Commanding Officer Navy Region Southwest by calling the Navy Port Operation Dispatch at telephone number (619) 556–1433 or on VHF–FM channels 16 or 12. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port San Diego or his or her designated representative.

(c) Definitions. For purposes of this section: Captain of the Port San Diego, means the Commanding Officer of the Coast Guard Sector San Diego; Commander, Navy Region Southwest, means the Navy Region Commander responsible for the Southwest Region; Commanding Officer, Naval Base Point Loma, means the Installation Commander of the naval base located on Point Loma, San Diego, California; Designated Representative, means any U.S. Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port San Diego to assist in the enforcement of the security zone described in paragraph (a) of this section.

(d) Enforcement. The U.S. Coast Guard may be assisted in the patrol and enforcement of the security zone described in paragraph (a) of this section by the U.S. Navy and local law enforcement agencies.

3. Add § 165.1103 to read as follows:

§ 165.1103 Security Zone; Naval Mine Anti Submarine Warfare Command; San Diego Bay, San Diego, CA.

(a) Location. (1) The following area is a security zone: The water adjacent to the Naval Mine Anti Submarine Warfare Command, bound by the following coordinates:

32°43′40.9″ N, 117°12′54.9″ W (A)

32°43′40.6″ N, 117°12′52.3″ W (B)

32°43′22.5″ N, 117°12′57.8″ W (C)

32°43′23.4″ N, 117°13′1.3″ W (D)

Thence running generally northwest along the shoreline to Point A.

(2) The proposed security zone at the Naval Mine Anti Submarine Warfare Command would be established to provide for the 100 feet of standoff distance.

(b) Regulations. (1) The general regulations governing security zones found in 33 CFR 165.33 apply to the security zone described in paragraph (a) of this section.

(2) Entry into, or remaining in, the areas of either zone is prohibited unless authorized by the Captain of the Port San Diego; Commanding Officer, Naval Mine Anti Submarine Warfare Command; or Commander, Naval Region Southwest.

(3) Persons desiring to transit the area of the security zone may request permission from the Captain of the Port San Diego at telephone number (619) 278–7033 or on VHF channel 16 (156.8 MHz) or from either the Commanding Officer, Naval Mine Anti Submarine Warfare Command or the Commander, Navy Region Southwest by calling the Navy Port Operation Dispatch at telephone number (619) 556–1433 or on VHF–FM channels 16 or 12. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port San Diego or his or her designated representative.

(c) Definitions. For purposes of this section: Captain of the Port San Diego, means the Commanding Officer of the Coast Guard Sector San Diego; Commander, Navy Region Southwest, means the Navy Region Commander responsible for the Southwest Region; Commanding Officer, Naval Base Point Loma, means the Installation Commander of the naval base located on Point Loma, San Diego, California; Designated Representative, means any U.S. Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port San Diego to assist in the enforcement of the security zone described in paragraph (a) of this section.

(d) Enforcement. The U.S. Coast Guard may be assisted in the patrol and enforcement of the security zone described in paragraph (a) of this section by the U.S. Navy and local law enforcement agencies.

Dated: July 30, 2013.

J.A. Janszen,
Commander, U.S. Coast Guard, Acting,
Captain of the Port San Diego.

[FR Doc. 2013–20781 Filed 8–27–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52


Approval and Promulgation of Implementation Plans; California; San Joaquin Valley; Contingency Measures for the 1997 PM2.5 Standards

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a state implementation plan (SIP) revision submitted by the State of California to address Clean Air Act nonattainment area contingency measure requirements for the 1997 annual and 24-hour fine particulate matter (PM2.5) national ambient air quality standards in the San Joaquin Valley. Final approval of this SIP revision would terminate the sanctions clocks and a federal implementation plan clock that were triggered by EPA’s partial disapproval of a related SIP submission on November 9, 2011 (76 FR 69896).

DATES: Any comments must arrive by September 27, 2013.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2013–0534, by one of the following methods:

• Federal eRulemaking Portal: www.regulations.gov. Follow the online instructions.

• Email: wicher.frances.epa.gov.

• Mail or deliver: Frances Wicher, Office of Air Planning (AIR–2), U.S. Environmental Protection Agency Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or email. The www.regulations.gov Web site is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comments due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket (docket number EPA–R09–OAR–2013–0534) for this action is available electronically on the www.regulations.gov Web site and in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours.
hours with the contact listed in the FOR FURTHER INFORMATION CONTACT section below.

FOR FURTHER INFORMATION CONTACT:
Frances Wicher, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region 9, (415) 972–3957, wicher.frances@epa.gov.

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

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I. Background

On July 18, 1997, EPA established new national ambient air quality standards (NAAQS) for PM2.5 (particulate matter with a diameter of 2.5 microns or less) including annual standards of 15.0 micrograms per cubic meter (µg/m³) based on a 3-year average of annual mean PM2.5 concentrations and 24-hour (daily) standards of 65 µg/m³ based on a 3-year average of the 98th percentile of 24-hour concentrations. See 62 FR 36852 and 40 CFR 50.7. Effective April 5, 2005, EPA designated the San Joaquin Valley (SJV) in California as nonattainment for the 1997 annual and 24-hour PM2.5 standards. See 70 FR 944 (January 5, 2005) and 40 CFR 81.305. The SJV PM2.5 nonattainment area is located in the southern half of California’s central valley and includes all or part of eight counties: San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare, Kings, and the valley portion of Kern. The local air district with primary responsibility for developing the state implementation plan (SIP) to attain the PM2.5 NAAQS in this area is the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD or “District”).

California has made numerous SIP submittals to address the SJV’s nonattainment designation for the 1997 PM2.5 NAAQS. The two principal ones are the SJVUAPCD’s “2008 PM2.5 Plan,” submitted on June 30, 2008, and the California Air Resources Board’s (CARB’s) “State Strategy for California’s 2007 State Implementation Plan” (“2007 State Strategy”), submitted on November 16, 2007 and revised in 2009 and 2011 through CARB’s “2009 State Strategy Status Report” and “2011 Progress Report.”

On November 9, 2011, EPA partially approved and partially disapproved the District’s 2008 PM2.5 Plan and the revised 2007 State Strategy (collectively the “SJV PM2.5 SIP”) (76 FR 69896). EPA’s partial disapproval of the SJV PM2.5 SIP was based on our determination that its contingency measure provisions failed to meet the requirements of Clean Air Act (CAA) section 172(c)(9) and 40 CFR 51.1012, which require that the SIP for each PM2.5 nonattainment area contain contingency measures to be implemented if the area fails to make reasonable further progress (RFP) or to attain the NAAQS by the applicable attainment date. See 76 FR 41338, 41357 to 41359 (July 13, 2011) and 76 FR 69896, 69918 to 69919 and 69924.

As we explained in our proposed action on the SJV PM2.5 SIP, contingency measures must be fully adopted rules or control measures that are ready to be implemented quickly without significant additional action by the state. See 76 FR 41338, 41357; see also “Final Technical Support Document and Responses to Comments, Final Rulemaking Action on the San Joaquin Valley PM2.5 State Implementation Plan,” Air Division, U.S. EPA Region 9, September 30, 2011 (“Final TSD for SJV PM2.5 SIP”) at pp. 126 to 134. We further explained that these measures must not be relied on in the plan to demonstrate RFP or attainment and should provide SIP-credible emission reductions equivalent to approximately one year of RFP. Id. Finally, we stated that the SIP should contain trigger mechanisms for...
failure to satisfy the CAA’s contingency measure requirements for the 2012 RFP milestone year and for the 2015 attainment date. See 76 FR 41338, 41359 and 76 FR 69896, 69924.

II. Clean Air Act Requirements for Contingency Measures

CAA section 172(c)(9) requires that the SIP for each nonattainment area “provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the [NAAQS] by the attainment date applicable under [part D of title I]” and requires that these measures “take effect without further action by the State or EPA.” The CAA does not specify how many contingency measures are required or the magnitude of emission reductions that must be provided by these measures. Consistent with the text of section 172(c)(9), however, these measures must be specific, adopted measures that are ready to be implemented quickly upon failure to meet RFP or failure of the area to meet the standard by its attainment date.7

EPA provided guidance on the section 172(c)(9) contingency measure requirement in an interpretative document entitled “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990.” 57 FR 13498 (April 16, 1992) (“General Preamble”). As EPA explained in the General Preamble, “contingency measures should, at a minimum, ensure that an appropriate level of emission reduction progress continues to be made if attainment [or] RFP is not achieved and additional planning by the State is needed” (57 FR 13498, 13511). These emission reductions would be in addition to those that were already scheduled to occur in accordance with the plan for the area. See Id. at n. 2 and 57 FR 13498, 13543 to 13544. Additionally, States must show that their contingency measures can be implemented with minimal further action on their part and without additional rulemaking actions such as public hearings or legislative review. In general, EPA expects actions needed to effect full implementation of the measures to occur within 60 days after EPA notifies the State of an area’s failure to meet RFP or attain. See 57 FR 13498, 13512 and 13543 to 13544; see also 59 FR 41998, 42014 to 42015 (August 16, 1994) (“PM–10 Addendum”).

Consistent with these interpretations of the Clean Air Act, EPA explained in the preamble to its 2007 implementation rule for the 1997 PM2.5 NAAQS that the SIP should contain trigger mechanisms for the contingency measures, specify a schedule for implementation, and indicate that the measures will be implemented without significant further action by the State or EPA. See 72 FR 20586, 20642 to 20645 (April 25, 2007) and 40 CFR 51.1012. Contingency measures can include Federal, state, and local measures already scheduled for implementation that provide emission reductions in excess of those needed to provide for RFP or expeditious attainment. The key is that the contingency measures provide for additional emission reductions that are not relied on for RFP or attainment and that are not included in the attainment demonstration. The purpose is “to provide a cushion while the plan is being revised to meet the missed milestones” (72 FR 20586, 20642 to 20643). Nothing in the statute precludes a state from implementing such measures before they are triggered. See, e.g., LEAN v. EPA, 382 F.3d 575 (5th Cir. 2004) (upholding contingency measures that were previously required and implemented where they were in excess of the attainment demonstration and RFP SIP).

EPA has approved numerous SIPs under this interpretation—i.e., SIPs that use as contingency measures one or more Federal or local measures that are in place and provide reductions that are in excess of the reductions required by the attainment demonstration or RFP plan. See, e.g., 62 FR 15844 (April 3, 1997) (direct final rule approving an Indiana ozone SIP revision); 62 FR 66279 (December 18, 1997) (final rule approving an Illinois ozone SIP revision); 66 FR 30811 (June 8, 2001) (direct final rule approving a Rhode Island ozone SIP revision); 66 FR 586 (January 3, 2001) (final rule approving District of Columbia, Maryland, and Virginia ozone SIP revisions); and 66 FR 634 (January 3, 2001) (final rule approving a Connecticut ozone SIP revision). A state may use the same measures for both RFP and attainment contingency if the measures will provide reductions in the relevant years. If these measures are first triggered for failure to make RFP, however, the state would need to submit replacement contingency measures for attainment purposes (57 FR 13498, 13511).

With respect to the level of emission reductions associated with contingency measures, EPA has recommended that states consider “the potential nature and extent of any attainment shortfall for the area” and the amount of actual emission reductions required by the SIP control strategy to attain the standards. See PM–10 Addendum at 42015; see also 72 FR 20586, 20643. The contingency measures are to be implemented in the event that the area does not meet RFP or attain the standards by the attainment date, and “should represent a portion of the actual emission reductions necessary to bring about attainment in area” (72 FR 20586, 20643).

Accordingly, EPA has recommended that the emission reductions anticipated by the contingency measures should be equal to approximately one-year’s worth of emission reductions needed to achieve RFP for the area. See id. and PM–10 Addendum at 42015.

III. Review of the Submitted San Joaquin Valley PM2.5 Contingency Measure SIP

A. The Submitted San Joaquin Valley PM2.5 Contingency Measure SIP

On July 3, 2013, CARB submitted the “Quantifying Contingencies for the 2008 PM2.5 Plan” (dated June 20, 2013) (“Contingency Measure SIP”) as a revision to the California State Implementation Plan. The State and District adopted the Contingency Measure SIP to correct the SIP deficiencies identified in EPA’s November 9, 2011 partial disapproval of the SJV PM2.5 SIP by (1) confirming that
the SJV area had met its 2012 RFP milestones and (2) expanding upon the attainment contingency measures in the SJV PM2.5 SIP to establish a contingency plan that achieves SIP-credible emission reductions equivalent to approximately one year’s worth of RFP in 2015. See generally Contingency Measure SIP. The July 3, 2013 submission includes a copy of the Contingency Measure SIP revision itself; a letter dated July 3, 2013 from Richard Corey, Executive Officer, CARB, to Jared Blumenfeld, Regional Administrator, EPA Region 9, submitting the adopted Contingency Measure SIP for EPA review; CARB Resolution 13–30 (June 27, 2013) adopting the Contingency Measure SIP; a letter dated June 21, 2013 from Samir Sheikh, Director of SJVUAPCD, to Richard Corey, Executive Officer, CARB, submitting the adopted Contingency Measure SIP for CARB review and approval; SJVUAPCD Board Resolution No. 13–6–18 approving the Contingency Measure SIP; technical support documentation; and public process documentation.


In sum, the Contingency Measure SIP contains (1) the District’s demonstration that actual emission levels in the SJV in 2012 were below the milestone year targets identified in the SJV PM2.5 SIP and approved by EPA for the 2012 RFP year; and (2) identification of contingency measures that provide 2015 emission reductions not relied on for RFP or attainment that are approximately equivalent to one-year’s worth of RFP. The District’s calculation of 2015 emission reductions in the Contingency Measure SIP includes: reductions from contingency measures that we previously identified as SIP-credible measures as part of our 2011 action on the SJV PM2.5 SIP, a revised calculation of emission reductions from the District’s woodburning control measure (Rule 4901) based on updated air quality and emissions data, emission reductions resulting from the District’s implementation of incentive programs, and substitution of surplus direct PM2.5 reductions for NOx reductions. For the SJV PM2.5 SIP, emission reductions equivalent to one year’s worth of RFP are 2.5 tpd of direct PM2.5, 31.6 tpd of NOx, and 0.2 tpd of SO2. See 76 FR 41338, 41359 (Table 10) and Final TSD for SJV PM2.5 SIP, p. 131.

We provide below a summary of our evaluation of the Contingency Measures SIP. For a more detailed discussion of EPA’s analyses, see Air Division, EPA Region 9, “Technical Support Document—Proposed Approval of Clean Air Act Section 172(c)(9) Contingency Measures—San Joaquin Valley State Implementation Plan for Attainment of the 1997 PM2.5 Standard,” August 15, 2013 (“Proposal TSD”), available in the docket for this proposed rule.

B. Clean Air Act Procedural Requirements for SIP Submissions

CAA sections 110(a) and 110(l) require that revisions to a SIP be adopted by the State after reasonable notice and public hearing. EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These requirements include publication of notices, by prominent advertisement in the relevant geographic area, of a public hearing on the proposed revisions, a public comment period of at least 30 days, and an opportunity for a public hearing.

CARB’s SIP submission includes public process documentation for the Contingency Measure SIP, including documentation of duly-noticed public hearings held by the District on June 20, 2013 and by CARB on June 27, 2013. See SJVUAPCD Board Resolution No. 13–6–18, pp. 2 and 3 and CARB Resolution 13–30, p. 3. We find that the process followed by the District and CARB in adopting the Contingency Measure SIP complies with the procedural requirements for SIP revisions under CAA section 110 and EPA’s implementing regulations.9 CAA section 110(k)(1)(B) requires EPA to determine whether a SIP submission is complete within 60 days of receipt. Our SIP completeness criteria are found in 40 CFR part 51, Appendix V. We determined that the Contingency Measure SIP is complete on August 12, 2013. See Memorandum dated August 12, 2013 Deborah Jordan, Air Division Director EPA Region 9 to Richard Corey, Executive Officer, Air Resources Board.

C. Evaluation of the Contingency Measure SIP

1. Contingency Measures for Failure To Meet the 2012 Reasonable Further Progress Milestone

The Contingency Measure SIP includes a demonstration that emissions of direct PM2.5, NOX, and SO2 in 2012 were all below the corresponding 2012 RFP milestone year emissions targets that EPA approved as part of the SJV PM2.5 SIP. See Contingency Measure SIP, p. 2. To make this demonstration, the District used the emission inventory from the 2011 Progress Report and revised it to remove uncreditable reductions,10 and compared it to the SIP-approved 2012 RFP milestone year targets. Based on this comparison, the District

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9 The State also provided public notice and a hearing on Rule 9610 before submitting the rule and associated support documents to EPA as a SIP revision. See letter dated June 26, 2013 from Richard Corey, Executive Officer, CARB to Jared Blumenfeld, Regional Administrator, EPA Region 9 (submitting Rule 9610) and CARB Executive Order S–13–006, dated June 26, 2013. EPA is not acting on Rule 9610 at this time but is reviewing it as support material for the Contingency Measure SIP. Other supplemental materials related to incentive programs that the State submitted to EPA under separate cover are not subject to additional State procedures under the Act as they provide only technical support and do not alter the substance of the Contingency Measure SIP. All of these supplemental materials are available in EPA’s docket for this rulemaking.

10 For a description of these uncreditable reductions, see Proposal TSD, Table E–4, p. 15.
concluded that it met its approved 2012 RFP milestone year targets and, accordingly, that RFP contingency measures for this milestone year are no longer needed. Id.

We agree with the District’s conclusion that the SJV area has now met its approved 2012 RFP milestone year targets\textsuperscript{13} and that RFP contingency measures for 2012 are, therefore, no longer needed. The emission inventory used in the RFP demonstration in the SJV PM\textsubscript{2.5} SIP is expressed in tons per average annual day, an appropriate metric for measuring progress for the annual PM\textsubscript{2.5} standard. The inventory in the 2011 Progress Report, used in the Contingency Measure SIP to demonstrate that the 2012 RFP targets have been met, is the most recent average annual day inventory currently available for the SJV. However, as an additional check, EPA also reviewed the average winter day inventory recently submitted as part of the District’s 2012 PM\textsubscript{2.5} Plan for attaining the 2006 24-hour PM\textsubscript{2.5} NAAQS and determined that the conclusion that the area has met its approved 2012 milestone year targets is also supported by this inventory. See Proposal TSD, pp. 16 to 17.

Based on our evaluation, EPA proposes to find that the RFP contingency measure requirement for the 2012 RFP milestone year is now moot as applied to the SJV. The sole purpose of RFP contingency measures is to provide continued progress if an area fails to meet its RFP goal. Failure to meet the 2012 milestone year target would have required California to implement RFP contingency measures and to revise the SJV PM\textsubscript{2.5} SIP to assure that the plan still provided for attainment by the applicable attainment date of April 5, 2015. In this case, however, the Contingency Measure SIP demonstrates that actual emission levels in 2012 met the approved 2012 RFP milestone year targets for all three pollutants (PM\textsubscript{2.5}, NO\textsubscript{x}, and SO\textsubscript{2}) regulated in the SJV PM\textsubscript{2.5} SIP. Accordingly, RFP contingency measures for 2012 no longer have meaning or purpose, and therefore EPA proposes to find that the requirement for them is now moot.

2. Contingency Measures for Failure To Attain

The Contingency Measure SIP identifies projected emission reductions for 2015 on which the District is relying to meet the CAA’s attainment contingency measure requirement for the 1997 PM\textsubscript{2.5} NAAQS. These projected emission reductions are categorized as follows: (1) Surplus emission reductions from adopted and implemented State and District regulatory measures, i.e., emission reductions not relied on for RFP or attainment; (2) emission reductions from a contingency provision in the District woodburning rule; (3) emission reductions resulting from the District’s implementation of incentive programs, and (4) substitution of surplus direct PM\textsubscript{2.5} contingency reductions for NO\textsubscript{x} contingency reductions. We address each of these categories of emission reductions below.

a. Regulatory Measures and Programs

The SJV PM\textsubscript{2.5} SIP, which EPA partially approved and partially disapproved in November 2011 (76 FR 69896), provided for the continuing implementation of existing CARB mobile source measures that will achieve 21 tpd of NO\textsubscript{x} reductions in 2015. See 76 FR 41338, 41359 (Table 9) and Final TSD for SJV PM\textsubscript{2.5} SIP, p. 135. These mobile source emission reductions are surplus to the reductions relied upon to demonstrate attainment because they occur in 2015 (after implementation of all control measures necessary for expeditious attainment)\textsuperscript{12} and will achieve approximately two-thirds of the NO\textsubscript{x} emission reductions needed to achieve one-year’s worth of RFP. The Contingency Measure SIP also identifies these same mobile source emissions reductions as attainment contingency measures, and EPA agrees that these emission reductions qualify for approval as attainment contingency measures.

Additionally, the SJV PM\textsubscript{2.5} SIP showed that continuing implementation of CARB’s mobile source control program and District rules would provide 3 tpd of SO\textsubscript{2} reductions beyond the levels needed for expeditious attainment in 2015. See 76 FR 41338, 41359 (Table 10) and Final TSD for SJV PM\textsubscript{2.5} SIP, p. 135. These surplus reductions are primarily due to the low-sulfur content requirements in CARB diesel fuel regulations for on- and off-road equipment\textsuperscript{13} and SO\textsubscript{2} limits in District Rule 4320 (Advanced Emission Reduction Option for Boilers) and Rule 4354 (Glass Melting Furnaces).\textsuperscript{14} The Contingency Measure SIP also identifies these SO\textsubscript{2} reductions from State and District control measures as attainment contingency measures, and EPA agrees that these measures provide 3 tpd of SO\textsubscript{2} reductions that are not relied on for RFP or attainment and, therefore, qualify for approval as attainment contingency measures.

Finally, the SJV PM\textsubscript{2.5} SIP included a contingency provision in section 5.6.5 of District Rule 4901 (Wood Burning Fireplaces and Wood Burning Heaters). This provision requires that 60 days after EPA finds the SJV has failed to attain the 1997 PM\textsubscript{2.5} NAAQS, the District will lower the level at which mandatory curtailment of residential wood burning is required from a predicted level of 30 μg/m\textsuperscript{3} to 20 μg/m\textsuperscript{3}. EPA approved this rule, including the contingency provision, on November 10, 2009 (74 FR 57907).

As part of the SJV PM\textsubscript{2.5} SIP, the District had preliminarily estimated the emissions reduction from this contingency provision at 1.6 tons of direct PM\textsubscript{2.5} per average annual day. This estimate was derived by reviewing 2006 air quality data to determine how many additional curtailment days would be required at the lower (20 μg/m\textsuperscript{3}) threshold. As part of the revised analysis contained in the Contingency Measure SIP, the District reviewed ambient air quality data for the 2009–2013 period to determine the numbers of “No Burn” days that it would have required had the lower mandatory curtailment level (20 μg/m\textsuperscript{3}) been effective during these years. Based on these updated data, the District revised the estimated additional emission reductions expected from the Rule 4901 contingency provision to 3.12 tpd of direct PM\textsubscript{2.5} and 0.32 tpd of NO\textsubscript{x}. See Contingency Measure SIP, pp. 4 to 6. EPA now finds that these updated calculations of the projected emission reductions from Rule 4901 are reasonable and, therefore, agrees with the District that Rule 4901 provides 3.1 tpd of direct PM\textsubscript{2.5} reductions and 0.3 tpd of NO\textsubscript{x} reductions that qualify for approval as attainment contingency measures.

In sum, taking into account surplus emission reductions in the SJV PM\textsubscript{2.5} SIP that EPA previously identified as available for contingency measure purposes and the District’s revised estimate of emissions reduction from the contingency provision in the SIP-

\textsuperscript{12} Consistent with CAA section 172(c)(1) and 40 CFR 51.1007(b), the SJV PM\textsubscript{2.5} SIP provides for the implementation of all control measures needed for attainment as expeditiously as practicable and no later than the beginning of the year prior to the attainment date (i.e., by January 2014) (76 FR 69896, 69916 to 69917).

\textsuperscript{13} See 13 CCR section 2281 (“Sulfur Content of Diesel Fuel”).

\textsuperscript{14} EPA approved CARB’s diesel fuel regulations on May 12, 2010 (75 FR 26653), Rule 4320 on March 25, 2011 (76 FR 16696), and Rule 4354 on August 29, 2011 (76 FR 53640).
approved Rule 4901, the total amount of emission reductions from regulatory control measures that we are proposing to approve as part of the Contingency Measure SIP are as follows: 21.3 tpd of NOX reductions from the continuation of implementation of CARB’s mobile source control program and District Rule 4901; 3.1 tpd of direct PM2.5 reductions from the contingency provision in District Rule 4901; and 3 tpd of surplus SO2 reductions from District rules limiting SO2 emissions and CARB’s mobile source control program, including its low-sulfur diesel fuel regulation.

b. Discretionary Economic Incentive Programs

The Contingency Measure SIP states that NOX and PM2.5 emission reductions to be achieved through the implementation of specific incentive programs in the San Joaquin Valley are available for contingency measure purposes in 2015. See Contingency Measure SIP, pp. 7 to 9. The incentive programs identified in the Contingency Measure SIP for this purpose are as follows: the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program), implemented through a partnership between CARB and local air districts; the Proposition 1B: Goods Movement Emission Reduction Program (Prop 1B), also implemented through a partnership between CARB and local air districts; and the U.S. Department of Agriculture, Natural Resources Conservation Service’s (NRCS) Environmental Quality Incentives Program (EQIP), implemented by NRCS. See id. We are proposing to approve 4.15 tpd of NOX reductions and 0.10 tpd of direct PM2.5 reductions from specific Carl Moyer Program and Prop 1B projects, as identified in the Contingency Measure SIP and in this proposed rule, for purposes of satisfying the contingency measure requirement for the 1997 PM2.5 NAAQS.

The CAA explicitly provides for the use of economic incentives as one tool for states to use to achieve attainment of the NAAQS. See, e.g., CAA section 110(a)(2)(A) (requiring that each SIP “include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of [the Act]”); see also sections 112(c)(6), 113(e)(4). Economic incentive programs (EIPs) use market-based strategies to encourage the reduction of emissions from stationary, area, and/or mobile sources in an efficient manner. EPA has promulgated regulations for statutory EIPs required under section 182(g) of the Act and has issued guidance for discretionary EIPs.15 See 60 FR 63690 (July 19, 1995) (codifying at 40 CFR part 51, subpart U) and “Improving Air Quality with Economic Incentive Programs,” U.S. EPA, Office of Air and Radiation, January 2001 (EPA–452/R–01–001) (“2001 EIP”). Where a State relies upon a discretionary EIP in a SIP submission, EPA evaluates the programmatic elements of the EIP to determine whether the resulting emission reductions are quantifiable, surplus, enforceable and permanent. See 2001 EIP at Section 4.1. These four fundamental “integrity elements,” which apply to all EIPs and other incentive/voluntary measures relied on for SIP purposes, are designed to ensure that such programs and measures satisfy the applicable requirements of the Act. See id.; see also “Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs),” October 24, 1997 (“1997 VMEP”); “Incorporating Voluntary Stationary Source Emission Reduction Programs Into State Implementation Plans—Final Policy,” January 19, 2001; “Incorporating Emerging and Voluntary Measures in a State Implementation Plan (SIP),” September 2004; “Guidance on Incorporating Bundled Measures in a State Implementation Plan,” August 16, 2005; and “Roadmap for Incorporating Energy Efficient and Renewable Energy Policies and Programs into State and Tribal Implementation Plans,” July 2012.

We are evaluating the incentive-based emission reductions in the Contingency Measure SIP in accordance with these fundamental integrity elements as applied, in particular, to discretionary “financial mechanism EIPs” and “voluntary mobile source emission reduction programs” (VMEPs). See 2001 EIP at Section 8.0 (describing “financial mechanism EIP” as a mechanism that indirectly reduces emissions by increasing costs for high emitting activities—e.g., through fees/taxes on emissions and subsidies targeted at promoting pollution-reducing activities or products) and 1997 VMEP at p. 3 (describing “VMEP” as a mobile source strategy that complements existing regulatory programs through voluntary, nonregulatory changes in local transportation sector activity levels or changes in in-use vehicle and engine fleet composition). A discretionary EIP or VMEP submission must be accompanied by sufficient technical support for EPA to determine that the statutory criteria for approval are met—e.g., procedures designed to compare projected emission reductions with actual emission reductions achieved; State commitments to monitor, assess, and report on program implementation and actual emission reductions achieved; and procedures for the State to remedy emission reduction shortfalls in a timely manner. See 2001 EIP at Section 5.0 and 1997 VMEP at pp. 6, 7.

The State must also demonstrate that it has adequate personnel and program resources to implement the program and that the EIP or VMEP does not interfere with other requirements of the Act. See id. and 2001 EIP at Section 11.0. With respect to VMEPs, EPA has in the past generally limited the amount of emission reductions allowed in a SIP to three percent (3 percent) of the total projected future year emission reductions required to attain the relevant NAAQS, and for any particular SIP submittal to demonstrate attainment or maintenance of the NAAQS or progress toward attainment (RFP), 3 percent of the specific statutory requirement. See 1997 VMEP at 5.

i. Overview of SJVUAPCD’s Incentive-Based Emission Reductions

The Carl Moyer Program is a California grant program established in 1998 that provides funding to encourage the voluntary purchase of cleaner-than-required engines, equipment, and other emission reduction technologies. See generally CARB, “The Carl Moyer Program Guidelines, Approved Revisions 2011,” Release Date: February 8, 2013, at Chapter 1 (available electronically at http://www.arb.ca.gov/msprog/moyer/moyer.htm). In its first 12 years, the Carl Moyer Program provided over $60 million in state and local funds to reduce air pollution from equipment statewide, e.g., by replacing older trucks with newer, cleaner trucks, retrofitting controls on existing engines, and encouraging the early retirement of older, more polluting vehicles. Id.

The Prop 1B program is a California grant program established in 2007, as a result of State bond funding approved by voters, which provides $1 billion in funding to CARB to reduce air pollution emissions and health risks from freight movement along California’s priority trade corridors. Under the enabling legislation (California Senate Bill 88 and
Assembly Bill 201 (2007)), CARB awards grants to fund projects proposed by local agencies that are involved in freight movement or air quality improvements associated with goods movement activities. Upon receipt of such grants, the local agencies are then responsible for providing financial incentives to owners of equipment used in freight movement to upgrade to cleaner technologies, consistent with program guidelines adopted by CARB. See generally "Strategic Growth Plan Bond Accountability, Goods Movement Emission Reduction Programs," approved February 27, 2008 (available electronically at http://www.arb.ca.gov/bonds/gmbond/docs/gmaccountability_with_links_2-27-08.pdf).

The Contingency Measure SIP states that a total of 10.9 tpd of NOX reductions and 0.44 tpd of direct PM2.5 reductions, to be achieved in 2015 through implementation of the Carl Moyer Program, Prop 1B, and EQIP, are available for contingency measure purposes and that these emission reductions achieved through incentive programs are quantifiable, surplus, enforceable, and permanent, as those terms are defined in Rule 9610. See Rule 9610, section 7.0 and section 2.25 (definition of "SIP-Creditable Emission Reduction"). In addition, each such SIP submission must include an enforceable commitment that: (1) Identifies incentive program guidelines used to generate projected SIP-credible emission reductions; (2) identifies emission reductions “projected to be achieved through the use of secured or reasonably anticipated incentive program funding” and estimated numbers of projects and willing participants; (3) is specifically adopted by the District as part of the SIP and accounted for in subsequent annual demonstration reports; and (4) states that “if either the District or EPA finds that there is a SIP shortfall for a particular year, the District will adopt and submit to EPA, by specified dates, substitute rules and measures that will achieve equivalent emission reductions as expeditiously as practicable and no later than any applicable implementation deadline in the Clean Air Act or EPA’s implementing regulations.” See Rule 9610, sections 7.1 through 7.4. Consistent with these criteria, the Contingency Measure SIP states the District’s and District’s demonstrations that specified portions of the following Prop 1B and Carl Moyer Program guidelines provide for emission reduction on projections of emission reductions from incentive programs to satisfy a CAA SIP requirement must include a demonstration that each applicable incentive program guideline continues to provide for “SIP-credible emission reductions”—i.e., emission reductions that are quantifiable, surplus, enforceable, and permanent, as those terms are defined in Rule 9610. See Rule 9610, section 7.0 and section 2.25 (definition of “SIP-Creditable Emission Reduction”). In addition, each such SIP submission must include an enforceable commitment that: (1) Identifies incentive program guidelines used to generate projected SIP-credible emission reductions; (2) identifies emission reductions “projected to be achieved through the use of secured or reasonably anticipated incentive program funding” and estimated numbers of projects and willing participants; (3) is specifically adopted by the District as part of the SIP and accounted for in subsequent annual demonstration reports; and (4) states that “if either the District or EPA finds that there is a SIP shortfall for a particular year, the District will adopt and submit to EPA, by specified dates, substitute rules and measures that will achieve equivalent emission reductions as expeditiously as practicable and no later than any applicable implementation deadline in the Clean Air Act or EPA’s implementing regulations.” See Rule 9610, sections 7.1 through 7.4.

The Contingency Measure SIP references “proposed” Rule 9610 because the rule was not yet adopted at the time the District was developing the Contingency Measure SIP. Rule 9610, as adopted by the SJVUAPCD Governing Board on June 23, 2013, is substantially unchanged from the proposed rule that the District made available for public comment on May 21, 2013, and section 7.0 of the adopted rule is identical to the text in the proposed rule. Unless otherwise noted, all references to Rule 9610 herein are to the rule as adopted June 20, 2013.

The Contingency Measure SIP relies on projections of emission reductions from incentive programs to satisfy a CAA SIP requirement must include a demonstration that each applicable incentive program guideline continues to provide for “SIP-credible emission reductions”—i.e., emission reductions that are quantifiable, surplus, enforceable, and permanent; (1) “Proposition 1B: Goods Movement Emission Reduction Program, Final 2010 Guidelines for Implementation,” adopted March 25, 2010; (2) “Proposition 1B: Goods Movement Emission Reduction Program, Final Guidelines for Implementation,” approved February 28, 2008; and (3) “The Carl Moyer Program Guidelines,” approved April 28, 2011. See email dated July 24, 2013 from Samir Sheikh, SJVUAPCD, toerry Drake, EPA Region 9, “RE: Per our conversation earlier.” In addition, the Contingency Measure SIP contains an enforceable commitment by the District: (1) to “account for” the District’s claimed 4.15 tpd of NOX reductions and 0.10 tpd of direct PM2.5 reductions “in annual demonstration reports pursuant to the requirements of Rule 9610”; and (2) if there is a shortfall in emission reductions from these incentive programs, to “adopt and submit to EPA substitute rules and measures that will achieve equivalent emission reductions as expeditiously as practicable and no later than any applicable implementation deadline in the CAA or EPA’s implementing regulations, by no later than December 31, 2016.” See SJVUAPCD Board Resolution No. 13-6-18 at p. 3.

Finally, information provided to support the Contingency Measure SIP demonstrates that the District has adequate personnel and program resources to implement the Carl Moyer Program and Prop 1B programs. See, e.g., “The Carl Moyer Program Guidelines” (approved April 28), Chapter 3 (“Program Administration”): “2011 Proposition 1B: Goods Movement Emission Reduction Program, Final 2010 Guidelines for Implementation” (adopted March 25, 2010) at Chapter III (“Local Agency Project Proposal”); and letter dated January 2, 2013 from James Goldstene, Executive Officer, CARB, to Seyed Sadredin, Air Pollution Control Officer, SJVUAPCD, enclosing “Incentive Program Review Report, San Joaquin Valley Air Pollution Control Board District Fiscal Years 2006–07 through 2009–10.”

ii. Evaluation of Applicable Incentive Program Guidelines and Projects

We have evaluated specific portions of the three incentive program guidelines identified above (the 2008 and 2010 Prop 1B guidelines and 2011
Carl Moyer Program guideline)\(^{19}\) and believe, with one exception, that they provide for emission reductions that are quantifiable, surplus, enforceable, and permanent consistent with the requirements of the CAA. The one exception is the option for the State to grant a longer project life on a case-by-case basis “if an applicant provides justifying documentation.” See, e.g., “The Carl Moyer Program Guidelines,” approved April 28, 2011, Chapter 9 (Off-Road Equipment Replacement) at section C.1.C.(5) (“Project Life”). This option to grant a longer project life on a case-by-case basis provides the State with broad discretion to extend the duration of emission reductions claimed from an equipment replacement project without any EPA oversight or public process. Because these case-by-case determinations could undermine the integrity of the program (e.g., by undermining EPA’s ability to limit SIP credit to the period during which the emission reductions are “surplus” to other requirements), EPA cannot grant SIP credit for emission reductions from projects subject to such a determination unless the District submits the individual determination for EPA review and approval through the SIP process.

With the limited exception of these provisions regarding case-by-case determinations, the portions of the identified program guidelines that we have reviewed establish clear criteria that enable the District to quantify the emission reductions attributed to specified projects with a reasonable level of accuracy; verify that those emission reductions are “surplus” as that term is defined in section 2.27 of Rule 9610\(^{20}\); enforce the conditions of that term is defined in section 2.27 of Rule 9610; and monitor the continuing implementation of program grants to ensure that contracted emission reductions are achieved; and

programs, as contracted between the Grantee and the District, NRCS, or CARB using incentive program guidelines at the time of contracting. Such actions include, but are not limited to, replacements, retrofits, new purchases, new practices, and repowers.

EPA is not reviewing projects funded through the EQuIP program at this time because the Contingency Measure SIP does not contain adequate documentation regarding this program. See n. 18, supra.

Available at [http://www.valleyair.org/MOP/docs/9610ProjectDataforPublicUnlock/6-7-13.xlsx](http://www.valleyair.org/MOP/docs/9610ProjectDataforPublicUnlock/6-7-13.xlsx).

In the Data Sheet, these Prop 1B projects are listed under the following columns: (1) Component: “Off-Road Prop 1B”; (2) Component Option: “Vehicle Replacement” and “Vehicle Replacement 2 for 1”; and (3) Applicable Guidelines: “Carl Moyer 2011.”

The Data Sheet also lists projects funded through the Prop 1B program and Carl Moyer Program that provide an adequate basis for the District’s claimed NO\(_X\) and direct PM\(_{2.5}\) emission reductions for 2015.\(^{22}\) The Contingency Measure SIP states that it relies on incentive-based emission reductions to be achieved from “already-executed, legally binding contracts” rather than on projections of future funding and participation rates. See Contingency Measure SIP at 7, 8. According to the 2013 Annual Demonstration Report and associated “Data Sheet,”\(^{23}\) on-road vehicle replacement projects that have been funded through the Prop 1B program and off-road vehicle replacement projects that have been funded through the Carl Moyer Program are expected to achieve NO\(_X\) and direct PM\(_{2.5}\) emission reductions in amounts adequate to cover the incentive-related emission reductions claimed by the District in the Contingency Measure SIP (i.e., the 4.15 tpd of NO\(_X\) reductions and 0.10 tpd of direct PM\(_{2.5}\) reductions claimed for 2013). Each of these funded projects is subject to one of the three incentive program guidelines identified above (i.e., the 2008 Prop 1B guideline, 2010 Prop 1B guideline, or 2011 Carl Moyer Program guideline).

Specifically, the Data Sheet identifies 1243 “on-road vehicle replacement” projects funded through the Prop 1B program that have a “project life” ending on or after January 1, 2016 and therefore will continue to achieve emission reductions at least through the end of 2015.\(^{24}\) Collectively, these 1243 funded projects are projected to achieve 3.78 tpd of NO\(_X\) reductions and 0.15 tpd of PM reductions in 2015. See Memorandum from Idalia Perez to File dated July 22, 2013. These totals are consistent with the emission reduction estimates for 2015 provided in Table 13 of the 2013 Annual Demonstration Report, which identifies the total reductions, in tons per day, of NO\(_X\), PM, and ROGs that the District expects will be achieved by Carl Moyer Program projects related to off-road vehicle replacement between 2009 and 2020. See 2013 Annual Demonstration Report at 37, Table 13 (“SIP-Creditable Incentive-Based Emission Reductions for Off-Road Compression-Ignition

\(^{25}\) California uses the term “reactive organic gases” (ROGs) to refer generally to volatile organic compounds (VOCs) as defined in 40 CFR 51.100(e).

\(^{26}\) In the Data Sheet, these Carl Moyer Program projects are listed under the following columns: (1) Component: “Carl Moyer Program”; (2) Component Option: “Vehicle Replacement” and “Vehicle Replacement 2 for 1”; and (3) Applicable Guidelines: “Carl Moyer 2011.” EPA has compiled these Carl Moyer Program projects into a separate document which identifies each project by its unique “project identification” code and information regarding the emission reductions it will achieve over its lifetime, in tons. See Proposal TSD at Attachment B (“Carl Moyer Program: Off-Road Vehicle Replacement projects achieving emission reductions through 2015”).
Equipment Replacement Claimed Pursuant to Section 3.1.” All of these funded projects are expected to continue achieving emission reductions through at least 2021. See Proposal TSD at Attachment B (“Carl Moyer Program: Off-Road Vehicle Replacement projects achieving emission reductions through 2015”) and Memorandum from Idalia Perez to File dated July 22, 2013. Although Chapter 9 of the 2011 Carl Moyer Program guideline contains several provisions allowing for case-by-case determinations, we understand that the District’s 2015 emission reduction estimates for Carl Moyer projects in Table 13 of the 2013 Annual Demonstration Report do not rely on any projects subject to case-by-case determinations, as such determinations are not eligible for SIP credit unless reviewed through a public process and submitted to EPA as part of a SIP submission meeting the requirements of Rule 9610.28

We conclude that the District’s documentation regarding these Prop 1B and Carl Moyer Program projects is adequate to ensure that the associated NOX and direct PM2.5 emission reductions can be monitored and verified. In any future SIP that relies on incentive-based emission reductions quantified pursuant to the requirements of Rule 9610, we expect the District will specifically identify the types of projects relied upon to generate the emission reductions and the specific incentive program guidelines that apply to those projects and we expect the subsequent annual demonstration reports will then list the individual projects relied upon to achieve those reductions, as provided in our Proposal TSD. We note that the 4.15 tpd of NOX reductions and 0.10 tpd of direct PM2.5 reductions attributed to the Carl Moyer Program and Prop 1B in 2015 for contingency measure purposes each amount to less than 2 percent of the total projected emission reductions of each pollutant needed to attain the 1997 PM2.5 NAAQS in the SJV.29


28 Rule 9610 specifically prohibits the use of any case-by-case determination to quantify emission reductions for SIP purposes “unless such determination is reviewed through a public process and submitted to EPA in accordance with Section 7.9 [of Rule 9610].” See Rule 9610 at section 3.2.2; see also 2013 Annual Demonstration Report at 11. Neither the 2013 Annual Demonstration Report nor the Contingency Measure SIP specifically identifies any case-by-case determination for EPA review.

29 The SJV PM2.5 SIP projects the total amounts of emission reductions needed to attain the PM2.5 NAAQS, from a 2005 base year to a 2014 attainment year, are as follows: 286.2 tpd of NOX reductions; 227 tpd of direct PM2.5 reductions; and 1.8 tpd of SOX reductions. See 76 FR 69896, 69923 (Table 4, line A) and Final TSD for SJV PM2.5 SIP, p. 113 (Table G–2, line C). Thus, the incentive program reductions identified in the Contingency Measure SIP amount to approximately 1.5 percent of the NOX reductions and 0.4 percent of the direct PM2.5 reductions needed for timely attainment of the PM2.5 NAAQS in the SJV.

EPA, no later than December 31, 2016, “substitute rules and measures that will achieve equivalent emission reductions as expeditiously as practicable and no later than any applicable implementation deadline in the CAA or EPA’s implementing regulations,” if there is a shortfall in emission reductions. SJVUAPCD Board Resolution No. 13–6–18, p. 3. Consistent with this commitment, EPA expects the District to confirm as part of its 2014 and 2015 Annual Demonstration Reports whether the claimed 4.15 tpd of NOX reductions and 0.10 tpd of direct PM2.5 reductions are expected to occur in 2015 as projected, and to provide the basis for its conclusion—e.g., information about actual program participation rates, actual reported activity data, project audits, usage reports, and other project monitoring activities consistent with the requirements of Rule 9610, section 4.0. If the District finds that there may be a shortfall in the claimed emission reductions for 2015, the District will be required to identify in its 2014 or 2015 Annual Demonstration Report both the estimated amount of the SIP shortfall (in tons per day, by pollutant) and the specific remedy to be implemented in the event of a shortfall—i.e., the substitute rules and measures that will achieve equivalent emission reductions, to be submitted to EPA no later than December 31, 2016. See Rule 9610, section 4.4 (“The District shall identify and quantify SIP commitment shortfalls, if any, and remedies for addressing said shortfalls” as part of the annual demonstration report). Finally, EPA expects the District’s 2016 Annual Demonstration Report will either confirm that the claimed 4.15 tpd of NOX reductions and 0.10 tpd of direct PM2.5 reductions actually occurred in 2015 as projected or identify and quantify the specific SIP shortfalls and specific remedies to be implemented consistent with the District’s commitment. Any conclusion that the District’s claimed 4.15 tpd of NOX reductions and 0.10 tpd of PM2.5 reductions actually occurred in 2015 must be supported by documentation of actual emissions, based on historical annual usage (i.e., reported activity data), actual program participation rates, project audits, and other information consistent with the requirements of sections 4.0 to 4.6 of Rule 9610. For a more detailed discussion of our evaluation of these commitments, see Proposal TSD, pp. 42 to 44.

These Board commitments oblige the District to monitor, assess, and report on program implementation and
actual emission reductions achieved and, ultimately, enable EPA and the public to determine whether the District’s claimed emission reductions (4.15 tpd of NOx reductions and 0.10 tpd of direct PM2.5 reductions) actually occurred in 2015. Based on the District’s long history of successful implementation and enforcement of Prop 1B and Carl Moyer Program grants and the detailed requirements in the associated incentive program guidelines, we fully expect that SJVUAPCD will achieve the required emission reductions in 2015 as projected. However, should EPA find based on the 2014 or 2015 Annual Demonstration Report that the District’s claimed 4.15 tpd of NOx reductions and 0.10 tpd of direct PM2.5 reductions may not occur in 2015 as projected, EPA will promptly notify the District of its potential obligation to adopt and submit substitute rules and measures consistent with its Board commitment no later than December 31, 2016, so that the District has ample time to develop and adopt such rules/measures consistent with this deadline. Subsequently, should EPA determine that the SJV area has failed to attain the PM2.5 NAAQS by the applicable attainment date of April 5, 2015, the District will be obligated to verify through its next annual report (i.e., the 2016 Annual Demonstration Report) whether the 4.15 tpd of NOx reductions and 0.10 tpd of direct PM2.5 reductions identified in the Contingency Measure SIP occurred in 2015, and if not, to adopt and submit substitute rules and measures to EPA consistent with its Board commitment no later than December 31, 2016.

iv. Conclusion on SJVUAPCD’s Incentive-Based Emission Reductions

Based on our evaluation of the District’s commitments regarding the Carl Moyer Program and Prop 1B and related technical documentation provided by the District in its SIP submission, we propose to find that the 2015 emission reductions associated with these specific incentive programs satisfy the statutory criteria for SIP credit and to approve these emission reductions as attainment contingency measures for the 1997 PM2.5 NAAQS in the SJV. Upon EPA’s final approval of the Contingency Measure SIP, the District’s commitments will become federally enforceable and will obligate it to monitor, assess, and report to EPA on implementation of the Carl Moyer Program and Prop 1B program grants with respect to the specific Prop 1B and Carl Moyer projects identified in EPA’s Proposal TSD. See Proposal TSD at Attachment A (“Prop 1B: On-Road Vehicle Replacement projects achieving emission reductions through 2015”) and Attachment B (“Carl Moyer Program: Off-Road Vehicle Replacement projects achieving emission reductions through 2015”).

EPA supports and encourages the continuing efforts by CARB, the District, and NRCS to make incentive programs and voluntary measures an effective part of the SJV’s strategy for clean air. We commit to continue our work with these agencies to establish reliable procedures for documenting the emission reductions associated with voluntary and incentive programs for SIP purposes, in particular through the District’s implementation of Rule 9610, which EPA intends to act on in the near future. Our collective goal is to establish a process that ensures that the emission reductions resulting from voluntary and incentive programs are quantifiable, surplus, emissions-based, and permanent consistent with CAA requirements as interpreted in EPA guidance. We welcome public comments on how best to achieve this goal.

c. Substitution of Direct PM2.5 Reductions for NOx Reductions

The District estimated, based on monitored air quality over the past five winter seasons, that triggering the contingency provision in the District’s wood burning rule would reduce direct PM2.5 emissions by a further 3.12 tpd. See Contingency Measure SIP, p. 6. This level of reduction exceeds the 2.5 tpd of direct PM2.5 reductions needed to meet the CAA contingency requirement for this pollutant by 0.62 tpd. Taking into account the 0.1 tpd of direct PM2.5 reductions from incentive programs discussed above in section III.C.2.b, the District then converted the total amount of surplus direct PM2.5 reductions (0.72 tpd) into NOx reductions at a ratio of 9 tons of NOx for each ton of direct PM2.5. Based on this PM2.5 to NOx conversion, the District concluded that a 0.72 tpd reduction in direct PM2.5 emissions has the same ambient air quality impact as a 6.48 tpd reduction in NOx emissions. Using the Community Multiscale Air Quality (CMAQ) modeling application underlying the attainment demonstration in the SJV PM2.5 Plan, CARB developed an equivalency ratio between emission reductions of direct PM2.5 and of NOx. For each pollutant, CARB modeled the ambient effect of a 10 percent reduction of emissions over the modeling domain. The concentration change per emission change gave a precursor effectiveness value for NOx and an effectiveness value for direct PM2.5. The ratio of these two effectiveness values provided the NOx-PM2.5 equivalency ratio.

Emission reductions of direct PM2.5 from the District’s wood burning restrictions tend to be concentrated in the SJV’s urban areas. These urban areas also typically record the highest PM2.5 ambient levels in the SJV. As explained above, the District is proposing to substitute these urban-centered direct PM2.5 reductions for region-wide NOx reductions. Because these wood burning reductions are concentrated in areas most likely to experience high levels of ambient PM2.5, their impact on these ambient levels will likely be greater than the same amount of PM2.5 reductions distributed over the entire nonattainment area. CARB’s full modeling domain approach, which assumed distributed PM2.5 reductions, will therefore tend to underestimate the impact of direct PM2.5 reductions from wood burning restrictions on ambient concentrations. As a result the 9:1 ratio of NOx to PM2.5 emission reductions in this case gives a conservatively high estimate of the direct PM2.5 emission reductions needed to substitute for a given amount of NOx reductions. EPA proposes to approve the use of this ratio for purposes of quantifying emission reductions to satisfy the CAA section 172(c)(9) attainment contingency measure requirement for the 1997 PM2.5 NAAQS in the SJV. For further information, see the Proposal TSD, pp. 44–45.

d. Summary

In sum, EPA believes that the Contingency Measure SIP identifies SIP-creditable attainment contingency measures that will achieve a total of 31.6 tpd of NOx, 2.5 tpd of direct PM2.5, and 3 tpd of SOx reductions in 2015. EPA believes that these emission reductions will equal or exceed one-year’s worth of RFP as calculated in EPA’s 2011 final action on the SJV PM2.5 SIP. See Table 1.

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30 EPA approved this air quality modeling as part of its approval of the attainment demonstration in the SJV PM2.5 Plan. See 76 FR 41338, 41349 and 76 FR 69896, 69924.

31 EPA has previously approved the use of this ratio for use in transportation conformity determinations for the 1997 PM2.5 NAAQS in the SJV. See 76 FR 69896, 69923. See also 76 FR 41338, 41349 (noting adequacy of CARB’s ratio for purposes of assessing the effect of “area-wide emissions changes,” e.g., to address RFP, contingency measures, and conformity budgets).
Based on our evaluation, we are proposing to fully approve the Contingency Measure SIP as satisfying the attainment contingency measure requirement in CAA section 172(c)(9) for the 1997 PM$_{2.5}$ NAAQS in the San Joaquin Valley nonattainment area. All of the emission reductions relied on to meet the attainment contingency measure requirement are provided by control measures or incentive programs that are fully adopted under State law. These measures and programs provide SIP-creditable emission reductions that are not relied on in the SJV PM$_{2.5}$ SIP to demonstrate RFP or attainment and provide for an appropriate level of continued emission reduction progress should the SJV area fail to attain by its statutory attainment date and necessitate additional planning.

**D. Clean Air Act Section 110(l)**

CAA section 110(l) prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and RFP or any other applicable CAA requirement. The Contingency Measure SIP contains SIP deficiencies identified in EPA’s November 9, 2011 partial approval and partial disapproval of the SJV PM$_{2.5}$ SIP (76 FR 69896). Specifically, the Contingency Measure SIP contains: (1) the District’s demonstration that actual emission levels in the SJV in 2012 were below the approved 2012 RFP milestone year targets and (2) identification of SIP-creditable emission reductions to be achieved in 2015 that are not relied on for RFP or expeditious attainment. The Contingency Measure SIP does not alter any existing emission limitation or other control requirement in the applicable SIP and only expands upon the contingency measure portion of the SJV PM$_{2.5}$ SIP, which EPA had partially disapproved in November 2011. We propose to determine that our approval of the Contingency Measure SIP would comply with CAA section 110(l) because the proposed SIP revision would not interfere with the on-going process for ensuring that requirements for RFP and attainment of the NAAQS are met, and the submitted SIP corrects SIP deficiencies that were the basis for EPA’s November 9, 2011 partial disapproval of the SJV PM$_{2.5}$ SIP.

### IV. Proposed Actions and Request for Public Comment

For the reasons discussed above, we are proposing to conclude that the Contingency Measure SIP submitted by CARB on July 3, 2013, satisfies the attainment contingency measure requirement in CAA section 172(c)(9) for the 1997 PM$_{2.5}$ NAAQS in the San Joaquin Valley nonattainment area and to fully approve this submission into the California SIP. We are also proposing to conclude that the RFP contingency measure requirement in CAA section 172(c)(9) for the 2012 milestone year is moot as applied to the San Joaquin Valley because the area achieved its approved emissions targets for the 2012 RFP milestone year. Finally, we are proposing to approve enforceable commitments by the SJVUAPCD to monitor, assess, and report on actual NO$_X$ and direct PM$_{2.5}$ emission reductions achieved through its implementation of specific Prop 1B and Carl Moyer Program grants and to remedy any identified emission reduction shortfall in a timely manner.

Finalizing these proposals would correct the deficiencies that were the basis for EPA’s partial disapproval of the SJV PM$_{2.5}$ SIP on November 9, 2011 (76 FR 69896) and would, therefore, terminate the CAA section 179(b) sanction and sanction clocks triggered by that action and the obligation on EPA to promulgate a federal implementation plan under CAA section 110(c).

We will accept comments from the public on these proposals for the next 30 days. The deadline and instructions for submission of comments are provided in the “Date” and “Addresses” sections at the beginning of this preamble.

### V. 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, EPA’s role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law 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 Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);

![Table 1: Summary of 2015 Emission Reductions Creditable as Attainment Contingency Measures](attachment:table1.png)

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<th>NO$_X$ (tons/day)</th>
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<th>SO$_X$ (tons/day)</th>
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<tbody>
<tr>
<td>California/Federal Mobile Source Control Program</td>
<td>21</td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>Surplus SO$_X$ Reductions from CARB and District Rules</td>
<td>4.15</td>
<td>0.1</td>
<td></td>
</tr>
<tr>
<td>Incentive Programs</td>
<td>0.3</td>
<td>3.1</td>
<td></td>
</tr>
<tr>
<td>Contingency Provision in District Rule 4901</td>
<td>6.5</td>
<td>-0.7</td>
<td></td>
</tr>
<tr>
<td>TOTAL EMISSION REDUCTIONS</td>
<td>31.9</td>
<td>2.5</td>
<td>3</td>
</tr>
<tr>
<td>Emission reductions equal to one-year’s worth of RFP</td>
<td>31.6</td>
<td>2.5</td>
<td>0.2</td>
</tr>
<tr>
<td>Contingency measure requirement met?</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

DATES: Submit comments on or before September 4, 2013.

ADDRESSES: You may submit comments, identified by PS Docket 12–94, by any of the following methods:

- Mail.
- People With Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: FCC50@fcc.gov or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the Procedural Matters section of this document.

FURTHER INFORMATION CONTACT: Gene Fullano, Federal Communications Commission, Public Safety and Homeland Security Bureau, at (202)–418–0492 or genaro.fullano@fcc.gov, or Brian Hurley, Federal Communications Commission, Public Safety and Homeland Security Bureau, at (202)–418–2220 or brian.hurley@fcc.gov.

SUPPLEMENTARY INFORMATION: The Public Safety and Homeland Security Bureau of the Federal Communications Commission provides seven days for public comment on matters raised by the First Responder Network Authority (FirstNet) in its August 2, 2013, filing in PS Docket 12–94. FirstNet’s filing responds to a Notice of Proposed Rulemaking (NPRM) that seeks comment on, among other matters, the consolidation into Part 90 of technical service rules for the 758–769 and 786–799 MHz bands, which, heretofore, have been subject to regulation under both Parts 27 and 90.2 The rules at issue include power, emission, and field strength limits and interference coordination procedures designed to prevent interference to operations of other Commission licensees. This proposed rule consolidation is intended to “facilitate the transition” of spectrum to the First Responder Network Authority (FirstNet), the entity licensed to establish a nationwide public safety broadband network using both the public safety broadband spectrum (763–768/793–798 MHz) and the adjacent “D Block” (758–763/788–793 MHz) previously slated for commercial auction.3 In proposing this rule consolidation, the Commission further directed its Office of Engineering and Technology (OET) to suspend its acceptance and processing of applications for equipment authorization in these bands pending the adoption of technical service rules applicable to the combined band.4

In its filing, FirstNet supports “consolidating the technical service requirements for the D Block into Part 90 of the Commission’s Rules” and recommends that the Commission “act quickly to amend its technical service rules to enable FirstNet to expedite the deployment of its network.”5 Additionally, FirstNet urges “swift Commission action to begin accepting and processing equipment authorizations in the newly combined spectrum,” citing “an imminent need for authorized equipment to meet the needs of jurisdictions that may deploy early” in FirstNet’s licensed spectrum under spectrum leases. FirstNet has already entered lease agreements with the Los Angeles Regional Interoperable Communications System (LA–RICS) and the State of New Mexico, and it has stated its intention to execute similar agreements with other public safety jurisdictions in the near future.6 While

1 The Bureau takes this action pursuant to its delegated authority. See 47 CFR 0.392. As noted elsewhere herein, the short time frame provided by this notice is warranted in light of the pressing need recognized by FirstNet and other commenters for expedition on reinstituting the currently suspended equipment authorization process. Moreover, this notice follows a full NPRM comment period. Accordingly, parties should submit any new arguments now in order to facilitate prompt action by the Commission.


3 See id. at 2716, 2721 ¶ 2, 17; see also 47 U.S.C. 1424 (2012) (establishing FirstNet). FirstNet’s license also includes the 768–769/798–799 MHz band, id. 1401(14), 1421(a), which is currently designated under Commission rules as a guard band separating the broadband and narrowband segments of the 700 MHz public safety spectrum. See 47 CFR 90.531(f).

4 See id. at 2725–26 ¶ 33.


6 See National Telecommunications and Information Administration, FirstNet Approves Resolutions on Spectrum Lease Agreement with LA–RICS and Personnel Acquisition Strategy.