Administrator intends, if this proposed action is finalized, to exercise the complete discretion afforded to him under the CAA to make and publish a finding that this action is based on one or more determinations of nationwide scope or effect for purposes of CAA section 307(b)(1).[80]

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone.

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

Dated: May 16, 2022.

KC Becker,

Regional Administrator, Region 8.

[FR Doc. 2022–11153 Filed 5–23–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2018–0535; FRL–9690–01–R9]

Withdrawal and Partial Approval/Partial Disapproval of Clean Air Plans; San Joaquin Valley, California; Contingency Measures for 2008 Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to withdraw the portion of the March 25, 2019 final action conditionally approving state implementation plan (SIP) submissions from the State of California under the Clean Air Act (CAA or ''Act'') to address contingency measure requirements for the 2008 ozone national ambient air quality standards (NAAQS or ''standards'') in the San Joaquin Valley, California ozone nonattainment area. The SIP revisions include the portions of the ''2016 Ozone Plan for the 2008 8-Hour Ozone Standard and the 2018 Updates to the California State Implementation Plan'' that address the contingency measure requirement for San Joaquin Valley. Simultaneously, the EPA is proposing a partial approval and partial disapproval of these SIP submissions. These proposed actions are in response to a decision issued by the U.S. Court of Appeals for the Ninth Circuit (*Association of Irritated Residents* v. *EPA,* Ninth Circuit, No. 19–71223, opinion filed August 26, 2021) remanding the EPA's conditional approval of the contingency measure SIP submissions.

DATES: Written comments must arrive on or before June 23, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2018–0535 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Laura Lawrence, EPA Region IX, (415) 972–3407, *lawrence.laura@epa.gov.*

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

Table of Contents

I. Background

Ground-level ozone pollution is formed from the reaction of volatile organic compounds (VOC) and oxides of nitrogen (NO_X) in the presence of sunlight.[1] These two pollutants, referred to as ozone precursors, are emitted by many types of sources, including on-and off-road motor vehicles and engines, power plants and industrial facilities, and smaller area sources such as lawn and garden equipment and paints. Scientific evidence indicates that adverse health effects occur following exposure to elevated levels of ozone, particularly in children and adults with lung disease. Breathing air containing ozone can reduce lung function and inflame airways, which can increase respiratory symptoms and aggravate asthma or other lung diseases.[2]

Under section 109 of the CAA, the EPA promulgates NAAQS for pervasive air pollutants, such as ozone. The EPA has previously promulgated NAAQS for ozone in 1979 and 1997.[3] In 2008, the EPA revised and further strengthened the ozone NAAQS by setting the acceptable level of ozone in the ambient air at 0.075 parts per million (ppm) averaged over an 8-hour period.[4] Although the EPA further tightened the 8-hour ozone NAAQS to 0.070 ppm in 2015, this action relates to the requirements for the 2008 ozone NAAQS.[5]

Following promulgation of a new or revised NAAQS, the EPA is required under CAA section 107(d) to designate areas throughout the country as attaining or not attaining the NAAQS. The EPA classifies ozone nonattainment areas under CAA section 181 according to the severity of the ozone pollution problem, with classifications ranging from ''Marginal'' to ''Extreme.'' State planning and emissions control requirements for ozone are determined, in part, by the nonattainment area's classification. The EPA designated the

judicial circuits. In the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator's determination that the ''nationwide scope or effect'' exception applies would be appropriate for any action that has a scope or effect beyond a single judicial circuit. *See* H.R. Rep. No. 95–294 at 323, 324, reprinted in 1977 U.S.C.C.A.N. 1402–03.

[80] The EPA may take a consolidated, single final action on all of the proposed SIP disapproval actions with respect to obligations under CAA section 110(a)(2)(D)(i)(I) for the 2015 ozone NAAQS. Should the EPA take a single final action on all such disapprovals, this action would be nationally applicable, and the EPA would also anticipate, in the alternative, making and publishing a finding that such final action is based on a determination of nationwide scope or effect.

[1] The State of California refers to reactive organic gases (ROG) rather than VOC in some of its ozone-related SIP submissions. As a practical matter, ROG and VOC refer to the same set of chemical constituents, and for the sake of simplicity, we refer to this set of gases as VOC in this proposed rule.

[2] See ''Fact Sheet—2008 Final Revisions to the National Ambient Air Quality Standards for Ozone'' dated March 2008.

[3] The ozone NAAQS promulgated in 1979 was 0.12 parts per million (ppm) averaged over a 1-hour period. *See* 44 FR 8202 (February 8, 1979). The ozone NAAQS promulgated in 1997 was 0.08 ppm averaged over an 8-hour period. See 62 FR 38856 (July 18, 1997).

[4] See 73 FR 16436 (March 27, 2008).

[5] Information on the 2015 ozone NAAQS is available at 80 FR 65292 (October 26, 2015).

San Joaquin Valley as nonattainment for the 2008 8-hour ozone NAAQS on May 21, 2012, and classified the area as Extreme.[6]

The San Joaquin Valley nonattainment area for the 2008 8-hour ozone NAAQS consists of San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare, and Kings counties, and the western portion of Kern County. The San Joaquin Valley nonattainment area stretches over 250 miles from north to south, averages a width of 80 miles, and encompasses over 23,000 square miles. It is partially enclosed by the Coast Mountain range to the west, the Tehachapi Mountains to the south, and the Sierra Nevada range to the east.[7] The population of the San Joaquin Valley in 2015 was estimated to be nearly 4.2 million people and is projected to increase by 25.3 percent by 2030 to over 5.2 million people.[8]

In California, the California Air Resources Board (CARB or ''State'') is the state agency responsible for the adoption and submission to the EPA of California SIP submissions, and it has broad authority to establish emissions standards and other requirements for mobile sources. Under California law, local and regional air pollution control districts in California are responsible for the regulation of stationary sources and are generally responsible for the development of regional air quality plans. In the San Joaquin Valley, the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD or ''District'') develops and adopts air quality management plans to address CAA planning requirements applicable to that region. The District then submits such plans to CARB for adoption and submission to the EPA as proposed revisions to the California SIP.

Under the CAA, after the EPA designates areas as nonattainment for a NAAQS, states with nonattainment areas are required to submit SIP revisions. With respect to areas designated as nonattainment, states must implement the 2008 8-hour ozone NAAQS under Title 1, part D of the CAA, which includes section 172 (''Nonattainment plan provisions in general'') and sections 181–185 of subpart 2 (''Additional Provisions for Ozone Nonattainment Areas''). To assist states in developing effective plans to address ozone nonattainment problems, in 2015, the EPA issued a SIP Requirements Rule (SRR) for the 2008 8-hour ozone NAAQS (''2008 Ozone SRR'') that addressed implementation of the 2008 standards, including attainment dates, requirements for emissions inventories, attainment and reasonable further progress (RFP) demonstrations, as well as the transition from the 1997 8-hour ozone NAAQS to the 2008 8-hour ozone NAAQS and associated anti-backsliding requirements.[9] The 2008 Ozone SRR is codified at 40 CFR part 51, subpart AA.

In 2017 and 2018, CARB submitted SIP revisions to address the nonattainment planning requirements for San Joaquin Valley for the 2008 ozone NAAQS, including the District's ''2016 Ozone Plan for the 2008 8-Hour Ozone Standard'' (''2016 Ozone Plan'') and CARB's ''2018 Updates to the California State Implementation Plan'' (''2018 SIP Update''). In two separate final rules, we approved the 2016 Ozone Plan and the 2018 SIP Update as meeting all the applicable statutory and regulatory requirements for the San Joaquin Valley Extreme nonattainment area for the 2008 ozone NAAQS, with the exception of the contingency measure requirement.[10] For the contingency measure requirement, we issued a conditional approval that relied upon a commitment by the District to amend the District's architectural coatings rule to include contingency provisions and a commitment by CARB to submit the amended District rule to the EPA within a year of final conditional approval of the contingency measure element for the San Joaquin Valley.[11]

Under the CAA, ozone nonattainment areas classified under subpart 2 as ''Serious'' or above must include in their SIPs contingency measures consistent with sections 172(c)(9) and 182(c)(9). Contingency measures are additional controls or measures to be implemented in the event the area fails to make RFP or to attain the NAAQS by the attainment date. Contingency measures must be designed so as to be implemented prospectively; already-implemented control measures may not serve as contingency measures even if they provide emissions reductions beyond those needed for any other CAA purpose.[12] The SIP should contain trigger mechanisms for the contingency measures, specify a schedule for implementation, and indicate that the measure will be implemented without significant further action by the state or the EPA.[13] Neither the CAA nor the EPA's implementing regulations establish a specific amount of emissions reductions that implementation of contingency measures must achieve, but the 2008 Ozone SRR reiterates the EPA's guidance recommendation that contingency measures should provide for emissions reductions approximately equivalent to one year's worth of RFP, thus amounting to reductions of 3 percent of the baseline emissions inventory for the nonattainment area.[14]

The contingency measure element of the 2016 Ozone Plan, as modified by the 2018 SIP Update, includes a CARB measure referred to as the ''Enhanced Enforcement Activities Program'' and an evaluation of the surplus emissions reductions from already-implemented measures.[15] In this context, ''surplus'' emissions reductions refer to emissions reductions that are not needed to meet other SIP requirements, such as the RFP and attainment demonstrations. In addition, the District and CARB made commitments to adopt and submit a contingency provision [16] as part of the District's architectural coatings rule within a year of the final conditional approval. Once adopted, submitted, and approved, the contingency provision in the architectural coatings rule would become a third part of the contingency measure element. The EPA estimated that the contingency measure, *i.e.,* the contingency provision in the architectural coatings rule, would achieve approximately 9 percent of one year's worth of RFP.

In our March 25, 2019 final rule, we conditionally approved the contingency measure element and found that the one contingency measure (*i.e.,* once adopted, submitted, and approved by the EPA) would be sufficient for the State and District to meet the contingency measure requirement for San Joaquin Valley for the 2008 ozone NAAQS, notwithstanding expected emissions reductions from the measure equivalent to only a fraction of one

[6] See 77 FR 30088 (May 21, 2012).

[7] For a precise definition of the boundaries of the San Joaquin Valley 2008 ozone nonattainment area, see 40 CFR 81.305.

[8] The population estimates and projections include all of Kern County, not just the portion of Kern County within the jurisdiction of the SJVAPCD. See Chapter 1 and table 1–1 of the District's 2016 Ozone Plan for the 2008 8-Hour Ozone Standard.

[9] See 80 FR 12264, March 6, 2015.

[10] 84 FR 3302 (February 12, 2019), corrected at 84 FR 19680 (May 3, 2019); and 84 FR 11198 (March 25, 2019).

[11] 84 FR 11198 (March 25, 2019).

[12] See *Bahr* v. *EPA,* 836 F.3d 1218, at 1235–1237 (9th Cir. 2016).

[13] See 70 FR 71612 (November 29, 2005); see also 2008 Ozone SRR, 80 FR 12264 at 12285 (March 6,2015).

[14] 80 FR 12264 at 12285 (March 6, 2015).

[15] 83 FR 61346, at 61356 (November 29, 2018).

[16] The specific contingency provision that the District committed to adopt is the removal of the exemption for architectural coatings that are sold in containers with a volume of one liter (1.057 quarts) or less, *i.e.,* if triggered by an EPA determination of failure to meet an RFP milestone or failure to attain the 2008 ozone NAAQS by the applicable attainment date.

year's worth of RFP.[17] We found the reductions from the one contingency measure to be sufficient when considered together with the substantial surplus emissions reductions we anticipate to occur in the future from already-implemented measures and from other approved measures in the plan.[18] In our March 25, 2019 final rule, we approved CARB's Enhanced Enforcement Activities Program measure as a ''SIP-strengthening'' measure rather than as a contingency measure.[19]

An environmental organization filed a petition for review of the EPA's March 25, 2019 conditional approval of the contingency measure element for San Joaquin Valley for the 2008 ozone NAAQS, arguing, among other things, that the EPA had abandoned, without providing a reasoned explanation for the change, its longstanding interpretation of the CAA that contingency measures must provide for emissions reductions equivalent to one year's worth of progress. The petitioners also argued that the EPA had violated the CAA by approving CARB's Enhanced Enforcement Activities Program as SIP-strengthening because it is unenforceable.[20]

On August 26, 2021, the U.S. Court of Appeals for the Ninth Circuit granted the petition in part and denied the petition in part, holding that the EPA's conditional approval of the contingency measure element was arbitrary and capricious because, in the court's view, the Agency had changed its position by accepting a contingency measure that would achieve far less than one year's worth of RFP, as meeting the contingency measure requirement without a reasoned explanation.[21] The court found that by taking into account the emissions reductions from already-implemented measures to find that the contingency measure would suffice to meet the applicable requirement, the EPA was circumventing the court's 2016 holding in *Bahr* v. *EPA.* The court rejected the EPA's arguments that the Agency's approach was grounded in its long-standing guidance and was consistent with the court's 2016 *Bahr* v. *EPA* decision. With respect to CARB's Enhanced Enforcement Activities program measure, the court upheld the EPA's approval of it as SIP-strengthening and held that the measure was enforceable according to its terms. The court remanded the conditional approval action back to the Agency for further proceedings consistent with the decision.

II. Proposed Action and Clean Air Act Consequences

As noted above, the Ninth Circuit rejected the EPA's rationale for conditional approval of the contingency measure element of the 2016 Ozone Plan, as modified by the 2018 SIP Update, for San Joaquin Valley for the 2008 ozone NAAQS. Specifically, the court found that the EPA could not rely on surplus emissions reductions from already-implemented measures to justify approval of a contingency measure that would provide only a fraction of one year's worth of RFP as meeting the contingency measure requirement. In this case, if we do not take into account surplus emissions reductions, then the one contingency measure supporting the conditional approval must shoulder the entire burden of achieving roughly one year's worth of RFP (if triggered). As noted previously, the one contingency measure, *i.e.,* the contingency provision in the District's architectural coatings rule to which the District has committed, would provide approximately 9 percent of one year's worth of progress. Because the contingency measure would not provide reductions roughly equivalent to one year's worth of RFP, we find that the conditional approval can no longer be supported. We are therefore proposing to withdraw our March 25, 2019 conditional approval of the contingency measure element.

In light of the decision in the *Association of Irritated Residents* v. *EPA,* we are proposing to partially approve and partially disapprove the contingency measure element of the 2016 Ozone Plan, as modified by the 2018 SIP Update, with respect to the contingency measure requirements under CAA section 172(c)(9) and 182(c)(9). For the reasons discussed above justifying withdrawal of the conditional approval, we are proposing to disapprove the contingency measure element except for the Enhanced Enforcement Activities Program measure.

With respect to the Enhanced Enforcement Activities Program measure, we are proposing approval for the same reasons that we provided in the March 25, 2019 final rule and that were upheld by the Ninth Circuit.[22] Namely, while we find that the Enhanced Enforcement Activities Program measure fails to meet the requirements for a stand-alone contingency measure, we also find that it strengthens the SIP by triggering certain actions upon a failure to meet RFP or attainment by the applicable attainment date that may lead to emissions reductions that would not otherwise be achieved and thereby contribute in part to any remedy for an RFP shortfall or failure to attain.

This proposed withdrawal and partial disapproval, if finalized, would have the effect of removing the contingency measure element of the 2016 Ozone Plan, as modified by the 2018 SIP Update, from the applicable California SIP, except for the Enhanced Enforcement Activities Program measure, and removing the corresponding provisions in 40 CFR 52.220(c) where the EPA's approval of the contingency measure element is currently codified.[23] Lastly, if the EPA finalizes the proposed partial disapproval of the contingency measure element of the 2016 Ozone Plan, as modified by the 2018 SIP Update, the area would be eligible for a protective finding under the transportation conformity rule because the 2016 Ozone Plan, as modified by the 2018 SIP Update, reflects adopted control measures and contains enforceable commitments that fully satisfy the emissions reductions requirements for RFP and attainment for the 2008 Ozone NAAQS.[24]

If we finalize the proposed partial disapproval of the contingency measure

[17] 84 FR 11198, at 11206.

[18] Id.

[19] Id.

[20] *Association of Irritated Residents* v. *EPA,* Ninth Circuit Court of Appeals, Case No. 19–71223, Petitioner's Opening Brief, Docket Entry 18–1, filed September 3, 2019, 2.

[21] *Association of Irritated Residents.* v. *EPA,* 10 F.4th 937 (9th Cir. 2021).

[22] CARB has confirmed that it has decided to retain the Enhanced Enforcement Activities Program measure in the San Joaquin Valley portion of the California SIP for the purposes of the 2008 ozone NAAQS. See email correspondence dated February 24, 2022, from Sylvia Vanderspek, Chief, Air Quality Planning Branch, CARB, to Anita Lee, EPA Region IX.

[23] The affected paragraphs include 40 CFR 52.220(c)(496)(ii)(B)(4) and (514)(ii)(A)(2).

[24] 40 CFR 93.120(a)(3). Without a protective finding, the final disapproval would result in a conformity freeze, under which only projects in the first four years of the most recent conforming Regional Transportation Plan (RTP) and Transportation Improvement Programs (TIP) can proceed. Generally, during a freeze, no new RTPs, TIPs, or RTP/TIP amendments can be found to conform until another control strategy implementation plan revision fulfilling the same CAA requirements is submitted, the EPA finds its motor vehicle emissions budget(s) adequate pursuant to § 93.118 or approves the submission, and conformity to the implementation plan revision is determined. Under a protective finding, the final disapproval of the contingency measures element would not result in a transportation conformity freeze in the SJV ozone nonattainment area and the metropolitan planning organizations may continue to make transportation conformity determinations.

element, the EPA must promulgate a Federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule deficiencies within 24 months. In addition, under 40 CFR 52.35, the offset sanction in CAA section 179(b)(2) will be imposed 18 months after the effective date of this action, and the highway funding sanction in CAA section 179(b)(1) six months after the offset sanction is imposed. A sanction will not be imposed if the EPA determines that a subsequent SIP submission corrects the identified deficiencies before the applicable deadline.

III. Request for Public Comment

The EPA is soliciting public comments on the issues discussed in this document. We will accept comments from the public on this proposal for the next 30 days and will consider comments before taking final action.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866, Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This proposed action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act

This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, because this proposed SIP disapproval under section 110 and subchapter I, part D of the Clean Air Act will not in-and-of itself create any new information collection burdens but simply disapproves certain state requirements submitted for inclusion into the SIP. Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. For purposes of assessing the impacts of this rulemaking on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed action on small entities, I certify that this proposed action will not have a significant impact on a substantial number of small entities. This rulemaking does not impose any requirements or create impacts on small entities. This proposed SIP disapproval under section 110 and subchapter I, part D of the Clean Air Act will not in-and-of itself create any new requirements but simply disapproves certain state requirements submitted for inclusion into the SIP. Accordingly, it affords no opportunity for the EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the rule. The fact that the Clean Air Act prescribes that various consequences (*e.g.,* higher offset requirements) may or will result from disapproval actions does not mean that the EPA either can or must conduct a regulatory flexibility analysis for this proposed action. Therefore, this proposed action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

This proposed action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments or the private sector. The EPA has determined that the proposed disapproval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This action proposes to disapprove pre-existing requirements under state or local law and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this proposed action.

E. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires the EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This proposed action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely disapproves certain state requirements for inclusion into the SIP and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this proposed action.

F. Executive Order 13175, Coordination With Indian Tribal Governments

This proposed action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP that the EPA is proposing to disapprove would not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this proposed action.

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 health or safety risks, such that the analysis required under section 5–501 of the Executive order has the potential to influence the regulation. This proposed action is not subject to Executive Order 13045 because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997). This proposed SIP disapproval under section 110 and subchapter I, part D of the Clean Air Act will not in-and-of itself create any new regulations but simply disapproves

certain state requirements submitted for inclusion into the SIP.

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

This proposed action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. The EPA believes that this proposed action is not subject to requirements of section 12(d) of NTTAA because application of those requirements would be inconsistent with the Clean Air Act.

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

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

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.

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

Dated: May 16, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2022–11027 Filed 5–23–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 260, 261, 262, 263, 264, 265, 267, 271 and 761

[EPA–HQ–OLEM–2021–0609; FRL–7308–03–OLEM]

Integrating e-Manifest With Hazardous Waste Exports and Other Manifest-Related Reports, PCB Amendments and Technical Corrections; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Environmental Protection Agency (EPA) is extending the comment period for the proposed rule entitled ''Integrating e-Manifest with Hazardous Waste Exports and Other Manifest-related Reports, PCB Amendments and Technical Corrections.'' EPA published the proposed rule in the **Federal Register** on April 1, 2022 (87 FR 19290), and the public comment period was scheduled to end on May 31, 2022. However, EPA has received at least one request for additional time to develop and submit comments on the proposal. In response to the request for additional time, EPA is extending the comment period for an additional 61 days, through August 1, 2022.

DATES: Comments must be received on or before August 1, 2022.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OLEM–2021–0609, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information or other information whose disclosure is restricted by statute.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, OLEM Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier (by scheduled appointment only):* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are open to the public by appointment only to reduce the risk of transmitting COVID–19. Our Docket Center staff also continues to provide remote customer service via email, phone, and webform. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For further information on this document, contact Bryan Groce, Program Implementation and Information Division, Office of Resource Conservation and Recovery, (202) 566–0339; email address: *groce.bryan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Summary

On April 1, 2022 (87 FR 19290), EPA published in the **Federal Register** a proposal to amend certain aspects of the hazardous waste manifest regulations under the Resource Conservation and Recovery Act (RCRA), specifically concerning the e-Manifest system to: (1) Incorporate hazardous waste export manifests into the e-Manifest system; (2) expand the required international shipment data elements on the manifest form; (3) revise aspects of the manifest form to improve compliance with import and export consents and tracking requirements and to allow for greater precision in waste data reported on the manifest; (4) incorporate three manifest-related reports (*i.e.,* discrepancy, exception, and unmanifested waste reports); (5) provide discussion regarding potential future integration of the e-Manifest system with Biennial Reporting requirements; (6) make conforming changes to the polychlorinated biphenyl (PCB) manifest regulations under the Toxic Substances Control Act (TSCA); and (6) make other technical corrections to