

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).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *December 19, 2016*. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: September 29, 2016.

Shaun L. McGrath,
Regional Administrator, Region 8.

40 CFR part 52 is amended to read as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. Section 52.2354 is amended by redesignating the introductory text as paragraph (a) and adding paragraph (b). The addition reads as follows:

Subpart TT—Utah

§ 52.2354 Interstate transport.

* * * * *

(b) Addition to the Utah State Implementation Plan regarding the 2008 Pb Standard for CAA section 110(a)(2)(D)(i) prongs 1, 2 and 4, submitted to EPA on January 19, 2012, and addition to the Utah SIP regarding the 2010 SO₂ Standard for CAA section 110(a)(2)(D)(i) prong 4, submitted to EPA on June 2, 2013.

[FR Doc. 2016–25145 Filed 10–18–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2016–0499; FRL–9954–20–Region 9]

Approval and Promulgation of Implementation Plan; California; Calaveras County, Chico (Butte County), San Francisco Bay Area and San Luis Obispo County (Eastern San Luis Obispo) Base Year Emission Inventories for the 2008 Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the California State Implementation Plan (SIP) concerning the base year emission inventories (EIs) for four areas designated as nonattainment areas (NAAs) for the 2008 ozone National Ambient Air Quality Standards (2008 ozone NAAQS). The subject areas include Calaveras County, Chico (Butte County), San Francisco Bay Area and San Luis Obispo (Eastern San Luis Obispo). We are approving these revisions under the Clean Air Act (CAA or “the Act”).

DATES: This rule is effective on December 19, 2016 without further notice, unless the EPA receives adverse comments by November 18, 2016. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2016–0499 at <http://www.regulations.gov>, or via email to Nancy Levin, Air Planning Office at levin.nancy@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from [Regulations.gov](http://www.regulations.gov). For either manner of submission, 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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Nancy Levin, EPA Region IX, (415) 972–3848, levin.nancy@epa.gov.
SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

FOR FURTHER INFORMATION CONTACT: Nancy Levin, EPA Region IX, (415) 972–3848, levin.nancy@epa.gov.

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

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I. Background

On March 12, 2008, the EPA strengthened the primary and secondary eight-hour ozone NAAQS to 0.075 parts per million (ppm) (73 FR 16436).¹ In

¹ Since the 2008 primary and secondary NAAQS for ozone are identical, for convenience, we refer to

accordance with section 107(d) of the CAA, the EPA must designate an area “nonattainment” if it is violating the NAAQS or if it is contributing to a violation of the NAAQS in a nearby area.

The EPA designated 18 areas in California as nonattainment for the 2008 ozone NAAQS on May 21, 2012, effective July 20, 2012 (77 FR 30088, codified at 40 CFR 81.305). The Calaveras County, Chico (Butte County), Imperial County, Kern County (Eastern Kern), Mariposa County, Nevada County (Western part), San Diego County, San Francisco Bay Area, San Luis Obispo (Eastern San Luis Obispo) and Tuscan Buttes NAAs were classified (by operation of law) as “Marginal” nonattainment. The EPA classified the Ventura County NAA as “Serious” nonattainment. The EPA classified the Los Angeles-San Bernardino Counties (West Mojave Desert), Riverside County (Coachella Valley) and Sacramento Metro NAAs as “Severe-15” nonattainment. The EPA classified the Los Angeles-South Coast Air Basin and San Joaquin Valley NAAs as “Extreme” nonattainment. The EPA designated the lands of the Pechanga Band of Luiseño Mission Indians of the Pechanga Reservation and the Morongo Band of Mission Indians in Southern California as separate NAAs and classified them as “Moderate” and Serious nonattainment, respectively.

The EPA proposed the 2008 ozone NAAQS SIP Requirements Rule (SRR) on June 6, 2013 (78 FR 34178) and finalized the SRR on March 6, 2015 (80 FR 12264, codified at 40 CFR part 51, subpart AA), effective April 6, 2015. The SRR established implementation requirements for the 2008 ozone NAAQS, including requirements for “base year” emission inventories under CAA section 182(a)(1).

On July 17, 2014, the California Air Resources Board (CARB) submitted a staff report, titled “8-Hour Ozone State Implementation Plan Emission Inventory Submittal, release date: May 23, 2014” (“submittal”) to the EPA. This submittal addresses base year inventory requirements for 15 of the 18 NAAs in California.² On September 2, 2016, CARB submitted additional technical information titled “8-Hour Ozone State Implementation Plan Emission Inventory Supplemental Documentation (September 2016)” (herein referred to as “EI Supplemental Documentation”) to

support the NAA emission inventories submitted on July 17, 2014.

On May 4, 2016 (81 FR 26697), the EPA issued one of three types of determinations for each NAA that was originally classified as Marginal for the 2008 ozone NAAQS. The EPA determined that four Marginal NAAs in California—Calaveras County, Chico (Butte County), San Francisco Bay Area and Tuscan Buttes—had attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2015, based on complete, quality-assured and certified ozone monitoring data for 2012–2014. The EPA determined that one NAA in California—San Luis Obispo (Eastern San Luis Obispo) (“Eastern SLO”)—qualified for a 1-year attainment date extension for the 2008 ozone NAAQS even though it did not attain the NAAQS by the applicable deadline. Finally, the EPA reclassified five NAAs in California as Moderate because they did not attain the 2008 ozone NAAQS by the attainment date and did not qualify for a 1-year extension. The EPA “bumped up” the following Marginal NAAs to Moderate: Imperial County, Kern County (Eastern Kern), Mariposa County, Nevada County (Western part) and San Diego County. In addition to the Marginal area requirements, which include submittal of a base year emission inventory (see CAA section 182(a)(1)), these NAAs became subject to additional requirements.³ However, these additional requirements are not the subject of this action.

In this action, we are acting on a portion of CARB’s submittal, namely, the base year EIs for the Calaveras County, Chico (Butte County), Eastern SLO and San Francisco Bay Area NAAs. We are deferring action on the base year EIs for NAAs that are required to submit updated base year EIs to support their attainment demonstrations and to meet reasonable further progress requirements because we anticipate that these later submittals will supersede the EIs in the CARB 8-hour EI submittal for these areas.

³ These requirements include: An attainment demonstration; provisions for reasonably available control technology and reasonably available control measures; reasonable further progress (RFP) reductions in volatile organic compounds (VOC) and/or nitrogen oxide (NO_x) emissions; contingency measures; a vehicle inspection and maintenance program; and NO_x and VOC emission offsets at a ratio of 1.15 to 1 for major source permits (see 40 CFR part 51, subpart AA and CAA sections 182(b) and 172(c)). A SIP revision addressing these requirements is due to the EPA by January 1, 2017 (81 FR 26697, May 4, 2016).

II. Summary and Analysis of the State’s Submittal

A. Statutory and Regulatory Requirements

1. Procedural Requirements for Adoption and Submittal of SIP Revisions

CAA section 110(a)(1) and 110(l) and 40 CFR 51.102 require states to provide reasonable notice and an opportunity for a public hearing prior to adoption of SIP revisions. Section 110(k)(1)(B) requires the EPA to determine whether a SIP submittal is complete within 60 days of receipt. Any plan that we have not affirmatively determined to be complete or incomplete will become complete six months after the day of submittal by operation of law. A finding of completeness does not approve the submittal as part of the SIP nor does it indicate that the submittal is approvable. It does start a 12-month clock for the EPA to act on the SIP submittal (see CAA section 110(k)(2)).

2. Requirements for Base Year Inventories

CAA section 182(a)(1) and 40 CFR 51.1115(a) require states to submit a “base year inventory” for each 2008 ozone nonattainment area within two years of the effective date of designation. This inventory must be “a comprehensive, accurate, current inventory of actual emissions from sources of VOC and NO_x emitted within the boundaries of the nonattainment area as required by CAA section 182(a)(1)” (40 CFR 51.1100(bb), see also CAA section 172(c)(3)). In addition, 40 CFR 51.1115(a) requires that the inventory year be selected consistent with the baseline year for the reasonable further progress (RFP) plan, which is usually the most recent calendar year for which a complete triennial inventory is required to be submitted to the EPA under the Air Emissions Reporting Requirements (40 CFR part 51, subpart A) (see 40 CFR 51.1110(b)).

B. Summary of the State’s Submittal

The State submitted base year EIs for areas designated as nonattainment for the 2008 8-hour ozone NAAQS on July 17, 2014.⁴ CARB’s submittal documents the public review process followed prior to its submittal to the EPA as a revision to the SIP. The submittal includes a copy of a CARB notice of public meeting on June 26, 2014 to consider the approval of the submittal, a transcript from the June 26, 2014 meeting,⁵ and a

both as “the 2008 ozone NAAQS” or “the 2008 ozone standard.”

² The submittal did not include EIs for the Tuscan Buttes NAA, which is a small, high elevation area containing no anthropogenic sources, see submittal, p. 3, or for the Pechanga and Morongo NAAs.

⁴ Submittal pp. 7–35.

⁵ Meeting, State of California, Air Resources Board, CAL/EPA Headquarters, Byron Sher

signed resolution stating that the CARB made the EIs available for public review at least 30 days prior to the board hearing and that the EIs were adopted after notice and public hearing.⁶ As noted above, on September 2, 2016, CARB provided additional technical information referred to herein as EI Supplemental Documentation to support the NAA EIs submitted on July 17, 2014.

CARB selected 2012 as the base year because it was the most recent year for

which comprehensive emissions estimates were available,⁷ and because CARB wanted a consistent inventory across the state.⁸ The submitted base year EIs are expressed as 2012 average summer day emissions in tons per day (tpd) and categorized as stationary point sources, area-wide sources, on-road mobile sources and other mobile sources. CARB's EI Supplemental Documentation describes methods used to estimate emissions for each category and subcategory.⁹ The submittal

describes the updates to the 2012 EIs since the last comprehensive EI update, and it also describes how emissions were calculated for "split regions" not defined by CARB's county, air basin, and district boundaries.¹⁰

Table 1 summarizes the 2012 EIs for the Calaveras County, Chico (Butte County), Eastern SLO and San Francisco Bay Area NAAs for nitrogen oxides (NO_x) and volatile organic compound (VOC) emissions.¹¹

TABLE 1—2012 AVERAGE SUMMER DAY EMISSION INVENTORIES (TPD)

Category	NO _x	% of total	VOC	% of total
Calaveras County				
Stationary Sources	0.12	5	0.23	4
Area-wide Sources	0.09	3	1.82	33
On-road Mobile	1.70	64	1.03	19
Other Mobile	0.75	28	2.49	45
Total *	2.66	100	5.56	100
Chico (Butte County)				
Stationary Sources	2.03	12	2.08	15
Area-wide Sources	0.67	4	4.81	34
On-road Mobile	7.06	40	3.32	23
Other Mobile	7.79	44	4.00	28
Total *	17.54	100	14.21	100
San Francisco Bay Area				
Stationary Sources	41.33	14	62.13	23
Area-wide Sources	7.99	3	68.37	26
On-road Mobile	151.65	52	74.02	28
Other Mobile	88.55	31	59.98	23
Total *	289.51	100	264.50	100
Eastern SLO				
Stationary Sources	0.17	25	0.10	21
Area-wide Sources	0.00	0	0.16	33
On-road Mobile	0.37	54	0.17	35
Other Mobile	0.14	21	0.05	10
Total *	0.68	100	0.48	100

* Differences due to rounding. Excludes biogenic emissions.

1. Stationary Source Emissions

CARB estimates stationary point source emissions based on annual reports submitted by the local air districts. The local air districts are responsible for working with facility operators to compile estimates, using

source testing, direct measurement or engineering calculations. CARB estimates emissions from smaller point sources, such as gasoline dispensing facilities and residential water heaters, as a group and reports them in a single source category. CARB groups stationary

point source emissions into the following categories: Fuel combustion, waste disposal, cleaning and surface coatings, petroleum production and marketing, and industrial processes.¹²

Auditorium, Second Floor, 1001 I Street, Sacramento, California 95814, Thursday, June 26, 2014, 9:04 a.m., Tiffany C. Kraft, CSR, Certified Shorthand Reporter, License Number 12277, pp. 7–8.

⁶ CARB, "The 8-Hour Ozone State Implementation Plan Emission Inventory Submittal," Resolution 14–14, June 26, 2014, Agenda Item No.: 14–5–1, signed by Tracy Jensen, Clerk of the Board.

⁷ Submittal, p. 5.

⁸ In particular, CARB wanted to assure consistency with the South Coast Air Quality Management District, which planned to use 2012 data for its base year inventory. See Supplemental Documentation.

⁹ *Ibid.*

¹⁰ Submittal, pp. 5–6.

¹¹ *Ibid.*, pp. 7–35.

¹² Submittal, pp. 7–35. Fuel combustion subcategories: Electric utilities, cogeneration, oil and gas production (combustion), manufacturing and industrial, food and agricultural processing, service and commercial, other (fuel combustion). Waste disposal subcategories: Sewage treatment, incinerators, other (waste disposal). Cleaning and surface coatings subcategories: Laundering, degreasing, coatings and related process solvents, printing, adhesives and sealants. Petroleum

Continued

CARB describes the methodologies it uses for smaller point sources in the EI Supplemental Documentation. For example, while CARB reports most of the food and agricultural processing emission sources as individual point sources, CARB estimates the exhaust emissions from agricultural irrigation pumps from a model developed by CARB staff. The EI Supplemental Documentation provides a link to the methodology used.¹³ The model uses United States Department of Agriculture (USDA) engine population estimates, emission factors, average annual use in hours, average brake horsepower of engine and average engine load factors.¹⁴

2. Area-Wide Source Emissions

CARB's area-wide source inventories include categories where emissions take place over a wide geographic area, such as consumer products, residential fuel combustion and farming operations. CARB groups area-wide source emissions as either solvent evaporation or miscellaneous processes.¹⁵

CARB describes the methodologies for each area-wide source emission category in the EI Supplemental Documentation, pages 21–29. CARB uses various methodologies for estimating emissions from area-wide source categories. For example, the California Department of Pesticide Regulation (DPR) calculates pesticide emission estimates for CARB. The DPR applies Emission Potential (EP) values from the DPR database to the amount of grower-reported pesticide application in DPR's Pesticide Use Report database.¹⁶ For the consumer products emissions estimates, CARB conducted surveys to collect updated product and ingredient information for approximately 360 consumer product categories, and determined the total

productions and marketing subcategories: Oil and gas production, petroleum marketing, other (petroleum production and marketing). Industrial processes subcategories: Food agriculture, mineral processes, metal processes, wood and paper, other (industrial processes).

¹³ Attachment 2, Appendix D, Emission Inventory Methodology, Agricultural Irrigation Pumps—Diesel (Updated August 2006), available at <http://www.arb.ca.gov/regact/agen06/attach2.pdf>

¹⁴ EI Supplemental Documentation, pp. 11–12.

¹⁵ Submittal, pp. 7–35. Solvent evaporation subcategories: Consumer products, architectural coatings and related process solvents, pesticides/fertilizers, asphalt paving/roofing. Miscellaneous processes subcategories: Residential fuel combustion, farming operations, fires, manage burning and disposal, cooking.

¹⁶ The EP value is the fraction of the product that is assumed to potentially contribute to atmospheric VOC. California's pesticide use reporting program requires that all agricultural pesticide use must be reported monthly by growers to county agricultural commissions, who in turn, report the data to DPR. See <http://www.cdpr.ca.gov/docs/pur/purmain.htm>.

sales and total VOC emissions for each category based on the survey data. CARB adjusted emissions to the 2012 base year by using population data from the California Department of Finance (2013).¹⁷ CARB bases emissions from farming operations on data from the USDA's 2012 Census of Agriculture and emission factors for each livestock category.¹⁸ CARB uses survey data and emission factors to estimate emissions from residential wood combustion, a subcategory of residential fuel combustion. In 2011, CARB updated its methodology for residential wood combustion to include more recent survey data on residential wood burning devices and consumption rates, updates to the EPA National Emission Inventory emission factors and improved calculation approaches.¹⁹

3. Off-Road Mobile Source Emissions

CARB has developed category-specific models for numerous off-road (also known as “non-road”) sources, including locomotives, ships, industrial and construction equipment, and recreational vehicles. CARB used the OFFROAD2007 model for categories without source-specific models. CARB provided supplementary documentation describing the methodologies used for the following off-road sources: Aircraft, ocean going vessels, commercial harbor craft, recreational boats, off-road recreational vehicles, fuel storage and handling equipment, farm equipment and off-road equipment (*i.e.*, transport refrigeration units, drill rigs, cargo handling equipment, and trains).²⁰ The submittal provided emission estimates for off-road sources that reflected updates to data models for ocean going vessels, recreational boats, recreational vehicles, off-road equipment and farm equipment.²¹ In addition to describing each category, CARB provides Web site links to additional information on each methodology. These descriptions include the type of source represented, the types and source of data used, and the models used. For example, CARB describes ocean-going vessels (OGVs) as commercial vessels greater than or equal to 400 feet in length or 10,000 gross tons or propelled by a marine compression ignition engine with a displacement of

greater than or equal to 30 liters per cylinder. CARB's emission inventory includes all OGV emissions occurring within 100 nautical miles of the California coastline.

4. On-Road Mobile Source Emissions

CARB estimated on-road mobile emissions from cars, light and heavy-duty trucks, motorcycles, buses and motor homes using its Emission Factors (EMFAC) model version 2011, which was the latest EPA-approved version available at the time the EIs were prepared.²² CARB estimated vehicle populations using registration data from the Department of Motor Vehicles (DMV), updated in 2012.²³ The model estimates vehicle miles traveled (VMT) from data and mileage accrual rates from the Bureau of Automotive Smog Check Program. CARB states that the EIs in this submittal reflect updates to the EMFAC2011 activity parameters, including vehicle population and activity using 2012 DMV data, vehicle sales and survival rate estimates, fuel sales from the Board of Equalization, and updates to mileage accrual rates using Smog Check data. CARB adjusted the default VMT regional allocations using the 2012 National Transportation Atlas Database. The model also reflects the emissions benefits of CARB's 2010 Truck and Bus Regulation, the “Pavley” Clean Car Standards and the Low Carbon Fuel Standard. CARB provides additional information on EMFAC at <http://www.arb.ca.gov/mseimsei.htm>.

C. The EPA's Evaluation of the State's Submittal

1. Evaluation of Procedural Requirements

Based on the documentation included in CARB's submittal, we find that the submittal satisfies the procedural requirements of sections 110(a)(1) and 110(l) of the Act requiring states to provide reasonable notice and an opportunity for public hearing prior to adoption of SIP revisions. CARB's submittal became complete by operation of law on January 17, 2015 pursuant to section 110(k)(1)(B).

¹⁷ CARB, Section 6.1 Consumer Products (revised April 2000), available at <http://www.arb.ca.gov/ei/areasrc/fullpdf/full6-1.pdf>.

¹⁸ CARB, Section 7.6 Livestock Husbandry (Revised May 2004), available at <http://www.arb.ca.gov/ei/areasrc/fullpdf/full7-6.pdf>.

¹⁹ CARB, Section 7.1 Residential Wood Combustion (Revised October 2015), available at http://www.arb.ca.gov/ei/areasrc/fullpdf/full7-1_2011.pdf.

²⁰ EI Supplemental Documentation, pp. 4–10.

²¹ See submittal p. 6.

²² On March 16, 2013, the EPA approved and announced the availability of EMFAC2011 as the latest update to the EMFAC model for use in SIP development and transportation conformity by California state and local governments to meet CAA requirements (78 FR 14533). On December 14, 2015, the EPA announced the next revision to EMFAC—EMFAC 2014 (80 FR 77337). CARB submitted the 2008 8-hour ozone EI submittal after the EPA's approval of EMFAC2011 and prior to the EPA's approval of EMFAC2014.

²³ EI Supplemental Documentation, p. 3.

2. Evaluation of Base Year Inventory Requirements

The EPA has reviewed the 2012 average summer day base year EIs for the Calaveras County, Chico (Butte County), Eastern SLO and San Francisco Bay Area NAAs. Our review included the emission estimates for stationary sources, area-wide sources and mobile sources. We find that CARB's selection of 2012 as the base year was appropriate for these areas because 2012 was the most recent calendar year for which a consistent and comprehensive statewide inventory was available.²⁴ The submittal and EI Supplemental Documentation provide sufficient information and explanation to allow the EPA to make a determination on the acceptability of the EIs. Accordingly, we conclude that the EIs constitute a comprehensive, accurate, current inventory of actual emissions from sources of VOC and NO_x emitted within the boundaries of the relevant NAAs, as required under the CAA and SRR (40 CFR 51.1100(bb), see also CAA section 172(c)(3)).

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, the EPA is fully approving the submitted EIs for the Calaveras County, Chico (Butte County), San Luis Obispo County (Eastern SLO) and San Francisco Bay Area NAAs because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted EIs. If we receive adverse comments by November 18, 2016, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on December 19, 2016.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act. Accordingly, this action merely approves a state plan 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 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 Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the 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).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement

Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 19, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: September 28, 2016.

Deborah Jordan,

Acting Regional Administrator, Region IX.

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.*

²⁴ We also note that, because the State is not required to submit an RFP plan for Marginal areas, the requirement for the inventory year selected to be consistent with the baseline year for the RFP plan is not relevant to these areas.

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(481) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *
(481) The following revision was submitted on July 17, 2014 by the Governor's designee.

(i) [Reserved]

(ii) Additional materials.

(A) California Air Resources Board.

(1) California Air Resources Board, Staff Report, "8-Hour Ozone State Implementation Plan Emission Inventory Submittal," release date: May 23, 2014, excluding the tables of 2012 average summer daily emissions (tons per day) other than the tables for Chico (Butte County), San Luis Obispo County (Eastern San Luis Obispo), Calaveras County, and San Francisco Bay Area.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180**

[EPA-HQ-OPP-2015-0559; FRL-9952-22]

Penflufen; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of penflufen in or on vegetable, bulb, group 3-07; beet, sugar, roots; and beet, sugar, tops. Interregional Research Project Number 4 (IR-4) requested the tolerance associated with pesticide petition number (PP#) 5E8382, and Bayer CropScience requested the tolerances associated with PP# 5F8379, under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective October 19, 2016. Objections and requests for hearings must be received on or before December 19, 2016, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2015-0559, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency

Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: RDfRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:**I. General Information****A. Does this action apply to me?**

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

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

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

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2015-0559 in the subject line on the first page of your submission. All

objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before December 19, 2016. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2015-0559, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001.

- **Hand Delivery:** To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

II. Summary of Petitioned-for Tolerance

In the **Federal Register** of October 21, 2015 (80 FR 63731) (FRL-9935-29), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP# 5E8382) by Interregional Research Project Number 4 (IR-4), 500 College Road East, Princeton, NJ 08540. The petition requested that 40 CFR 180.664 be amended by establishing tolerances for residues of the fungicide penflufen, (1*H*-Pyrazole-4-carboxamide, *N*-[2-(1,3-dimethylbutyl)phenyl]-5-fluoro-1,3-dimethyl-, in or on onion, bulb, 3-07A at 0.01 parts per million (ppm); and onion, green, 3-07B at 0.015 ppm. That document referenced a summary of the petition prepared by Bayer CropScience, the registrant, which is available in the docket EPA-HQ-OPP-2015-0559-0002 at <http://www.regulations.gov>.

In the **Federal Register** of July 20, 2016 (81 FR 47150) (FRL-9948-45), EPA issued a document pursuant to