152.

172(a)(2). Under section 179(d)(3), the new attainment date is the date by which attainment can be achieved as expeditiously as practicable, but no later than five years from the date of the final determination of failure to attain. The EPA may extend the attainment date for a period no greater than 10 years from the final determination, considering the severity of nonattainment and the availability and feasibility of pollution control measures.

Finally, as a result of this final determination that the San Joaquin Valley failed to attain the 2006 24-hour $PM_{2.5}$ NAAQS by the Serious area attainment date, the State is required to implement its contingency measures for these NAAQS in accordance with 40 CFR 51.1014.[29]

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.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. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is not an Executive Order 14192 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by State law.

D. 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.

E. 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.

F. 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.

G. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have Tribal implications. It will neither impose substantial direct costs on federally recognized Tribal governments nor preempt Tribal law. Thus, Executive Order 13175 does not apply to this action.

H. 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 concern an environmental health risk or safety risk.

I. 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.

J. 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.

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 10, 2026. 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 oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 29, 2026.

Michael Martucci,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.247 is amended by adding paragraph (t) to read as follows:

[29] The State's contingency measures for the San Joaquin Valley for the 2006 24-hour $PM_{2.5}$ NAAQS consist of CARB's ''Smog Check Contingency Measure,'' the District's contingency provisions in Rule 8051 (''Open Areas''), and the District's contingency provisions in Rule 4901 (''Wood Burning Fireplaces and Wood Burning Heaters'') (89 FR 80749, October 4, 2024). A previous EPA finding that the San Joaquin Valley failed to attain the 1997 8-hour ozone standards constituted the first triggering event of two triggers for CARB's Smog Check Contingency Measure (90 FR 46065, September 25, 2025). Thus, this final determination of failure to attain the 2006 24-hour $PM_{2.5}$ NAAQS constitutes a second and final triggering event for that measure in the San Joaquin Valley. This final determination of failure to attain the 2006 24-hour $PM_{2.5}$ NAAQS constitutes a first triggering event of two triggers for the Rule 4901 (''Wood Burning Fireplaces and Wood Burning Heaters'') contingency provisions and the only triggering event for the Rule 8051 (''Open Areas'') contingency provisions.

§ 52.247 Control Strategy and regulations: Fine Particle Matter.

* * * * *

(t) *Determination of failure to attain.* Effective July 13, 2026, the EPA has determined that the San Joaquin Valley $PM_{2.5}$ nonattainment area failed to attain the 2006 24-hour $PM_{2.5}$ NAAQS by the applicable attainment date of December 31, 2019. This determination triggers the requirements of CAA sections 179(d) and 189(d) for the State of California to submit a revision to the California SIP for the San Joaquin Valley to the EPA by June 11, 2027. The SIP revision must include, among other elements, a demonstration of expeditious attainment of the 2006 24-hour $PM_{2.5}$ NAAQS within the time period provided under CAA section 179(d) and provide for an annual reduction in emissions of direct $PM_{2.5}$ or a $PM_{2.5}$ precursor pollutant within the area of not less than five percent until attainment.

[FR Doc. 2026–11731 Filed 6–10–26; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

49 CFR Part 21

RIN 2105–AF45

Rescinding Portions of Department of Transportation's Title VI Regulations To Conform More Closely With the Statutory Text and To Implement Executive Order 14281

AGENCY: Office of the Secretary of Transportation (OST), U.S. Department of Transportation (DOT or Department).

ACTION: Final rule.

SUMMARY: By this rule, the U.S. Department of Transportation amends its regulations implementing Title VI of the Civil Rights Act of 1964 (''Title VI'') to eliminate disparate-impact liability. These amendments align the Department's regulations with Title VI's original public meaning, avoid constitutional concerns, reduce compliance costs, and serve the public interest. In addition, these revisions implement changes directed in Executive Order 14281. These revisions also align with changes made by the U.S. Department of Justice (DOJ) to its Title VI Regulations at 28 CFR part 42, effective December 10, 2025.

DATES: The rule is effective on June 11, 2026.

FOR FURTHER INFORMATION CONTACT: Sean Clayton, Acting Director, Office of Civil Rights, at 202–366–7632.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

The Department is rescinding portions of its Title VI implementing regulations to align with the language that Congress enacted in Title VI prohibiting intentionally discriminatory conduct, pursuant to Title VI, 42 U.S.C. 2000d–1. *See* 42 U.S.C. 2000d. There are serious statutory and constitutional concerns with the legality of the Department's Title VI regulations, which go beyond intentional discrimination by prohibiting conduct that has an unintentional disparate impact. This rule accordingly rescinds those portions of the regulations that prohibit conduct having a disparate impact, which are in considerable tension with both the statute and the Constitution and do not serve the public interest. First, this rule rescinds the full text of 49 CFR 21.5(b)(2), which prohibits the use of ''criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.'' Second, this rule removes the two uses of the phrase ''or effect'' from 49 CFR 21.5(b)(3). Third, this rule rescinds the full text of 49 CFR 21.5(b)(7), which authorizes affirmative action even in the absence of a finding of prior discrimination in a program or activity ''to assure that no person is excluded from participation in or denied the benefits of the program or activity.'' Fourth, this rule removes one sentence regarding affirmative action from 49 CFR 21.5(c)(1) and rescinds the full text of 49 CFR 21.5(c)(3), which addresses employment practices subject to Federal financial assistance. Fifth, this rule removes the phrases ''or its effect when made'' and ''or its effect when made will'' from 49 CFR 21.5(d).

The rule's revisions also conform to Executive Order 14281, *Restoring Equality of Opportunity and Meritocracy,* 90 FR 17537 (Apr. 23, 2025). That Order states that ''[i]t is the policy of the United States to eliminate the use of disparate-impact liability in all contexts to the maximum degree possible to avoid violating the Constitution, Federal civil rights laws, and basic American ideals.'' *Id.* at 17537. Although the Department, in consultation with the Department of Justice (DOJ), would take this action independently of Executive Order 14281, Executive Order 14281 supports this action.

This rule makes clear that the Department's Title VI regulations prohibit only intentional discrimination, not conduct or activities that have a disparate impact. The Department thus will not take action under Title VI premised on disparate-impact liability.

II. Discussion

A. Statutory History of Title VI

Title VI of the Civil Rights Act of 1964, as amended, provides: ''No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.'' 42 U.S.C. 2000d. Title VI also directs Federal departments and agencies that extend Federal financial assistance to ''effectuate the provisions of'' Title VI ''by issuing rules, regulations, or orders of general applicability.'' 42 U.S.C. 2000d–1. The section of Title VI that sets forth the prohibited conduct, 42 U.S.C. 2000d, prohibits intentional discrimination and makes no reference to unintentional disparate effects or impact. *See Alexander* v. *Sandoval,* 532 U.S. 275, 280 (2001) (''[I]t is . . . beyond dispute—and no party disagrees—that § 601 [of Title VI] prohibits only intentional discrimination.''). The statute does not explicitly provide any Federal department or agency with authority to prohibit conduct having an unintentional disparate impact. And despite having ample opportunities, Congress has enacted no subsequent amendments to Title VI to impose disparate-impact liability.

B. Regulatory History of Title VI

Pursuant to Executive Order 12250, ''[t]he Attorney General . . . coordinates the implementation and enforcement by Executive agencies of . . . Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*).'' 45 FR 72995, 72995 (Nov. 2, 1980). Accordingly, DOJ is primarily responsible for defining the nature and scope of Title VI's prohibition of discrimination on the basis of race, color, and national origin in programs or activities receiving Federal financial assistance. Executive Order 12250 directs DOJ, among other things, to ''develop standards and procedures for taking enforcement actions and for conducting investigations and compliance reviews.'' *Id.* Further, as part of this responsibility, Executive Order 12250 provides that other agencies' regulations implementing Title VI are subject to the