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 pertaining to ACHD’s adoption of CTG standards for miscellaneous metal and/or plastic parts surface coating processes, automobile and light-duty truck assembly coatings, miscellaneous industrial adhesives, and fiberglass boat manufacturing materials 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 30, 2015.

Shawn M. Garvin, Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Article XX or XXI citation Title/subject State effective date EPA approval date Additional explanation/
§52.2063 citation

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§52.2023  [Amended]

1. Section 52.2023 is amended by removing paragraph (m).

2. In §52.2020, the table in paragraph (c)(2) is amended by revising the entries for “2105.83,” “2105.84,” “2105.85,” and “2105.86” under part E, subpart 7. The revisions read as follows:

Subpart 7—Miscellaneous VOC Sources

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[FR Doc. 2016–00656 Filed 1–19–16; 8:45 am] BILLING CODE 6560–50–P

FOR FURTHER INFORMATION CONTACT:

Wienke Tax, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region 9, (415) 947–4192, tax.wienke@epa.gov.
SJV area cannot practicably attain the NAAQS by the applicable attainment date of December 31, 2015.3 Under section 188(b)(1) of the CAA, prior to an area’s attainment date, the EPA has discretionary authority to reclassify a Serious nonattainment area “any area that the Administrator determines cannot practicably attain” the PM2.5 NAAQS by the Moderate area attainment date.2 On March 4, 2013, the State submitted a Moderate area attainment plan demonstrating that the SJV area cannot practicably attain the 2006 PM2.5 standards by the applicable Moderate area attainment date of December 31, 2015. The EPA’s proposed reclassification of the SJV area was based upon our evaluation of the State’s attainment demonstration that the area is nonattainment for the 2006 PM2.5 NAAQS by December 31, 2015.4 In our proposed rule, we explained that, under section 188(c)(2) of the Act, the attainment date for a Serious area “shall be as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the area’s designation as nonattainment . . . .” The SJV was designated nonattainment for the 2006 PM2.5 NAAQS effective December 14, 2009.4 Therefore, as a result of our reclassification of the SJV area as a Serious nonattainment area, the attainment date under section 188(c)(2) of the Act for the 2006 PM2.5 NAAQS in this area is as expeditiously as practicable but no later than December 31, 2019.

Our proposed rule also identified the additional Serious area attainment plan elements that California would, upon reclassification, have to submit to satisfy the statutory requirements that apply to Serious areas, including the requirements of subpart 4 of part D, title I of the Act.5 The EPA explained that, under section 189(b)(2) of the Act, the State must submit the required provisions to implement best available control measures (BACM), including best available control technology (BACT), no later than 18 months after reclassification and must submit the required attainment demonstration no later than 4 years after reclassification. Given the December 31, 2019, Serious area attainment date applicable to this area under CAA section 188(c)(2), however, we noted that we expect the State to adopt and submit a Serious area plan for these NAAQS well before the statutory SIP submittal deadline in CAA section 189(b)(2).6 With respect to the nonattainment new source review (NNSR) program revisions to establish appropriate “major stationary source” thresholds for direct PM2.5 and PM2.5 precursors in accordance with CAA section 189(b)(3), the EPA proposed to require the State to submit these NNSR SIP revisions no later than 12 months after the effective date of final reclassification, and requested comment on this proposed 12-month timeframe.

II. Summary of Final Action

Today we are finalizing our proposal to reclassify the SJV area as a Serious nonattainment area for the 2006 PM2.5 NAAQS. We are not taking final action at this time on our proposal to approve elements of California’s Moderate area plan for the 2006 PM2.5 NAAQS in the SJV and will complete that action at a later time.

As a consequence of our reclassification of the SJV area as Serious nonattainment for the 2006 PM2.5 NAAQS, California is required to submit additional SIP revisions to satisfy the statutory requirements that apply to Serious areas, including the requirements of subpart 4 of part D, title I of the Act. For the reasons provided in Section III of this preamble, the EPA is requiring the State to adopt and submit all required components of the Serious Area attainment plan for the SJV no later than 18 months after the effective date of this reclassification.

We are finalizing our proposal to require that California adopt and submit NNSR SIP revisions to implement subpart 4 requirements for the 2006 PM2.5 NAAQS in the SJV area no later than 12 months after the effective date of this reclassification, to the extent those requirements have not already been met by the NNSR SIP revisions due May 7, 2016, for purposes of implementing the 1997 PM2.5 NAAQS.7

The attainment date under section 188(c)(2) of the Act for the 2006 PM2.5 NAAQS in this area is as expeditiously as practicable but no later than December 31, 2019.

III. Public Comments and EPA Responses

The EPA received two comment letters on our proposed actions. Comment letters were submitted by the San Joaquin Valley Air Pollution Control District (“SJVAPCD” or “District”), and by Earthjustice on behalf of the Central Valley Air Quality Coalition, Greenaction, the Association of Irritated Residents, the Sierra Club—Tehipte Chapter, and Global Community Monitor, (“Earthjustice”) on
February 27, 2015, prior to the close of the comment period on our proposal.8

Because we are finalizing only our proposal to reclassify the SJV area as Serious nonattainment for the 2006 PM2.5 NAAQS, we are responding only to comments pertaining to the reclassification and its consequences.

We summarize and respond to the relevant comments below. In a separate rulemaking, we will take final action on California’s submitted Moderate area plan for the 2006 PM2.5 NAAQS in the SJV and will respond to comments pertaining to our proposed action on the submitted plan at that time.

Comment 1: The SJVAPCD supports the EPA’s proposal to require the state to submit a revised Nonattainment New Source Review (NNSR) plan for the 2006 PM2.5 NAAQS, and related SIP submission deadlines. This reclassification action does not affect the State’s obligations with respect to the 1997 PM2.5 standards or any other NAAQS. We previously responded to the District’s comments concerning the relevance of NNSR SIP revisions to the section 188(e) criteria for an extension of the attainment date for the 1997 PM2.5 standards, as part of our final action reclassifying the SJV area as a Serious nonattainment area for the 1997 PM2.5 NAAQS (see 80 FR 18528, April 7, 2015).

Comment 2: Earthjustice supports the EPA’s proposed reclassification of the SJV to serious nonattainment, but comments that the agency should impose earlier deadlines for the submission of BACM measures and the serious area attainment demonstration. Earthjustice further argues that the EPA should exercise its discretion and adopt the PM2.5 nonattainment areas under subpart 4 by May 7, 2016, as a result of our previous reclassification of the SJV as Serious nonattainment for the 1997 PM2.5 NAAQS.9 Nonattainment NSR SIP revisions that satisfy the Serious Area requirements of CAA sections 189(b)(3) and 189(e) for purposes of the 1997 PM2.5 NAAQS may also satisfy these requirements for the 2006 PM2.5 NAAQS.

The District’s comments about the criteria for an extension of the attainment date for the 1997 PM2.5 standards under CAA section 188(e) are not relevant to this action, which pertains only to the SJV area’s classification for the 2006 PM2.5 NAAQS and related SIP submission deadlines.

Response 2: We disagree with the commenter’s assertion that the deadlines in CAA section 189(b)(2) for submission of the State’s BACM plan and Serious Area attainment plan should be measured from December 14, 2012. Section 189(b)(1) of the Act requires that “each State in which all or part of a Serious Area is located” submit a Serious Area attainment demonstration and BACM provisions. Section 189(b)(2) requires the State to submit the Serious Area attainment demonstration “no later than 4 years after reclassification of the area to Serious” and to submit the BACM provisions “no later than 18 months after reclassification of the area as a Serious Area.” These provisions of the Act plainly require that states submit Serious Area SIP elements only for PM2.5 nonattainment areas that have been reclassified as Serious under subpart 4.

Prior to this reclassification action, the SJV area was classified as a Moderate Area for the 2006 PM2.5 NAAQS and therefore was not subject to the requirements for Serious Area plans in CAA section 189(b) for these NAAQS. Because the EPA did not reclassify the SJV area as a Serious Area effective December 14, 2012, it is not appropriate to establish SIP submission deadlines under section 189(b)(2) based on a December 14, 2012 reclassification date. Moreover, to do so in this instance would mean that the BACM provisions.

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9 See 40 CFR 52.245(c) and 80 FR 18528, 18533 (April 7, 2015). We are making minor clarifications to the regulatory text in 40 CFR 52.245(c) to indicate that the May 7, 2016 deadline therein pertains only to NNSR SIP revisions necessary to implement the 1997 PM2.5 NAAQS.
reiterated this interpretation of section 188(b)(1) in the 1994 PM–10 Addendum14 and in several discretionary reclassification actions subsequent to the 1990 CAA Amendments.15

Specifically, with respect to areas designated nonattainment by operation of law upon enactment of the 1990 CAA Amendments (i.e., “initial” PM–10 nonattainment areas), the EPA’s longstanding interpretation of section 188(b)(1)(A) has been that “the amended Act specifies certain dates by which EPA must propose to reclassify appropriate moderate areas as serious. . . and take final action,” where the EPA determines that the area cannot “practicably” attain the PM–10 NAAQS by December 31, 1994.16 The EPA further explained, however, that “EPA also has discretionary authority under section 188(b)(1) to reclassify any of these areas as serious at any time, if EPA determines they cannot practicably attain the PM–10 NAAQS by December 31, 1994.”17 and provided examples of the circumstances under which EPA would consider such discretionary reclassification at a later date—i.e., after the December 31, 1991 date specified in section 188(b)(1)(A).18 In the PM–10 Addendum, the EPA stated that “[s]ection 188(b)(1)(A) provides an accelerated schedule by which EPA is to reclassify appropriate initial PM–10 nonattainment areas” but reiterated the Agency’s interpretation of section 188(b)(1) as a general grant of authority to reclassify any Moderate area as a Serious area at any time before the applicable attainment date, based on a determination that the area cannot practically attain the NAAQS by that date, we disagree with the commenter’s claim that the EPA should have reclassified the SJV area as Serious by December 14, 2012.

Upon further consideration and in light of the specific circumstances in the SJV PM$_2.5$ nonattainment area, however, the EPA is exercising its discretion to establish a deadline of 18 months from the effective date of this final reclassification action for the State to submit all required components of the Serious Area attainment plan for the 2006 PM$_2.5$ NAAQS in the SJV. An 18-month deadline for submission of these SIP elements is appropriate in this instance because it both enables the EPA to evaluate the required attainment plan well before the outermost attainment date applicable to the area under CAA section 188(c)(2) and enables the State to develop its strategy.

13 General Preamble, 57 FR 13498, 13537.

14 State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, 59 FR 41998, 41999 (August 16, 1994) (the “PM–10 Addendum”).

15 See 56 FR 3334, 3336 (Jan. 8, 1993) (discharging EPA’s general grant of discretionary authority under section 188(b)(1)(A) to “reclassify appropriate initial moderate PM–10 nonattainment areas as serious by December 31, 1991” but noting EPA’s broad discretion under section 188(b)(1) to reclassify additional areas at a later date); see also 80 FR 18528 (April 7, 2015) (final discretionary reclassification of San Joaquin Valley for 1997 PM$_2.5$ NAAQS signed March 27, 2015).

16 General Preamble, 57 FR 13498, 13537. Under section 188(c)(1) of the Act, December 31, 1994 was the latest permissible Moderate area attainment date for an area designated nonattainment for PM–10 by operation of law under the 1990 CAA Amendments.

17 General Preamble, 57 FR 13498, 13537.

18 Id. ("The EPA may exercise this discretion where, for example, EPA originally believed an area could attain the PM–10 NAAQS by December 31, 1994 but later determines that it cannot attain"); see also 56 FR 38565, 38567 (Nov. 21, 1991) (noting that “EPA also has authority to reclassify any of these areas as serious after December 31, 1991 (e.g., after reviewing the State’s PM–10 SIP), if EPA determines they cannot practically attain the PM–10 NAAQS by December 31, 1994”) and 58 FR 3334, 3336 (Jan. 8, 1993) (noting that EPA may in the future reclassify additional PM–10 nonattainment areas using its discretionary authority in section 188(b)(1)).
for attaining the 2006 PM$_{2.5}$ NAAQS in conjunction with its development of a plan to provide for attainment of the 2012 primary annual PM$_{2.5}$ NAAQS in this same area, which is due October 15, 2016. Although the State’s obligations with respect to implementation of a Moderate area plan for the 2012 PM$_{2.5}$ NAAQS are separate and distinct from its obligations with respect to implementation of a Serious area plan for the 2006 PM$_{2.5}$ NAAQS, it is reasonable in this instance to require the State to develop its control strategies for both PM$_{2.5}$ NAAQS in the SJV area in a similar timeframe, considering the benefits of streamlining these planning processes to the extent possible.

In addition, an 18-month deadline for submission of the Serious area plan is consistent with both the timeframe for initial Moderate area plan submissions upon designation of an area as nonattainment and the timeframe for Serious area plan submissions following an EPA determination of failure to attain and reclassification by operation of law under CAA section 189(b)(2). It is reasonable for the EPA to exercise its discretion to establish a similar SIP submission deadline in this instance, given the proximity of this action to the Moderate area attainment date (December 31, 2015) and the likelihood that, should the attainment date pass, the EPA would have to determine under section 188(b)(2) that the SJV area failed to attain the PM$_{2.5}$ NAAQS by that date. Although CAA section 189(b)(2) generally provides for up to 4 years after a discretionary reclassification for the State to submit the required attainment demonstration, we find it appropriate in this case to establish an earlier SIP submission deadline to assure timely implementation of the statutory requirements. Furthermore, the 18-month SIP submission deadline that we are finalizing in this action requires California to submit its Serious Area plan for the SJV area before the statutory SIP submission deadline that would apply upon reclassification by operation of law under section 188(b)(2).

Finally, the EPA is requiring California to submit revised nonattainment NSR program requirements no later than 12 months after final reclassification, to the extent those requirements have not already been met by the NNSR revisions due May 7, 2016 for purposes of implementing the 1997 PM$_{2.5}$ NAAQS in the SJV. The Act does not specify a deadline for the State’s submission of SIP revisions to meet NNSR program requirements in section 189 of the Act, the EPA is requiring the State to submit these NNSR SIP revisions, as well as any necessary analysis of and additional control requirements for major stationary sources of PM$_{2.5}$ precursors, no later than 12 months after the effective date of final reclassification of the SJV area as Serious nonattainment for the 2006 PM$_{2.5}$ NAAQS.

IV. Final Action

A. Reclassification as Serious Nonattainment and Applicable Attainment Date

In accordance with section 188(b)(1) of the Act, the EPA is taking final action to reclassify the SJV area from Moderate to Serious nonattainment for the 2006 PM$_{2.5}$ NAAQS in the SJV area in a similar timeframe, considering the benefits of streamlining these planning processes to the extent possible.

Under section 188(c)(2) of the Act, the attainment date for a Serious area “shall be as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the area’s designation as nonattainment. . . .” The SJV area was designated nonattainment for the 2006 PM$_{2.5}$ NAAQS effective December 14, 2000. Therefore, as a result of our reclassification of the SJV area as a Serious nonattainment area, the attainment date under section 188(c)(2) of the Act for the 2006 PM$_{2.5}$ NAAQS in this area is as expeditiously as practicable but no later than December 31, 2019.

B. Reclassification of Reservation Areas of Indian Country

Eight Indian tribes are located within the boundaries of the San Joaquin Valley PM$_{2.5}$ nonattainment area: The Big Sandy Rancheria of Mono Indians of California, the Cold Springs Rancheria of Mono Indians of California, the North Fork Rancheria of Mono Indians of California, the Picayune Rancheria of Chukchansi Indians of California, the Santa Rosa Rancheria of the Tachi Yokut Tribe, the Table Mountain Rancheria of California, the Tejon Indian Tribe, and the Tule River Indian Tribe of the Tule River Reservation.

We have considered the relevance of our final action to reclassify the SJV nonattainment area as Serious nonattainment for the 2006 PM$_{2.5}$ standards to each tribe located within the SJV area. As discussed in more detail in our proposed rule, we believe that the same facts and circumstances that support the reclassification for the non-Indian country lands also support reclassification for reservation areas of Indian country and any other areas of Indian country where the EPA or a tribe has demonstrated that the tribe has jurisdiction located within the SJV nonattainment area. In this final action, the EPA is therefore exercising our authority under CAA section 188(b)(1) to reclassify reservation areas of Indian country and any other areas of Indian country where the EPA or a tribe...
has demonstrated that the tribe has jurisdiction geographically located in the SJV nonattainment area. Section 188(b)(1) broadly authorizes the EPA to reclassify a nonattainment area—including any such area of Indian country located within such area—that the EPA determines cannot practically attain the relevant standards by the applicable attainment date.

In light of the considerations outlined above and in our proposed rulemaking that support retention of a uniformly-classified PM$_{2.5}$ nonattainment area, and our finding that it is impracticable for the area to attain by the applicable attainment date, we are finalizing our reclassification of the reservation areas of Indian country and any other areas of Indian country where the EPA or a tribe has demonstrated that the tribe has jurisdiction within the San Joaquin Valley nonattainment area to Serious for the 2006 PM$_{2.5}$ standards.

The effect of reclassification would be to lower the applicable “major stationary source” emissions thresholds for direct PM$_{2.5}$ and PM$_{2.5}$ precursors for purposes of the NNSR program and the Title V operating permit program (CAA sections 189(b)(3) and 501(2)(B)), thus subjecting more new or modified stationary sources to these requirements. The reclassification may also lower the de minimis threshold under the CAA’s General Conformity requirements (40 CFR part 93, subpart B) from 100 tpy to 70 tpy. Under the General Conformity requirements (40 CFR part 93, subpart B), federal agencies bear the responsibility of determining conformity of actions in nonattainment and maintenance areas that require federal permits, approvals, or funding. Such permits, approvals or funding by federal agencies for projects in these areas of Indian country may be more difficult to obtain because of the lower de minimis thresholds.

Given the potential implications of the reclassification, the EPA contacted tribal officials early in the process of developing this action to permit them to have meaningful and timely input into its development. The EPA invited tribal officials to consult during the development of the proposed rule and following signature of the proposed rule. On February 17, 2015, the EPA received a letter dated January 30, 2015 from the Tejon Tribe requesting information about the proposed reclassification. The EPA subsequently invited the Tejon Tribe several times to participate in a conference call but received no response from the Tribe. No other Indian tribe has expressed an interest in discussing this action with the EPA. We continue to invite Indian tribes in the SJV to contact the EPA with any questions about the effects of this reclassification on tribal interests and air quality. We note that although eligible tribes may opt to seek EPA approval of relevant tribal programs under the CAA, none of the affected tribes will be required to submit an implementation plan to address this reclassification.

### C. PM$_{2.5}$ Serious Area SIP Requirements

As a consequence of our reclassification of the SJV area as a Serious nonattainment area for the 2006 PM$_{2.5}$ NAAQS, California is required to submit additional SIP revisions to satisfy the statutory requirements that apply to Serious areas, including the requirements of subpart 4 of part D, title I of the Act. The Serious area SIP elements that California must submit are as follows:

1. Provisions to assure that BACM, including BACT for stationary sources, for the control of direct PM$_{2.5}$ and PM$_{2.5}$ precursors shall be implemented no later than 4 years after the area is reclassified (CAA section 189(b)(1)(B));
2. A demonstration (including air quality modeling) that the plan provides for attainment as expeditiously as practicable but no later than December 31, 2019, or where the State is seeking an extension of the attainment date under section 188(e), a demonstration that attainment by December 31, 2019 is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable (CAA sections 188(c)(2) and 189(b)(1)(A));
3. Plan provisions that require reasonable further progress (RFP) toward attainment by the applicable date (CAA section 172(c)(2));
4. Quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate RFP toward attainment by the applicable date (CAA section 189(c));
5. Provisions to assure that control requirements applicable to major stationary sources of direct PM$_{2.5}$ also apply to major stationary sources of PM$_{2.5}$ precursors, except where the State demonstrates to the EPA’s satisfaction that such sources do not contribute significantly to PM$_{2.5}$ levels that exceed the standard in the area (CAA section 189(e));
6. A comprehensive, accurate, current inventory of actual emissions from all sources of direct PM$_{2.5}$ and all PM$_{2.5}$ precursors in the area (CAA section 172(c)(3));
7. Contingency measures to be implemented if the area fails to meet RFP or to attain by the applicable attainment date (CAA section 172(c)(9)); and
8. A revision to the NNSR program to establish appropriate “major stationary source” thresholds for direct PM$_{2.5}$ and PM$_{2.5}$ precursors (CAA section 189(b)(3)).

Section 189(b)(2) states, in relevant part, that the State must submit the required BACM provisions “no later than 18 months after reclassification of the area as a Serious Area” and must submit the required attainment demonstration “no later than 4 years after reclassification of the area to Serious.” For the reasons provided in Section III of this preamble (Public Comments and EPA Responses), the EPA is requiring the State to adopt and submit all components of the Serious area attainment plan for the 2006 PM$_{2.5}$ NAAQS in the SJV no later than 18 months after the effective date of reclassification.

Finally, for the reasons provided in our proposed rule and in our response to comments above, we are finalizing our proposal to require the State to submit NNSR SIP revisions to implement subpart 4 Serious Area requirements for the 2006 PM$_{2.5}$ NAAQS in the SJV no later than 12 months after the effective date of this reclassification, to the extent those requirements have not already been met by the NNSR revisions due May 7, 2016 for purposes of implementing the 1997 PM$_{2.5}$ NAAQS in the SJV. Nonattainment NSR SIP revisions that satisfy the Serious Area requirements of CAA sections 189(b)(3) and 189(e) for purposes of the 1997 PM$_{2.5}$ NAAQS may also satisfy these requirements for the 2006 PM$_{2.5}$ NAAQS.

### V. Statutory and Executive Order Reviews

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

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32 As discussed in more detail in our proposed rule, the EPA sent letters to tribal officials inviting government-to-government consultation. The letters can be found in the docket.
33 For any Serious area, the terms “major source” and “major stationary source” include any stationary source that emits or has the potential to emit at least 70 tons per year of PM$_{2.5}$ (CAA section 189(b)(3)).
34 See 80 FR 1816, at 1843. (January 13, 2015).
35 See 40 CFR 52.245(c) and 80 FR 18528, 18533 (April 7, 2015).
A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 13563: Improving Regulation and Regulatory Review

This action is exempt from review by the Office of Management and Budget (OMB) because it relates to a designation of an area for air quality purposes and will reclassify the SJV from its current air quality designation of Moderate nonattainment to Serious nonattainment for the 2006 PM$_{2.5}$ NAAQS.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This action does not contain any information collection activities.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. The final rule requires the state to adopt and submit SIP revisions to satisfy the statutory requirements that apply to Serious areas, and would not itself directly regulate any small entities (see section III.C of this final rule).

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of $100 million or more and does not significantly or uniquely affect small governments, as described in UMRA (2 U.S.C. 1531–1538). This action itself imposes no enforceable duty on any state, local, or tribal governments, or the private sector.

The final rule reclassifies the SJV nonattainment area as Serious nonattainment for the 2006 PM$_{2.5}$ NAAQS, which triggers existing statutory duties for the state to submit SIP revisions. Such a reclassification in and of itself does not impose any federal intergovernmental mandate. The final action does not require any tribes to submit implementation plans.

E. Executive Order 13132: Federalism

This action does not have federalism implications.

F. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This action may have tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. Eight Indian tribes are located within the boundaries of the SJV nonattainment area for the 2006 PM$_{2.5}$ NAAQS: The Big Sandy Rancheria of Mono Indians of California, the Cold Springs Rancheria of Mono Indians of California, the North Fork Rancheria of Mono Indians of California, the Picayune Rancheria of Chukchansi Indians of California, the Santa Rosa Rancheria of the Tachi Yokut Tribe, the Table Mountain Rancheria of California, the Tejon Indian Tribe, and the Tule River Indian Tribe of the Tule River Reservation. We note that none of the tribes located in the SJV nonattainment area has requested eligibility to administer programs under the Clean Air Act. This final action affects the EPA’s implementation of the new source review program because of the lower “major stationary source” threshold triggered by reclassification (CAA 189(b)(3)). The final action may also affect new or modified stationary sources in these areas that require federal permits, approvals, or funding. Such projects are subject to the requirements of the EPA’s General Conformity rule, and federal permits, approvals, or funding for the projects may be more difficult to obtain because of the lower de minimis thresholds triggered by reclassification.

Given these potential implications, consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, the EPA contacted tribal officials early in the process of developing this action to permit them to have meaningful and timely input into its development. The EPA invited tribal officials to consult during the development of the proposed rule and following signature of the proposed rule. As discussed in more detail in our proposed action, we sent letters to leaders of the tribes with areas of Indian country in the SJV nonattainment area inviting government-to-government consultation on the rulemaking effort. On February 17, 2015, the EPA received a letter dated January 30, 2015 from the Tejon Tribe requesting information about the proposed reclassification. The EPA subsequently invited the Tejon Tribe several times to participate in a conference call but received no response from the Tribe. No other Indian tribe has expressed an interest in discussing this action with the EPA. We continue to invite Indian tribes in the SJV to contact the EPA with any questions about the effects of this reclassification on tribal interests and air quality.

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

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it reclassifies the SJV nonattainment area as Serious nonattainment for the 2006 PM$_{2.5}$ NAAQS, which triggers additional Serious area planning requirements under the CAA. This action does not establish an environmental standard intended to mitigate health or safety risks.

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

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

I. National Technology Transfer and Advancement Act

This action is not subject to the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because it does not involve technical standards.

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

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. This action reclassifies the SJV nonattainment area as Serious nonattainment for the 2006 PM$_{2.5}$ NAAQS, which triggers additional Serious area planning requirements under the CAA.

K. Congressional Review Act

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 Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule 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.
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). This rule will be effective on February 19, 2016.

L. Petitions for Judicial Review
Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 21, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects
40 CFR Part 52
Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

40 CFR Part 81
Environmental protection, Air pollution control.

Dated: December 22, 2015.

Jared Blumenfeld,
Regional Administrator, EPA Region 9.

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.

2. Section 52.245 is amended by revising paragraph (c) and adding paragraph (e) to read as follows:

§ 52.245 New Source Review rules.

(c) By May 7, 2016, the New Source Review rules for PM$2.5$ for the San Joaquin Valley Unified Air Pollution Control District must be revised and submitted as a SIP revision. The rules must satisfy the requirements of sections 189(b)(3) and 189(e) and all other applicable requirements of the Clean Air Act for implementation of the 1997 PM$2.5$ NAAQS.

(e) By February 21, 2017, the New Source Review rules for PM$2.5$ for the San Joaquin Valley Unified Air Pollution Control District must be revised and submitted as a SIP revision. The rules must satisfy the requirements of sections 189(b)(3) and 189(e) and all other applicable requirements of the Clean Air Act for implementation of the 2006 PM$2.5$ NAAQS.

3. Section 52.247 is amended by adding paragraph (e) to read as follows:

§ 52.247 Control Strategy and regulations: Fine Particle Matter.

(e) By August 21, 2017, California must adopt and submit a Serious Area plan to provide for attainment of the 2006 PM$2.5$ NAAQS in the San Joaquin Valley PM$2.5$ nonattainment area. The Serious Area plan must include emissions inventories, an attainment demonstration, best available control measures, a reasonable further progress plan, quantitative milestones, contingency measures, and such other measures as may be necessary or appropriate to provide for attainment of the 2006 PM$2.5$ NAAQS by the applicable attainment date, in accordance with the requirements of subparts 1 and 4 of part D, title I of the Clean Air Act.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

4. The authority citation for part 81 continues to read as follows:

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

5. Section 81.305 is amended in the table titled “California—2006 24-Hour PM$2.5$ NAAQS [Primary and secondary],” by revising the entries under “San Joaquin Valley, CA” to read as follows:

§ 81.305 California.

* * * * *

<table>
<thead>
<tr>
<th>Designated area</th>
<th>Designation a</th>
<th>Date 1 Type</th>
<th>Classification</th>
<th>Date 2 Type</th>
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<td>San Joaquin Valley, CA:</td>
<td>Nonattainment</td>
<td>February 19, 2016</td>
<td>Serious.</td>
<td></td>
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<tr>
<td>Fresno County</td>
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<tr>
<td>Kern County (part)</td>
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CALIFORNIA—2006 24-HOUR PM$2.5$ NAAQS [Primary and secondary]
### Designated area

<table>
<thead>
<tr>
<th>Designated area</th>
<th>Designation a</th>
<th>Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>That portion of Kern County which lies west and north of a line described as follows: Beginning at the Kern-Los Angeles County boundary and running north and east along the northwest boundary of the Rancho La Libre Land Grant to the point of intersection with the range line common to R. 16 W. and R. 17 W., San Bernardino Base and Meridian; north along the range line to the point of intersection with the Rancho El Tejon Land Grant boundary; then southeast, northeast, and northwest along the boundary of the Rancho El Tejon Land Grant to the northwest corner of S. 3, T. 11 N., R. 17 W.; then west 1.2 miles; then north to the Rancho El Tejon Land Grant boundary; then northeast along the Rancho El Tejon line to the southeast corner of S. 34, T. 32 S., R. 30 E., Mount Diablo Base and Meridian; then north to the northwest corner of S. 35, T. 31 S., R. 30 E.; then northeast along the boundary of the Rancho El Tejon Land Grant to the southwest corner of S. 18, T. 31 S., R. 31 E.; then east to the southeast corner of S. 13, T. 31 S., R. 31 E.; then north along the range line common to R. 31 E. and R. 32 E., Mount Diablo Base and Meridian, to the northwest corner of S. 6, T. 29 S., R. 32 E.; then east to the southeast corner of S. 31, T. 28 S., R. 32 E.; then north along the range line common to R. 31 E. and R. 32 E. to the southwest corner of S. 6, T. 28 S., R. 32 E., then west to the southeast corner of S. 36, T. 27 S., R. 31 E., then north along the range line common to R. 31 E. and R. 32 E. to the Kern-Tulare County boundary.</td>
<td>Nonattainment</td>
<td>February 19, 2016.</td>
</tr>
<tr>
<td>Kings County</td>
<td>Nonattainment</td>
<td>February 19, 2016.</td>
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<td>Madera County</td>
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<td>Stanislaus County</td>
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<tr>
<td>Tulare County</td>
<td>Nonattainment</td>
<td>February 19, 2016.</td>
</tr>
</tbody>
</table>

**SUMMARY:** This regulation establishes a temporary exemption from the requirement of a tolerance for residues of the VNT1 protein in or on potatoes when used as a plant-incorporated protectant in accordance with the terms of Experimental Use Permit (EUP) (8917–EUP–2). J.R. Simplot Company submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an amendment of the temporary tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of VNT1 protein in potato. The temporary tolerance exemption expires on April 1, 2017, concurrent with the EUP (8917–EUP–2).

**DATES:** This regulation is effective January 20, 2016. Objections and requests for hearings must be received on or before March 21, 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–2014–0457; FRL–9939–49, 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