6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R09-OAR-2022-0745; FRL-10211-01-R9]

Determination of Attainment by the Attainment Date, Clean Data Determination, and Proposed Approval of Base Year Emissions Inventory for the Imperial County, California Nonattainment Area for the 2012 Annual Fine Particulate Matter NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine that the Imperial County, California fine particulate matter ($PM_{2.5}$) nonattainment area ("Imperial $PM_{2.5}$ nonattainment area") attained the 2012 annual $PM_{2.5}$ national ambient air quality standard (NAAQS or "standard") by its December 31, 2021 "Moderate" area attainment date. This proposed determination is based upon ambient air quality monitoring data from 2019 through 2021. We are also proposing to make a clean data determination (CDD) based on our determination that preliminary air quality monitoring data from 2022 indicate the Imperial $PM_{2.5}$ nonattainment area continues to attain the 2012 annual $PM_{2.5}$ NAAQS. If we finalize this CDD, certain Clean Air Act (CAA) requirements that apply to the Imperial County Air Pollution Control District (ICAPCD or "District") will be suspended for so long as the area continues to meet the 2012 annual $PM_{2.5}$ NAAQS. The area will remain designated as nonattainment for the 2012 annual $PM_{2.5}$ NAAQS. The EPA is also proposing to approve a revision to California's state implementation plan (SIP) consisting of the 2012 emissions inventory for the Imperial $PM_{2.5}$ nonattainment area, submitted by the California Air Resources Board (CARB or "State") on July 18, 2018.

DATES: Comments must be received on or before **[Insert date 30 days after date of publication in the *Federal Register*]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2022-0745 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: Ginger Vagenas, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; telephone number: (415) 972-3964; email address: *vagenas.ginger@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to the EPA.

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I. Background for the EPA's Proposed Action

A. The 2012 Annual $PM_{2.5}$ National Ambient Air Quality Standard

Under section 109 of the CAA, the EPA has established NAAQS for certain pervasive air pollutants (referred to as "criteria pollutants") and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established. The EPA sets the NAAQS for criteria pollutants at levels required to protect public health and welfare after considering substantial evidence from numerous health studies demonstrating that serious adverse health effects are associated with exposures to these criteria pollutants.[1]

Particulate matter includes particles with diameters that are generally 2.5 microns or smaller ($PM_{2.5}$) and particles with diameters that are generally 10 microns or smaller (PM_{10}). $PM_{2.5}$ can be emitted directly into the atmosphere as a solid or liquid particle ("primary $PM_{2.5}$" or "direct $PM_{2.5}$") or can be formed in the atmosphere ("secondary $PM_{2.5}$") as a result of various chemical reactions among precursor pollutants such as nitrogen oxides (NO_X), sulfur dioxide (SO_2), volatile organic compounds (VOC), and ammonia (NH_3).[2]

Epidemiological studies have shown statistically significant correlations between elevated $PM_{2.5}$ levels and detrimental effects to human health and the environment. The health

[1] For a given air pollutant, "primary" national ambient air quality standards are those determined by the EPA as requisite to protect the public health. "Secondary" standards are those determined by the EPA as requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. CAA section 109(b).

[2] EPA, Air Quality Criteria for Particulate Matter, No. EPA/600/P–99/002aF and EPA/600/P–99/002bF, October 2004.

effects associated with $PM_{2.5}$ exposure include changes in lung function resulting in the development of respiratory symptoms, aggravation of existing respiratory conditions, cardiovascular disease (as indicated by increased hospital admissions, emergency room visits, absences from school or work, and restricted activity days), and premature mortality. Individuals particularly sensitive to $PM_{2.5}$ exposure include older adults, people with heart and lung disease, and children.[3] Elevated $PM_{2.5}$ levels also has adverse secondary effects such as visibility impairment and damage to vegetation and ecosystems.

The EPA first established annual and 24-hour NAAQS for $PM_{2.5}$ on July 18, 1997.[4] The annual primary and secondary standards were set to 15.0 micrograms per cubic meter ($\mu g/m^3$) based on a 3-year average of annual mean $PM_{2.5}$ concentrations. Then, on January 15, 2013, in order to provide increased protection of public health, the EPA promulgated a more stringent annual $PM_{2.5}$ NAAQS, revising the primary standard to 12.0 $\mu g/m^3$ based on a 3-year average of annual mean $PM_{2.5}$ concentrations, while retaining the secondary standard at 15.0 $\mu g/m^3$.[5]

B. Clean Air Act Requirements for $PM_{2.5}$ Nonattainment Areas

The CAA requires states to develop a SIP that provides generally for the attainment, maintenance, and enforcement of the NAAQS. In addition, the CAA requires states to make a specific type of SIP submittal, a nonattainment plan submittal, that imposes additional controls for purposes of attaining the $PM_{2.5}$ NAAQS, to achieve reductions of $PM_{2.5}$ and $PM_{2.5}$ precursor emissions.

The general CAA part D nonattainment area planning requirements are found in subpart 1 and the nonattainment area planning requirements specific to particulate matter are found in subpart 4. The subpart 1 statutory requirements for attainment plans include the following: the section 172(c)(1) requirements for reasonably available control measures (RACM)/reasonably

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[3] Id.

[4] 62 FR 38652. In October 2006, the EPA lowered the 24-hour NAAQS for $PM_{2.5}$ from 65 micrograms per cubic meter ($\mu g/m^3$) to 35 $\mu g/m^3$. 71 FR 61144 (October 17, 2006).

[5] 78 FR 3086 and 40 CFR 50.18. Unless otherwise noted, all references to the $PM_{2.5}$ NAAQS in this document are to the 2012 annual NAAQS of 12.0 $\mu g/m^3$, codified at 40 CFR 50.18.

available control technology (RACT) and attainment demonstrations; the section 172(c)(2) requirement to demonstrate reasonable further progress (RFP); the section 172(c)(3) requirement for emissions inventories; the section 172(c)(5) requirements for a nonattainment new source review (NNSR) permitting program; and the section 172(c)(9) requirement for contingency measures.

The more specific subpart 4 statutory requirements for Moderate $PM_{2.5}$ nonattainment areas include the following: the section 189(a)(1)(A) NNSR permit program requirements; the section 189(a)(1)(B) requirements for attainment demonstrations; the section 189(a)(1)(C) requirements for RACM; the section 189(c) requirements for RFP and quantitative milestones; and the section 189(e) requirement for controls on sources of PM_{10} precursors.

Under subpart 4, states with Moderate $PM_{2.5}$ nonattainment areas must provide for attainment in the area as expeditiously as practicable but no later than the end of the sixth calendar year after designation. For the 2012 $PM_{2.5}$ annual NAAQS, this date is December 31, 2021. In addition, under subpart 4, direct $PM_{2.5}$ and all precursors to the formation of $PM_{2.5}$ are subject to control unless the EPA approves a demonstration from the state establishing that a given precursor does not contribute significantly to $PM_{2.5}$ levels that exceed the $PM_{2.5}$ NAAQS in the area.[6]

To implement the $PM_{2.5}$ NAAQS, the EPA has also promulgated the "Fine Particle Matter National Ambient Air Quality Standard: State Implementation Plan Requirements; Final Rule" ("$PM_{2.5}$ Implementation Rule").[7] The $PM_{2.5}$ Implementation Rule provides additional regulatory requirements and guidance applicable to attainment plan submittals for the $PM_{2.5}$ NAAQS, including the 2012 annual $PM_{2.5}$ NAAQS at issue in this action.

C. Imperial $PM_{2.5}$ Nonattainment Area Designation and State Implementation Plan Requirements

[6] 40 CFR 51.1006 and 51.1009.
[7] 81 FR 58010 (August 24, 2016).

Following promulgation of a new or revised NAAQS, the EPA is required by CAA section 107(d) to designate areas throughout the nation as attaining or not attaining the NAAQS.[8] Those regions found not to be attaining the NAAQS are also given a classification that describes the degree of nonattainment. Under subpart 4 of part D of title I of the CAA, the EPA designates areas found to be violating the $PM_{2.5}$ NAAQS, and areas that contribute to such violations, as nonattainment and classifies them initially as Moderate nonattainment areas.

On January 15, 2015, the EPA published initial air quality designations for the 2012 annual $PM_{2.5}$ NAAQS for most areas in the United States, effective April 15, 2015. The EPA designated a portion of Imperial County as a nonattainment area for the 2012 annual $PM_{2.5}$ standard and classified it as a "Moderate" area, based on ambient monitoring data that showed the area was above 12.0 $\mu g/m^3$ for the 2011 – 2013 monitoring period.[9]

As a consequence of the Moderate nonattainment designation and classification, CAA sections 172(c) and 189(a), (c) and (e) required the state of California to submit an attainment plan for the Imperial $PM_{2.5}$ nonattainment area within 18 months of the effective date of designation (that is, by October 15, 2016), demonstrating attainment of the NAAQS as expeditiously as practical but no later than the end of the sixth calendar year following the designation, or December 31, 2021, which is the latest permissible attainment date under CAA section 188(c)(2).

Under state law, the local air district with primary responsibility for developing a plan to attain the 2012 annual $PM_{2.5}$ NAAQS in this area is the ICAPCD. Also under state law, authority for regulating sources under state jurisdiction in the Imperial $PM_{2.5}$ nonattainment area is split between the District, which has responsibility for regulating stationary and most area sources, and CARB, which has responsibility for regulating most mobile sources.

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[8] The EPA designated a portion of Imperial County as nonattainment for the 2006 24-hour standard effective December 13, 2009, and subsequently determined that the area had attained the standard. 74 FR 58688 (November 13, 2009) and 82 FR 13392 (March 13, 2017).

[9] For the 2011-2013 period relevant to the designation, the annual $PM_{2.5}$ design value for the Imperial $PM_{2.5}$ nonattainment area was 14.3 $\mu g/m^3$ based on monitored readings at the Calexico-Ethel ("Calexico") monitor. 80 FR 2206.

Effective May 7, 2018, the EPA issued a finding that California had failed to submit a timely revision to its SIP as required to satisfy certain requirements under the CAA for implementation for the 2012 annual $PM_{2.5}$ NAAQS for the Imperial $PM_{2.5}$ nonattainment area.[10] For mandatory SIP requirements under part D, title I of the CAA, such as those for $PM_{2.5}$ nonattainment areas, the EPA's finding that a state has failed to make the required complete SIP submission establishes specific consequences. These consequences include the imposition of mandatory sanctions for the affected area if the state has not submitted a complete SIP within 18 months of the finding of failure to submit, in this case by October 6, 2019.[11] Additionally, such a finding triggers an obligation under CAA section 110(c) for the EPA to promulgate a federal implementation plan (FIP) for the area no later than two years from the effective date of the finding if the state has not submitted and the EPA has not approved the required SIP submittal.

The District worked cooperatively with CARB in preparing the "Imperial County 2018 Annual Particulate Matter Less than 2.5 Microns in Diameter State Implementation Plan." (Imperial $PM_{2.5}$ Plan, or "Plan"), which was adopted by the District on April 24, 2018. CARB submitted the Imperial $PM_{2.5}$ Plan as a revision to the California SIP on July 18, 2018. On October 29, 2018, CARB submitted Imperial County rules related to the contingency measure element of the attainment plan.[12] On March 19, 2019, we determined that together these submittals addressed our finding of failure to submit and corrected the deficiency that formed the basis for that finding.[13] As a result, the offset and highway sanctions clocks triggered by the finding of failure to submit were permanently stopped, but the EPA's obligation to issue a FIP remained in place.

D. Requirement for Determination of Attainment of the 2012 Annual $PM_{2.5}$ National Ambient Air Quality Standard

[10] 83 FR 14759 (April 6, 2018).
[11] CAA section 179.
[12] The EPA approved these rules in a separate action. 84 FR 45418 (August 29, 2019).
[13] Letter dated March 19, 2019, from Elizabeth Adams, Air Division Director, EPA, Region IX, to Richard Corey, Executive Officer, CARB.

Section 179(c) of the CAA requires that within six months following the applicable attainment date, the EPA shall determine whether a nonattainment area attained the standard based on the area's design value[14] as of that date, i.e., as of December 31, 2021.[15] In this instance, this determination, also referred to as a determination of attainment by the attainment date or a DAAD, is based on certified data for the period of 2019 – 2021. Section 179(c)(2) of the CAA requires the EPA to publish the determination in the *Federal Register* no later than 6 months after the attainment date, that is, in the case of the Imperial $PM_{2.5}$ nonattainment area, by June 30, 2022. If the EPA determines that a Moderate area failed to attain, CAA section 188(b)(2) requires the area to be reclassified by operation of law as a Serious nonattainment area.

E. The EPA's Clean Data Policy

While the EPA may determine that an area's air quality data indicate that an area met the $PM_{2.5}$ NAAQS as of the attainment date, this does not eliminate the state's responsibility under the Act to adopt and implement an approvable attainment plan unless the area also has been granted a CDD.[16] Under the EPA's longstanding Clean Data Policy, which was reaffirmed in the $PM_{2.5}$ Implementation Rule at 40 CFR 51.1015, when an area has attained the relevant $PM_{2.5}$ standard(s), the EPA may issue a CDD (also sometimes referred to as a determination of attainment for the purposes of the Clean Data Policy or regulations) after notice and comment rulemaking determining that a specific area is attaining the relevant standard(s). A CDD is not linked to any particular attainment deadline and is not necessarily equivalent to a determination that an area has attained the standard by its applicable attainment deadline.

The effect of a CDD is to suspend the requirement for the area to submit an attainment demonstration, RACM, an RFP plan, contingency measures, and any other planning

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[14] A design value is the 3-year average NAAQS metric that is compared to the NAAQS level to determine when a monitoring site meets or does not meet the NAAQS. The specific methodologies for calculating whether the annual $PM_{2.5}$ NAAQS is met at each eligible monitoring site in an area is found in 40 CFR part 50, Appendix N, Section 4.1.

[15] A determination that an area has attained by the applicable attainment date does not constitute a redesignation to attainment.

[16] 81 FR 58010, 58069.

requirements related to attainment for as long as the area continues to attain the standard.[17] With respect to the attainment demonstration requirements of section 172(c) and section 189(a)(1)(B) of the CAA, the EPA finds that if an area already has air quality monitoring data demonstrating attainment of the standard, there is no need for an area to make a further submittal containing additional measures to achieve attainment, nor is there a need for the area to perform future modeling to show how the area will achieve attainment. Similarly, both CAA sections 172(c)(1) and 189(a)1)(C) require provisions to assure that RACM that are necessary to help an area achieve attainment are implemented. Thus, where an area is already attaining the standard, no additional RACM are required. Additionally, the EPA interprets the CAA as not requiring the submittal of RFP and associated quantitative milestones for areas that are already attaining the NAAQS. For areas that are attaining the NAAQS, showing that the state will make RFP towards attainment has no meaning. Similar reasoning applies to other SIP submittal requirements that are linked with attainment demonstration and RFP requirements. The EPA interprets the obligation to submit contingency measures as suspended when the area has attained the standard because those contingency measures are directed at ensuring RFP and attainment by the applicable date. A CDD does not suspend the requirements for an emissions inventory or for new source review.[18]

II. Proposed Determination of Attainment and Associated Rationale

A. Applicable Statutory and Regulatory Provisions

Sections 179(c)(1) and 188(b)(2) of the CAA require the EPA to determine whether a $PM_{2.5}$ nonattainment area attained by the applicable attainment date, based on the area's air

[17] In the context of CDDs, the EPA distinguishes between attainment planning requirements of the CAA, which relate to the attainment demonstration for an area and related control measures designed to bring an area into attainment for the given NAAQS as expeditiously as practicable, and other types of requirements, such as permitting requirements under the nonattainment new source review program, emissions inventory requirement, and specific control requirements independent of those strictly needed to ensure timely attainment of the given NAAQS.

[18] On August 26, 2019, the EPA approved Imperial County APCD's amended Rule 207, "New and Modified Stationary Source Review" as meeting applicable CAA requirements for New Source review, thereby satisfying the requirement for new source review. 84 FR 44545. This action includes our proposed approval of the base year emissions inventory included in the attainment plan for the Imperial County nonattainment area submitted on July 18, 2018. See Section IV of this document.

quality "as of the attainment date." Generally, this determination of whether an area's air quality meets the $PM_{2.5}$ standards is based upon the most recent three years of complete, certified data gathered at eligible monitoring sites in accordance with 40 CFR part 58.[19] The requirements of 40 CFR part 58 include quality assurance procedures for monitor operation and data handling, siting parameters for instruments or instrument probes, and minimum ambient air quality monitoring network requirements. State, local, or tribal agencies that operate air monitoring sites in accordance with 40 CFR part 58 must enter the ambient air quality data and associated quality assurance data from these sites into the EPA's Air Quality System (AQS) database.[20] These monitoring agencies certify annually that these data are accurate to the best of their knowledge, taking into consideration the quality assurance findings.[21] Accordingly, the EPA relies primarily on AQS data when determining the attainment status of an area.

The 2012 primary annual $PM_{2.5}$ standard is met when the three year average of the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50 appendix N, is less than or equal to 12.0 $\mu g/m^3$ at each eligible monitoring site (based on the rounding convention in 40 CFR part 50, Appendix N).[22] For the annual $PM_{2.5}$ standard, eligible monitoring sites are those monitoring stations that meet the criteria specified in 40 CFR sections 58.11 and 58.30, and thus are approved for comparison to the annual $PM_{2.5}$ NAAQS.[23] Three years of valid annual means are required to produce a valid annual $PM_{2.5}$ NAAQS design value.[24] Data completeness requirements for a given year are met when at least 75 percent of the scheduled sampling days for each quarter have valid data.[25] We note that monitors with incomplete data in one or more quarters may still produce valid design values if the conditions for applying the EPA's data substitution test are met.[26] In determining whether data are suitable

[19] 40 CFR part 50, Appendix N, section 3.0.
[20] 40 CFR 58.16. AQS is the EPA's national repository of ambient air quality data.
[21] 40 CFR 58.15(a).
[22] 40 CFR 50.18(b); 40 CFR part 50, Appendix N, section 4.1(a)
[23] 40 CFR part 50, Appendix N section 1.0(c)
[24] 40 CFR part 50, Appendix N, Section 4.1(b).
[25] Id.
[26] 40 CFR part 50 Appendix N, section 4.1(b) and (c).

for regulatory determinations, the EPA uses a "weight of evidence" approach, considering the requirements of 40 CFR part 58, Appendix A "in combination with other data quality information, reports, and similar documentation that demonstrate overall compliance with Part 58." [27]

B. Monitoring Network Review, Quality Assurance, and Data Completeness

The State and the District are the governmental agencies with the authority and responsibility under state law for collecting ambient air quality data within the Imperial $PM_{2.5}$ nonattainment area. During the 2019 – 2021 period, CARB and the ICAPCD operated three $PM_{2.5}$ state and local air monitoring stations (SLAMS) within the Imperial $PM_{2.5}$ nonattainment area; all three sites are located in the southern portion of Imperial County. The Calexico-Ethel monitoring site (AQS ID: 06-025-0005) is operated by CARB and is located approximately 0.7 miles north of the United States-Mexico border. The Calexico-Ethel monitoring site measured the highest 2021 design value[28] within the Imperial $PM_{2.5}$ nonattainment area; it is therefore considered the "design value site" for the area. The ICAPCD operates two additional SLAMS: the Brawley monitoring site (AQS ID: 06-025-0007), located in the City of Brawley, 9 miles north of the border, and the El Centro monitoring site (AQS ID: 06-025-1003), located in the City of El Centro, 22 miles north of the border. CARB, as the primary quality assurance organization for the Imperial $PM_{2.5}$ nonattainment area, submits annual monitoring network plans to the EPA documenting the status of CARB's air monitoring network, as required under 40 CFR 58.10.[29] The EPA reviews these annual network plans for compliance with specific requirements in 40 CFR 58. With respect to $PM_{2.5}$, we have found that the annual network plans submitted by CARB meet these requirements under 40 CFR part 58, including minimum monitoring

[27] 40 CFR part 58, Appendix A, section 1.2.3.
[28] According to 40 CFR part 50, Appendix N – *Interpretation of the National Ambient Air Quality Standards for $PM_{2.5}$*, design values are "the metrics (i.e., statistics) that are compared to the NAAQS levels to determine compliance, calculated as shown in section 4 of this appendix…"
[29] We have included copies of CARB's annual network plans for 2019 – 2021 in the docket for this rulemaking.

requirements.[30]

In accordance with 40 CFR 58.15, CARB certifies annually that the previous year's ambient concentration and quality assurance data are completely submitted to AQS and that the ambient concentration data are accurate, taking into consideration the quality assurance findings.[31] Along with the certification letters, CARB submits a summary of the precision and accuracy data for all ambient air quality data.[32]

The design value report also includes a validity indicator ("Valid Ind.") that reflects whether the design value is valid (i.e., calculated using data that meet the applicable completeness criteria). For the purposes of this proposal, we reviewed the data for the 2019 – 2021 period for completeness and determined that the $PM_{2.5}$ data collected by CARB and the ICAPCD met the 75 percent completeness criterion for all 12 quarters at the Imperial County monitoring sites except for the $PM_{2.5}$ data collected at the Brawley monitoring site.[33] The Brawley monitor recorded less than 75 percent data capture during the 2nd quarter of 2021 (37 percent) due to monitor replacement. Because the data substitution test under 40 CFR part 50, Appendix N, section 4.1(c)(ii) requires each quarter to have data completeness of at least 50 percent, the Brawley 2021 data do not qualify for the data substitution test. The Brawley site has not historically been the 2012 annual $PM_{2.5}$ design value site for the area. We assessed the long-term trends at the Brawley monitoring site and determined that the site has historically had design values below the annual $PM_{2.5}$ NAAQS. During the 2012 to 2021 period, the Brawley monitoring site consistently had lower design values for the 2012 annual $PM_{2.5}$ NAAQS than the Calexico-Ethel monitoring site in Imperial County.[34] Furthermore, the District exceeds the $PM_{2.5}$ minimum monitoring requirements in the El Centro Metropolitan Statistical Area (MSA). Thus, based on the historical design value concentrations at the Brawley monitoring site relative to the

[30] We have included our reviews of CARB's annual network plans and the correspondence transmitting these reviews in the docket for this rulemaking.
[31] We have included CARB's annual data certifications for 2019, 2020, and 2021 in the docket for this rulemaking.
[32] 40 CFR 58.15(c).
[33] AQS Design Value Report (AMP480), dated August 31, 2022 (User ID: STSAI, Report Request ID: 2042550).
[34] Id.

2012 annual $PM_{2.5}$ NAAQS, we find that the incomplete data at the Brawley monitoring site should not preclude the EPA from determining the Imperial $PM_{2.5}$ nonattainment area has attained the 2012 annual $PM_{2.5}$ NAAQS.

Finally, the EPA conducts regular technical systems audits (TSAs) where we review and inspect state and local ambient air monitoring programs to assess compliance with applicable regulations concerning the collection, analysis, validation, and reporting of ambient air quality data. For the purposes of this proposal, we reviewed the findings from the EPA's most recent TSA of CARB's ambient air monitoring program.[35] The results of the TSA do not preclude the EPA from determining that the Imperial $PM_{2.5}$ nonattainment area has attained the 2012 annual $PM_{2.5}$ NAAQS.

In summary, based on the relevant monitoring network plans, certifications, quality assurance data, and 2018 TSA, we propose to find that the $PM_{2.5}$ data collected at the Imperial County monitoring sites are suitable for determining whether the Imperial $PM_{2.5}$ nonattainment area attained the 2012 annual $PM_{2.5}$ NAAQS by the applicable attainment date.

C. The EPA's Evaluation of Attainment

Table 1 provides the $PM_{2.5}$ design values at each of the three monitoring sites with the Imperial $PM_{2.5}$ nonattainment area, expressed as a single design value representing the average of the annual mean values from the 2019 – 2021 period; the annual mean for each individual year is also listed.[36] The $PM_{2.5}$ data show that the design values at the Imperial County monitoring sites were below the 2012 annual $PM_{2.5}$ NAAQS of 12.0 $\mu g/m^3$. The Brawley monitoring site recorded less than 75 percent data capture during the 2nd quarter of 2021 (37 percent) due to monitor replacement. As discussed in Section II.B above, based on the historical design value concentrations at the Brawley monitoring site relative to the 2012 annual $PM_{2.5}$ NAAQS, we find that the incomplete data at the Brawley monitoring site should not preclude the EPA from

[35] See letter dated February 3, 2020, from Elizabeth J. Adams, Director, Air Division, U.S. EPA Region IX, to Richard Corey, Executive Officer, CARB.
[36] AQS Design Value Report (AMP480), dated August 31, 2022 (User ID: STSAI, Report Request ID: 2042550).

determining the Imperial $PM_{2.5}$ nonattainment area has attained the 2012 annual $PM_{2.5}$ NAAQS. Consequently, the EPA proposes to determine based upon three years of complete, quality-assured, and certified data from 2019 through 2021 that the Imperial $PM_{2.5}$ nonattainment area has attained the 2012 annual $PM_{2.5}$ NAAQS by its December 31, 2021 attainment date.

Table 1. 2019–2021 Annual $PM_{2.5}$ Design Values for the Imperial $PM_{2.5}$ Nonattainment Area

Local Site Name	Site (AQS ID)	Annual Weighted Mean (µg/m^3)			2019 – 2021 Annual Design Values (µg/m^3)
		2019	2020	2021	
Calexico-Ethel	06-025-0005	10.7	12.0	10.3	11.0
El Centro	06-025-1003	7.9	9.8	8.4	8.7
Brawley	06-025-0007	8.3	9.4	7.8 (Inc)	8.5 (Inv)[a]

Source: EPA, Design Value Report, AMP480, dated August 31, 2022 (User ID: STSAI, Report Request ID: 2042550).
Notes: Inc = Incomplete data. Inv = Invalid design value due to incomplete data.
[a] Based on the design value calculation methodologies described in 40 CFR part 50, Appendix N, section 4.1(b), the Brawley (AQS ID: 06–025–0007) 2019–2021 design value is considered invalid due to incomplete data in the 2nd quarter of 2021.

III. Clean Data Determination

As described in section I.C. of this document, when an area has attained the relevant $PM_{2.5}$ standard(s), the EPA may issue a CDD after notice and comment rulemaking determining that a specific area is attaining the relevant standard.[37] Based on complete, quality-assured, and certified data for 2019 – 2021, the Imperial $PM_{2.5}$ nonattainment area meets the 2012 annual $PM_{2.5}$ standard.

Preliminary data available in AQS for 2022 (January through June) indicate that the area continues to show concentrations consistent with attainment of the 2012 annual $PM_{2.5}$ standard.[38] Consequently, the EPA is proposing to issue a CDD.

If we finalize this proposed CDD, the requirements for the State to submit an attainment demonstration, provisions demonstrating RACM (including RACT for stationary sources), an RFP plan, quantitative milestones and quantitative milestone reports, and contingency measures

[37] See 40 CFR 51.1015.
[38] AQS Design Value Report (AMP480), dated September 2, 2022 (User ID: STSAI, Report Request ID: 2043042).

for the area will be suspended until such time as: (1) the area is redesignated to attainment, after which such requirements are permanently discharged; or, (2) the EPA determines that the area has re-violated the $PM_{2.5}$ NAAQS, at which time the state shall submit such attainment plan elements for the moderate nonattainment area by a future date to be determined by the EPA and announced through publication in the *Federal Register* at the time the EPA determines the area is violating the $PM_{2.5}$ NAAQS.

A CDD does not suspend the requirements for an emissions inventory or for new source review. This action includes our proposed approval of the 2012 base year emissions inventory included in the attainment plan for the Imperial $PM_{2.5}$ nonattainment area, submitted on July 18, 2018.[39] The EPA fully approved the District's new source review program as meeting CAA requirements on August 26, 2019.[40]

IV. Analysis of 2012 Base Year Emissions Inventory

A. California's SIP Submittal for the 2012 $PM_{2.5}$ Standard for the Imperial $PM_{2.5}$ Nonattainment Area

This rulemaking also addresses the 2012 base year emissions inventory included in the Imperial $PM_{2.5}$ Plan, adopted by the District on April 24, 2018, and submitted to the EPA as a SIP revision on July 18, 2018.[41]

Imperial County encompasses over 4,000 square miles in southeastern California. Its population is estimated to be approximately 180,000 people, and its principal industries are farming and retail trade. It is bordered by Riverside County to the north, Arizona to the east, Mexico to the south, and San Diego County to the west. The Imperial Valley runs north-south through the central part of the County. Most of the County's population and industries exist

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[39] See Section IV of this rulemaking.
[40] 84 FR 44545.
[41] As provided in 40 CFR 51.1015, our clean data determination for the Imperial $PM_{2.5}$ nonattainment area suspends requirements to submit an attainment demonstration, associated RACM, RFP plan, contingency measures, and other SIP revisions related to the attainment of the 2012 annual $PM_{2.5}$ NAAQS, but does not suspend the requirement for a base year emissions inventory. Therefore, in conjunction with our proposed clean data determination for the Imperial $PM_{2.5}$ nonattainment area, we are also proposing to approve the 2012 base year inventory submitted with the Imperial $PM_{2.5}$ Plan.

within this relatively narrow land area, which extends about one-fourth the width of the County. The rest of Imperial County is primarily desert, with little or no human population. The Imperial $PM_{2.5}$ nonattainment area, which encompasses 982.1 square miles, is located within this central portion of the County. It is bordered to the north by the southern end of the Salton Sea and extends south to the Mexico border. The nonattainment area encompasses the three most populous cities in the County (Brawley, El Centro, and Calexico), and includes most of Imperial County's residents. For a precise description of the geographic boundaries of the Imperial $PM_{2.5}$ nonattainment area, see 40 CFR 81.305.

B. Public Notice, Public Hearing, and Completeness Requirements for SIP Submittals

CAA sections 110(a)(1) and (2) and 110(l) require each state to provide reasonable public notice and opportunity for public hearing prior to the adoption and submittal of a SIP or SIP revision to the EPA. To meet this requirement, every SIP submittal should include evidence that adequate public notice was given and an opportunity for a public hearing was provided consistent with the EPA's implementing regulations in 40 CFR 51.102.

Both the District and the State satisfied applicable statutory and regulatory requirements for reasonable public notice and hearing prior to adoption and submittal of the Imperial $PM_{2.5}$ Plan. The District provided a public comment period and held a public hearing prior to the adoption of the SIP submittal on April 24, 2018. CARB provided the required public notice and opportunity for public comment prior to its May 25, 2018 public hearing and adoption of the SIP submittal.[42] The submittal includes proof of publication of notices for the respective public hearings. We find, therefore, that the Imperial $PM_{2.5}$ Plan meets the procedural requirements for public notice and hearing in CAA sections 110(a) and 110(l).

CAA section 110(k)(1)(B) requires the EPA to determine whether a SIP submittal is complete within 60 days of receipt. This section of the CAA also provides that any plan that the

[42] CARB, "Notice of Public Meeting to Consider the PM2.5 State Implementation Plan for Imperial County," April 27, 2018; and CARB Board Resolution 18-18, "PM2.5 State Implementation Plan for Imperial County," May 25, 2018.

EPA has not affirmatively determined to be complete or incomplete will become complete by operation of law six months after the date of submittal. The EPA's SIP completeness criteria are found in 40 CFR part 51, Appendix V. On March 19, 2019, the EPA affirmatively found that the July 18, 2018 and October 29, 2019 submittals fulfill our completeness criteria.[43]

C. Requirements for Emissions Inventories

CAA section 172(c)(3) requires that each nonattainment plan SIP submittal include a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in the nonattainment area. This base year emissions inventory should provide a state's best estimate of actual emissions from all sources of the relevant pollutants in the area, i.e., all emissions that contribute to the formation of a particular NAAQS pollutant. For the $PM_{2.5}$ NAAQS, the base year inventory must include direct $PM_{2.5}$ emissions, separately reported filterable and condensable $PM_{2.5}$ emissions, and emissions of all chemical precursors to the formation of secondary $PM_{2.5}$, i.e., NO_X, SO_2, VOC, and ammonia.[44]

A state's nonattainment plan SIP submittal must include documentation explaining how it calculated the emissions data. In estimating mobile source emissions, a state should use the latest emissions models and planning assumptions available at the time the SIP is developed. At the time the Imperial $PM_{2.5}$ Plan was developed, the latest EPA-approved version of California's mobile source emission factor model for estimating tailpipe, brake and tire wear emissions from on-road mobile sources was EMFAC2014.[45] A state is also required to use the EPA's "Compilation of Air Pollutant Emission Factors" (AP–42) road dust method for calculating re-

[43] Letter dated March 19, 2019, from Elizabeth Adams, Air Division Director, EPA, Region IX, to Richard Corey, Executive Officer, CARB.
[44] 40 CFR 51.1008.
[45] 80 FR 77337 (December 14, 2015). EMFAC is short for EMission FACtor. The EPA announced the availability of the EMFAC2014 model for use in state implementation plan development and transportation conformity in California on December 14, 2015. The EPA's approval of the EMFAC2014 emissions model for SIP and conformity purposes was effective on the date of publication of the notice in the *Federal Register*. On August 15, 2019, the EPA approved and announced the availability of EMFAC2017, the latest update to the EMFAC model for use by State and local governments to meet CAA requirements. 84 FR 41717.

entrained road dust emissions from paved roads.[46, 47]

D. Base Year Emissions Inventory in the Imperial $PM_{2.5}$ Plan

Summaries of the planning emissions inventories for direct $PM_{2.5}$ and all $PM_{2.5}$ precursors (NO_X, SO_X,[48] VOC,[49] and ammonia) and the documentation for the inventories for the Imperial $PM_{2.5}$ nonattainment area are located in Chapter 3 of the Plan. More detailed emissions inventories for the Imperial $PM_{2.5}$ nonattainment area are found in Appendix B of the Plan. A more in-depth discussion of the methodology used by CARB and the District to develop projected inventories for modeling is included in Appendix G to Appendix A of the Imperial $PM_{2.5}$ Plan.

CARB and District staff worked together to develop the emissions inventories for the Imperial $PM_{2.5}$ nonattainment area. The District worked with operators of larger stationary facilities in the nonattainment area to develop the stationary source emissions estimates. CARB staff developed the emissions inventories for both on-road and off-road mobile sources.[50] The responsibility for developing estimates for the areawide sources such as agricultural burning and paved road dust was shared by the District and CARB.

The Imperial $PM_{2.5}$ Plan includes annual average emissions inventories for the 2012 base year. The inventory includes emissions from stationary, areawide, and mobile sources.[51] The

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[46] The EPA released an update to AP-42 in January 2011 that revised the equation for estimating paved road dust emissions based on an updated data regression that included new emission tests results. 76 FR 6328 (February 4, 2011). CARB used the revised 2011 AP-42 methodology in developing on-road mobile source emissions; see *https://www.arb.ca.gov/ei/areasrc/fullpdf/full7-9_2016.pdf*.

[47] AP-42 is the EPA's Compilation of Air Pollutant Emission Factors. It has been published since 1972 as the primary source of the EPA's emission factor information. It contains emission factors and process information for more than 200 air pollution source categories. A source category is a specific industry sector or group of similar emitting sources. The emission factors have been developed and compiled from source test data, material balance studies, and engineering estimates.

[48] The Imperial $PM_{2.5}$ Plan generally uses "sulfur oxides" or "SO_X" in reference to SO_2 as a precursor to the formation of $PM_{2.5}$. We use SO_X and SO_2 interchangeably throughout this notice.

[49] The Imperial $PM_{2.5}$ Plan generally uses "reactive organic gasses" or "ROG" in reference to VOC as a precursor to the formation of $PM_{2.5}$. We use ROG and VOC interchangeably throughout this notice. See *https://www.arb.ca.gov/ei/speciate/voc_rog_dfn_1_09.pdf*.

[50] EPA regulations refer to "nonroad" vehicles and engines whereas California Air Resources Board (CARB) regulations refer to "off-road" vehicles and engines. These terms refer to the same types of vehicles and engines, and for the purposes of this action, we will be using CARB's chosen term, "off-road," to refer to such vehicles and engines.

[51] Section 3-7 of the Imperial $PM_{2.5}$ Plan describes how county-wide emissions were allocated to the nonattainment

District developed base year inventories for larger stationary sources using actual emissions reports prepared by facility operators. CARB and the District estimated emissions for smaller stationary sources by using various methodologies reported as an aggregated total. CARB developed the base year emissions inventory for areawide sources using the most recent models and methodologies.[52] For the mobile source inventory, CARB used EMFAC2014 to estimate on-road motor vehicle emissions.[53] CARB calculated re-entrained paved road dust emissions using a CARB methodology consistent with the EPA's AP-42 road dust methodology, and taking into account reductions from District Rules 803, "Carry Out and Track Out" and 805, "Paved and Unpaved Roads."[54]

Table 1 provides a summary of the annual average inventories in tons per day (tpd) of direct $PM_{2.5}$ and $PM_{2.5}$ precursors for the base year of 2012. For a detailed breakdown of the inventories, see Chapter 3 and Appendix B in the Imperial $PM_{2.5}$ Plan.

Table 1. Imperial Annual Average Emissions Inventory for Direct $PM_{2.5}$ and $PM_{2.5}$ Precursors for the 2012 Base Year (tpd)

Category	Direct $PM_{2.5}$	NO_X	SO_X	VOC	Ammonia
Stationary Sources	0.55	1.54	0.000	0.96	1.19
Areawide Sources	10.58	0.37	0.05	5.14	21.94
On-Road Mobile Sources	0.19	5.31	0.02	1.77	0.11
Off-Road Mobile Sources	0.98	6.98	0.21	4.03	0.00
Totals	12.30	14.19	0.28	11.89	23.24

Source: Imperial $PM_{2.5}$ Plan, Chapter 3, Table 3-8a.

E. The EPA's Evaluation

The inventories in the Imperial $PM_{2.5}$ Plan are based on the most current and accurate information available to the State and District at the time the Plan and its inventories were being developed, including the latest version of California's mobile source emissions model at that

area, which encompasses a portion of Imperial County. For example, geographical coordinates of stationary sources were used to determine if a source is located within the nonattainment area. Allocations of emissions from areawide sources were based on spatial surrogates such as paved road miles or human population.

[52] Imperial $PM_{2.5}$ Plan, Chapter 3.

[53] Id. at 3-16.

[54] Id. at 3-10. Additional information regarding this methodology is available at *https://www.arb.ca.gov/ei/areasrc/arbmiscprocunpaverddst.htm*.

time, EMFAC2014. The inventories comprehensively address all source categories in the Imperial $PM_{2.5}$ nonattainment area and were developed consistent with the EPA's inventory guidance. For these reasons, we are proposing to approve the 2012 base year emissions inventory in the Imperial $PM_{2.5}$ Plan as meeting the requirements of CAA section 172(c)(3).

V. Environmental Justice Considerations

Executive Order 12898 (59 FR 7629, February 16, 1994) requires that federal agencies, to the greatest extent practicable and permitted by law, identify and address disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations. Additionally, Executive Order 13985 (86 FR 7009, January 25, 2021) directs federal government agencies to assess whether, and to what extent, their programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups, and Executive Order 14008 (86 FR 7619, February 1, 2021) directs federal agencies to develop programs, policies, and activities to address the disproportionate health, environmental, economic, and climate impacts on disadvantaged communities.

To identify environmental burdens and susceptible populations in underserved communities in the Imperial $PM_{2.5}$ nonattainment area and to better understand the context of the DAAD, the CDD, and our proposed approval of the emissions inventory on these communities, we conducted a screening-level analysis using the EPA's environmental justice (EJ) screening and mapping tool ("EJSCREEN").[55] Our screening-level analysis indicates that communities affected by this action score above the national average for the EJSCREEN "Demographic Index," which is the average of an area's percent minority and percent low income populations, i.e., the two demographic indicators explicitly named in Executive Order 12898.[56] These

[55] EJSCREEN provides a nationally consistent dataset and approach for combining environmental and demographic indicators. EJSCREEN is available at *https://www.epa.gov/ejscreen/what-ejscreen.* The EPA used EJSCREEN to obtain environmental and demographic indicators representing the Imperial $PM_{2.5}$ nonattainment area, the City of Calexico, which measures the highest levels of $PM_{2.5}$ in the nonattainment area, and the City of El Centro. These indicators are included in EJSCREEN reports that are available in the rulemaking docket for this action.

[56] EJSCREEN reports environmental indicators (e.g., air toxics cancer risk, Pb paint exposure, and traffic proximity and volume) and demographic indicators (e.g., people of color, low income, and linguistically isolated populations).

communities also score above the national average for the "linguistically isolated population," and "population with less than high school education" indicators. Although the area is attaining the $PM_{2.5}$ NAAQS, because almost all areas across the U.S. are also attaining the NAAQS (many by a wider margin), communities within the Imperial $PM_{2.5}$ nonattainment area score above the national average for the $PM_{2.5}$ EJ index. These communities also score above the national average for other EJ Index indicators, including the respiratory hazard EJ Index.

As discussed in the EPA's EJ technical guidance, people of color and low-income populations, such as those in Imperial County, often experience greater exposure and disease burdens than the general population, which can increase their susceptibility to adverse health effects from environmental stressors.[57] Underserved communities may have a compromised ability to cope with or recover from such exposures due to a range of physical, chemical, biological, social, and cultural factors.[58]

Notwithstanding the EJ concerns highlighted by the results of the EJSCREEN analysis, because monitoring data indicate the area has attained the annual $PM_{2.5}$ NAAQS, we do not believe this proposed action will have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations. This DAAD, when finalized, will fulfill the EPA's statutory obligation under CAA section 179(c)(1) to determine whether the Imperial $PM_{2.5}$ nonattainment area attained the NAAQS by the attainment date. Our final action on the base year emissions inventory will fulfill our statutory obligation to act on SIP submittals under section 110(k)(3).

If we finalize our proposed CDD, requirements related to achieving attainment of the

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The score for a particular indicator measures how the community of interest compares with the state, the EPA region, or the national average. For example, if a given location is at the 95th percentile nationwide, this means that only five percent of the US population has a higher value than the average person in the location being analyzed. EJSCREEN also reports EJ indexes, which are combinations of a single environmental indicator with the EJSCREEN Demographic Index. For additional information about environmental and demographic indicators and EJ indexes reported by EJSCREEN, see EPA, "EJSCREEN Environmental Justice Mapping and Screening Tool – EJSCREEN Technical Documentation," section 2 (September 2019).

[57] EPA, "Technical Guidance for Assessing Environmental Justice in Regulatory Analysis," section 4 (June 2016).

[58] Id. Section 4.1.

2012 annual $PM_{2.5}$ NAAQS will be suspended, as set forth in 40 CFR 51.1015. Because the area has attained the standard, such requirements are not necessary for timely attainment of the NAAQS. However, if prior to a potential future redesignation to attainment, we determine the Imperial $PM_{2.5}$ nonattainment area subsequently violates the NAAQS, we will rescind the CDD and require the area to submit a SIP that addresses the pertinent requirements.[59]

Notwithstanding the suspension of certain attainment-related requirements, all requirements adopted into the SIP prior to attainment will remain in place.[60] For example, the $PM_{2.5}$ emissions inventory in Imperial County is dominated by dust. Together, unpaved road dust, fugitive windblown dust, and dust from farming operations account for about 76 percent of the 2012 emissions inventory. Dust from mineral processes contributes about 3 percent, construction and demolition activities contribute another 1.44 percent, and dust from paved roads another 1 percent.[61] These sources are controlled by Imperial County's Regulation VIII, which the EPA previously approved as meeting best available control technology measure (BACM) levels of control for PM_{10}.[62] Regulation VIII will remain in place and will continue to control emissions that contribute to ambient $PM_{2.5}$.

The EPA notes that there are other efforts underway to reduce environmental burdens in Imperial County. The Imperial $PM_{2.5}$ nonattainment area borders Mexico, and the United States and Mexico have long recognized the environmental challenges near the border and share the goal of protecting the environment and public health throughout the U.S.-Mexico border region. The two nations have been working together outside the framework of the SIP process to make progress towards those goals.

The U.S.-Mexico Environmental Program ("Border 2025") is a five-year (2021-2025) binational effort designed "to protect the environment and public health in the U.S.-Mexico

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[59] See the $PM_{2.5}$ Implementation Rule, 81 FR 58010, 58128.
[60] Id.
[61] Imperial $PM_{2.5}$ Plan, Chapter 3.
[62] 75 FR 39366 (July 8, 2010) and 78 FR 23677 (April 22, 2013).

border region, consistent with the principles of sustainable development."[63] Border 2025 is the latest of a series of cooperative efforts implemented under the 1983 La Paz Agreement. It builds on previous binational efforts (i.e., the Border 2012 and Border 2020 Environmental Programs), emphasizing regional, bottom-up approaches for decision making, priority setting, and project implementation to address the environmental and public health problems in the border region. As in the previous two border programs, Border 2025 encourages meaningful participation from communities and local stakeholders and establishes guiding principles that will support the mission statement, ensure consistency among all aspects of the Border 2025 Program, and continue successful elements of previous binational environmental programs.

Border 2025 sets out four strategic goals, including the reduction of air pollution and the improvement of water quality, to address environmental and public health challenges in the border region. Within the goals are specific objectives that identify actions that will be taken in support of the program's mission. The goals and objectives were determined binationally between the EPA and the Ministry of Environment and Natural Resources of Mexico (SEMARNAT) to address ongoing environmental challenges and considered input from state and tribal partners. The "California-Baja California 2021-2023 Border 2025 Action Plan" lists and describes the projects that are being undertaken to achieve the goals and objectives of Border 2025, along with the target outputs, expected results, and status of each action.[64]

In addition to the ongoing efforts under the Border 2025 agreement, in 2020, the EPA awarded the ICAPCD $3,350,371 to pave 3.5 miles of residential alleyways in the downtown core of the City of Calexico to reduce $PM_{2.5}$ and PM_{10}.[65] The EPA subsequently awarded the ICAPCD an additional $3,485,940 to pave 2.5 miles of residential alleyways in the City of El

[63] "Border 2025: United States – Mexico Environmental Program," included in this docket and accessible at *https://www.epa.gov/sites/default/files/2021-05/documents/final_us_mx_border_2025_final_may_6.pdf.*
[64] The "California-Baja California 2019-2020 Border 2020 Action Plan" is included in the docket for this action and is accessible online at *https://www.epa.gov/usmexicoborder/region-9-action-plansplanes-de-accion-de-region-9*.
[65] A list of the Targeted Airshed Grants the EPA awarded in fiscal years 2015-2021 is accessible online at *https://www.epa.gov/air-quality-implementation-plans/targeted-airshed-grant-recipients.* These EPA grants support projects to reduce emissions in areas facing the highest levels of ground-level ozone and $PM_{2.5}$.

Centro. The resulting reductions of particulate emissions will relieve some of the cumulative burden on disadvantaged communities in the Imperial $PM_{2.5}$ nonattainment area.

VI. Proposed Action

For the reasons discussed in this document, the EPA is proposing to determine that the Imperial $PM_{2.5}$ nonattainment area attained the 2012 annual $PM_{2.5}$ NAAQS by its December 31, 2021 attainment date. This action, when finalized, will fulfill the EPA's statutory obligation to determine whether the Imperial $PM_{2.5}$ nonattainment area attained the NAAQS by the attainment date.

As provided in 40 CFR section 51.1015, we are also proposing a CDD. If the EPA finalizes this proposal, the requirements for this area to submit an attainment demonstration, associated RACM, RFP plan, contingency measures, and any other SIP revisions related to the attainment of the 2012 annual $PM_{2.5}$ NAAQS, will be suspended so long as this area continues to meet the standard. This CDD does not constitute a redesignation to attainment. The Imperial $PM_{2.5}$ nonattainment area will remain designated nonattainment for the 2012 annual $PM_{2.5}$ NAAQS until such time as the EPA determines, pursuant to sections 107 and 175A of the CAA, that the Imperial $PM_{2.5}$ nonattainment area meets the CAA requirements for redesignation to attainment, including an approved maintenance plan showing that the area will continue to meet the standard for 10 years.

We are also proposing to approve the Imperial $PM_{2.5}$ Plan's 2012 base year emissions inventory as meeting the requirements of CAA section 172(c)(3). As authorized in section 110(k)(3) of the Act, the EPA is proposing to approve the submitted base year emissions inventory because we believe it fulfills all relevant requirements.

As described in Section I.B of this document, the EPA's finding of failure to submit triggered an obligation for the EPA to issue a FIP. The District and CARB ultimately fulfilled their obligation to submit a plan, but because the EPA has not issued a final approval of the Imperial $PM_{2.5}$ Plan and because the nonattainment plan requirements continue to apply, our

obligation to promulgate a FIP remains in place. If the EPA finalizes this proposed CDD, the District's and State's nonattainment planning obligations, except the requirement for a base year emissions inventory and new source review, will be suspended.[66] If, in addition to making a CDD, we finalize our proposed approval of the base year emissions inventory, the EPA's FIP obligation will be suspended until such time as the CDD is rescinded.[67]

The EPA is soliciting public comments on the issues discussed in this document. We will accept comments from the public on this proposal until [**Insert date 30 days after date of publication in the *Federal Register***] and will consider comments before taking final action.

VII. Statutory and Executive Order Reviews

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

This 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 (PRA)

This rule does not impose any new information collection burden under the PRA not already approved by the Office of Management and Budget. This action proposes to find that the Imperial $PM_{2.5}$ nonattainment area attained the 2012 $PM_{2.5}$ NAAQS by the applicable attainment date, proposes to determine the area has clean data, and proposes to approve the base year emissions inventory. Thus, the proposed action does not establish any new information collection burden that has not already been identified and approved in the EPA's information collection request.

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

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[66] See Section I.D. of this document.

[67] On August 26, 2019, the EPA approved Imperial County APCD's amended Rule 207, "New and Modified Stationary Source Review" as meeting applicable CAA requirements for New Source review. 84 FR 44545.

entities. The proposed approval of the emissions inventory, the DAAD, and the CDD for the 2012 $PM_{2.5}$ NAAQS does not in and of itself create any new requirements beyond what is mandated by the CAA. Instead, this rulemaking only makes factual determinations, and does not directly regulate any entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This 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 and tribes, or on the distribution of power and responsibilities among the various levels of government. The division of responsibility between the Federal Government and the states for the purposes of implementing the NAAQS is established under the CAA.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications. It will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. There are no tribes affected by this action.

G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 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 does not concern an environmental health risk or safety risk.

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

This action is not subject to Executive Order 13211, because it is not a significant

regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

Executive Order (EO) 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's evaluation of this issue is contained in the section of the preamble titled "Environmental Justice Considerations."

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, and Volatile organic compounds.

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

Dated: October 6, 2022. Martha Guzman Aceves,

Regional Administrator,
Region IX.

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