

home viewing—27 cents per subscriber per month—results in an unchanged rate of 27 cents per subscriber per month (rounded to the nearest cent). See 37 CFR 386.2(b)(1). Application of the 1.6% COLA to the current rate for viewing in commercial establishments—56 cents per subscriber per month—results in a rate of 57 cents per subscriber per month (rounded to the nearest cent). See 37 CFR 386.2(b)(2).

#### List of Subjects in 37 CFR Part 386

Copyright, Satellite, Television.

#### Final Regulations

In consideration of the foregoing, the Judges amend part 386 of title 37 of the Code of Federal Regulations as follows:

#### PART 386—ADJUSTMENT OF ROYALTY FEES FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS

■ 1. The authority citation for part 386 continues to read as follows:

**Authority:** 17 U.S.C. 119(c), 801(b)(1).

■ 2. Section 386.2 is amended by adding paragraphs (b)(1)(viii) and (b)(2)(viii) as follows:

#### § 386.2 Royalty fee for secondary transmission by satellite carriers.

- \* \* \* \* \*
- (b) \* \* \*
- (1) \* \* \*
- (viii) 2017: 27 cents per subscriber per month.
- (2) \* \* \*
- (viii) 2017: 57 cents per subscriber per month.

Dated: November 17, 2016.

**Suzanne M. Barnett,**  
Chief Copyright Royalty Judge.

[FR Doc. 2016–28180 Filed 11–22–16; 8:45 am]

BILLING CODE 1410–72–P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R04–OAR–2014–0507; FRL–9955–49–Region 4]

#### Air Plan Approval; FL Infrastructure Requirements for the 2010 1-hour NO<sub>2</sub> NAAQS

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve the State Implementation Plan (SIP) submission, submitted by the State of Florida, through the Florida

Department of Environmental Protection (FDEP), on January 22, 2013, to demonstrate that the State meets certain infrastructure requirements of the Clean Air Act (CAA or Act) for the 2010 1-hour nitrogen dioxide (NO<sub>2</sub>) national ambient air quality standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an “infrastructure” SIP. FDEP certified that the Florida SIP contains provisions that ensure the 2010 1-hour NO<sub>2</sub> NAAQS is implemented, enforced, and maintained in Florida. EPA has determined that Florida’s infrastructure SIP submission, provided to EPA on January 22, 2013, satisfies certain required infrastructure elements for the 2010 1-hour NO<sub>2</sub> NAAQS.

**DATES:** This rule will be effective December 23, 2016.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2014–0507. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8726. Mr. Richard Wong can also be reached via electronic mail at [wong.richard@epa.gov](mailto:wong.richard@epa.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Background and Overview

On January 22, 2010 (75 FR 6474, February 9, 2010), EPA promulgated a new 1-hour primary NAAQS for NO<sub>2</sub> at a level of 100 parts per billion, based on a 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs for the 2010 NO<sub>2</sub> NAAQS to EPA no later than January 22, 2013.

In a proposed rulemaking published on July 20, 2016 (81 FR 47094), EPA proposed to approve Florida’s 2010 1-hour NO<sub>2</sub> NAAQS infrastructure SIP submission submitted on January 22, 2013, with the exception of the elements related to the ambient air quality monitoring and data system of section 110(a)(2)(B), and the prevention of significant deterioration (PSD) permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i), and (J). EPA is not acting on Florida’s January 22, 2013, infrastructure SIP submission regarding the PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i) and (J) for the 2010 1-hour NO<sub>2</sub> NAAQS because it previously approved these requirements. See 80 FR 14019, March 18, 2015. Regarding section 110(a)(2)(B), EPA is not taking any action on this portion of Florida’s 2010 1-hour NO<sub>2</sub> NAAQS infrastructure SIP submission in this action and will instead address this requirement in a separate action. Also note that EPA did not propose any action regarding the interstate transport provisions pertaining to the contribution to nonattainment or interference with maintenance in other states of prongs 1 and 2 of section 110(a)(2)(D)(i) because Florida’s January 22, 2013 SIP submission did not address these requirements. The details of Florida’s submission and the rationale for EPA’s actions for this final rulemaking are explained in the July 20, 2016, proposed rulemaking. Comments on the proposed rulemaking were due on or before August 19, 2016. EPA received no adverse comments on the proposed action.

**II. Final Action**

With the exception of the elements related to the ambient air quality monitoring and data system of section 110(a)(2)(B), and the PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i), and (J), EPA is taking final action to approve Florida’s infrastructure SIP submission for the 2010 1-hour NO<sub>2</sub> NAAQS submitted on January 22, 2013. EPA is taking final action to approve Florida’s infrastructure SIP submission for the 2010 1-hour NO<sub>2</sub> NAAQS because the submission is consistent with section 110 of the CAA.

**III. Statutory and Executive Order Reviews**

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

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

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 23, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

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

Dated: November 7, 2016.  
**Heather McTeer Toney**,  
*Regional Administrator, Region 4.*

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:

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

**Subpart K—Florida**

■ 2. In § 52.520, the table in paragraph (e) is amended by adding the entry “110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour NO<sub>2</sub> NAAQS” at the end of the table to read as follows:

**§ 52.520 Identification of plan.**  
 \* \* \* \* \*  
 (e) \* \* \*

**EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS**

Provision	State effective date	EPA approval date	Federal Register notice	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour NO <sub>2</sub> NAAQS.	1/22/2013	11/23/2016	[Insert <b>Federal Register</b> citation].	With the exception of sections: 110(a)(2)(B) Concerning ambient air quality monitoring and data system; 110(a)(2)(C) and (J) concerning PSD permitting requirements; and 110(a)(2)(D)(i)(I) and (II) (prongs 1 through 3) concerning interstate transport requirements.

[FR Doc. 2016-28098 Filed 11-22-16; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52****[EPA-R09-OAR-2016-0494; FRL-9955-53-Region 9]****Findings of Failure To Attain the 1997 PM<sub>2.5</sub> Standards; California; San Joaquin Valley****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) has determined that the San Joaquin Valley nonattainment area failed to attain the 1997 annual and 24-hour fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards by the December 31, 2015 “Serious” area attainment date. As a result of this determination, the State of California is required to submit a revision to the California State Implementation Plan that, among other elements, provides for expeditious attainment of the 1997 PM<sub>2.5</sub> standards and for a five percent annual reduction in the emissions of direct PM<sub>2.5</sub> or a PM<sub>2.5</sub> plan precursor pollutant in the San Joaquin Valley.

**DATES:** This rule is effective December 23, 2016.

**ADDRESSES:** The EPA has established docket number EPA-R09-OAR-2016-0494 for this action. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Rory Mays, Air Planning Office (AIR-2), EPA Region IX, (415) 972-3227, [mays.rory@epa.gov](mailto:mays.rory@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

**Table of Contents**

I. Background

II. Public Comments and Responses

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IV. Statutory and Executive Order Reviews

**I. Background**

On October 6, 2016 (81 FR 69448), the EPA proposed to determine that the San Joaquin Valley Serious nonattainment area failed to attain the 1997 PM<sub>2.5</sub> national ambient air quality standards (NAAQS or “standards”) by the applicable attainment date of December 31, 2015, based on complete, quality-assured and certified ambient air quality data for the 2013 to 2015 monitoring period. The San Joaquin Valley PM<sub>2.5</sub> nonattainment area (or “the Valley”) covers San Joaquin County, Stanislaus County, Merced County, Madera County, Fresno County, Tulare County, Kings County, and the valley portion of Kern County (see 40 CFR 81.305 for the precise boundaries of the PM<sub>2.5</sub> nonattainment area).

As discussed further in our October 6, 2016 proposed rule, in 1997, the EPA established annual and 24-hour PM<sub>2.5</sub> standards of 15.0 micrograms per cubic meter (µg/m<sup>3</sup>) and 65 µg/m<sup>3</sup>, respectively (see 40 CFR 50.7). Since promulgation of the 1997 PM<sub>2.5</sub> NAAQS, the EPA has established more stringent PM<sub>2.5</sub> NAAQS but, for reasons given in the proposed rule, the 1997 PM<sub>2.5</sub> NAAQS remain in effect in the San Joaquin Valley and represent the standards for which today’s determinations are made. See pages 69448–69449 of the proposed rule.

Our proposed rule provided background information on: The effects of exposure to elevated levels of PM<sub>2.5</sub>; the designations and classifications of the San Joaquin Valley under the Clean Air Act (CAA or “Act”) for the 1997 PM<sub>2.5</sub> NAAQS; the plans developed by California to address nonattainment area requirements for San Joaquin Valley; the reclassification of the San Joaquin Valley from “Moderate” to “Serious” for the 1997 PM<sub>2.5</sub> NAAQS and the related extension of the applicable attainment date to December 31, 2015; the request by California to extend the December 31, 2015 attainment date for San Joaquin Valley under CAA section 188(e); and the denial of that request by the EPA. The EPA published its final denial of the State’s attainment date extension request on October 6, 2016 at 81 FR 69396.

In our October 6, 2016 proposed rule, we also described the following: The statutory basis (i.e., CAA sections 179(c)(1) and 188(b)(2)) for the obligation on the EPA to determine whether an area’s air quality meets the 1997 PM<sub>2.5</sub> NAAQS; the EPA regulations establishing the specific methods and

procedures to determine whether an area has attained the 1997 PM<sub>2.5</sub> NAAQS; and the PM<sub>2.5</sub> monitoring networks operated in the Valley by the California Air Resources Board and the San Joaquin Valley Unified Air Pollution Control District and related monitoring network plans. We also documented our previous review of the networks and network plans, the agencies’ annual certifications of ambient air monitoring data, and our determination that 15 of the 17 monitoring sites within the Valley produced valid design values for purposes of comparison with the 1997 PM<sub>2.5</sub> NAAQS.

Under EPA regulations in 40 CFR part 50, section 50.7 and in accordance with Appendix N, the 1997 annual PM<sub>2.5</sub> standards are met when the design value is less than or equal to 15.0 µg/m<sup>3</sup>, and the 1997 24-hour PM<sub>2.5</sub> standards are met when the design value is less than or equal to 65 µg/m<sup>3</sup>. More specifically, the design value for the annual PM<sub>2.5</sub> standards is the 3-year average of annual mean concentration, and the 1997 annual PM<sub>2.5</sub> NAAQS are met when the design value for the annual PM<sub>2.5</sub> standards at each eligible monitoring site is less than or equal to 15.0 µg/m<sup>3</sup>. With respect to the 24-hour PM<sub>2.5</sub> standards, the design value is the 3-year average of annual 98th percentile 24-hour average values recorded at each eligible monitoring site, and the 1997 24-hour PM<sub>2.5</sub> NAAQS are met when the design value for the 24-hour standards at each such monitoring site is less than or equal to 65 µg/m<sup>3</sup>.

In our proposed rule, to evaluate whether the San Joaquin Valley attained the 1997 PM<sub>2.5</sub> NAAQS by the December 31, 2015 attainment date, we determined the 2013–2015 design values at each of the 17 PM<sub>2.5</sub> monitoring sites for the 1997 annual and 24-hour PM<sub>2.5</sub> standards. See Tables 1 and 2 of our October 6, 2016 proposed rule. Based on the design values at the various sites, we found that eight sites, all in the central and southern San Joaquin Valley, did not meet the 1997 annual PM<sub>2.5</sub> NAAQS of 15.0 µg/m<sup>3</sup>, and that four sites, all in southwestern San Joaquin Valley, did not meet the 1997 24-hour PM<sub>2.5</sub> NAAQS of 65 µg/m<sup>3</sup> by the December 31, 2015 attainment date. The 2015 annual design value site, i.e., the site with the highest design value based on 2013–2015 data, is the Corcoran site with a 2015 annual PM<sub>2.5</sub> design value of 22.2 µg/m<sup>3</sup> and a 24-hour PM<sub>2.5</sub> design value of 79 µg/m<sup>3</sup>.

For the San Joaquin Valley to attain the 1997 PM<sub>2.5</sub> NAAQS by December 31, 2015, the 2015 design value (reflecting data from 2013–2015) at each eligible