



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2025-2466; FRL-13043-01-R9]

Approval of Clean Air Plans; San Joaquin Valley, California; Contingency Measures for 1997 Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve under the Clean Air Act (CAA or “Act”) a state implementation plan (SIP) submission from the State of California as meeting the attainment-related contingency measure requirements for the 1997 ozone national ambient air quality standards (NAAQS or “standards”) in the San Joaquin Valley, California, ozone nonattainment area. The SIP revision is titled “California Smog Check Contingency Measure State Implementation Plan Revision” (Released: September 15, 2023) (“Smog Check Contingency Measure SIP”). The EPA’s proposed approval relies on the previously-approved contingency measure for the 1997 ozone NAAQS for the San Joaquin Valley and the justifications for not adopting additional contingency measures that provide for the recommended amount of emissions reductions for such measures. Based on the proposed approval, the EPA is also proposing to determine that the State of California has fulfilled the commitment made by the State in connection with a previous approval action to develop, adopt, and submit attainment contingency measures for the San Joaquin Valley for the 1997 ozone NAAQS meeting the requirements of the CAA.

DATES: Written comments must arrive 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-2025-2466 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 a disability 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.

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I. Background

A. Ozone Air Pollution and Regulatory Framework

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 Clean Air Act (CAA or “Act”), the EPA promulgates national ambient air quality standards (NAAQS or “standards”) for pervasive air pollutants, such as ozone. The NAAQS are concentration levels whose attainment and maintenance the EPA has determined to be requisite to protect public health and welfare. In 1979, under section 109 of the CAA, the EPA established primary and secondary standards for ozone at 0.12 parts per million (ppm) averaged over a 1-hour period.³

In July 1997, the EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period.⁴ The

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 rulemaking.

² For more information on ozone health effects, see “Fact Sheet – 2008 Final Revisions to the National Ambient Air Quality Standards for Ozone,” dated March 2008.

³ 44 FR 8202 (February 8, 1979).

⁴ 62 FR 38856 (July 18, 1997). Primary standards provide public health protection, including protecting the health of “sensitive” populations such as people with asthma, children, and the elderly. Secondary standards provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings. Since the primary and secondary standards established in 1997 are set at the same level, we refer to them herein using the singular “1997 ozone NAAQS” or “1997 ozone standard.”

EPA set the 1997 8-hour ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone standards were set. The EPA determined that the 8-hour standard would be more protective of human health, especially for children and for adults who are active outdoors, and for individuals with a preexisting respiratory disease, such as asthma.

In March 2008, the EPA completed another review of the primary and secondary ozone standards and lowered the level for both to 0.075 ppm;⁵ and in October 2015, the EPA further lowered the level of the standards to 0.070 ppm,⁶ but this action pertains only to the SIP requirements for the 1997 ozone standard.

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. In April 2004, the EPA designated the San Joaquin Valley as nonattainment for the 1997 ozone standard and classified the area as “Serious,” but, in May 2010, the EPA granted the State’s voluntary reclassification of the area from “Serious” to “Extreme,” with an attainment date of no later than June 15, 2024.⁷

Under the CAA, states with ozone nonattainment areas classified as “Serious” or above, such as the San Joaquin Valley area for the 1997 ozone NAAQS, must revise their SIPs to meet various requirements. Among the various SIP revision requirements, states must provide contingency measures to meet the requirements set forth in CAA sections 172(c)(9) and 182(c)(9). Contingency measures are additional controls or measures to be implemented in the

⁵ 73 FR 16436 (March 27, 2008).

⁶ 80 FR 65292 (October 26, 2015).

⁷ 69 FR 23858 (April 30, 2004); 75 FR 24409 (May 5, 2010).

event the area fails to make reasonable further progress (RFP), meet any applicable milestone, or attain the NAAQS by the attainment date. Additional information about the requirements for contingency measures can be found in section II of this document.

The EPA revoked the 1997 ozone NAAQS effective April 6, 2015;⁸ however, to comply with anti-backsliding requirements of the Act, areas designated nonattainment for the 1997 ozone NAAQS at the time that the 1997 ozone NAAQS was revoked, such as San Joaquin Valley, remain subject to certain requirements based on their classification at the time of revocation, including requirements related to nonattainment contingency measures under CAA sections 172(c)(9) and 182(c)(9).⁹

The EPA's determination that an area failed to meet an RFP milestone or to attain by its applicable attainment date triggers the anti-backsliding requirements related to contingency measures. In September 2025, EPA made a final determination that the San Joaquin Valley failed to attain the 1997 ozone NAAQS by the June 15, 2024 attainment date.¹⁰ This determination triggered the Smog Check Contingency Measure, described in section I.C. of this document, in the San Joaquin Valley.

B. The San Joaquin Valley Ozone Nonattainment Area

The San Joaquin Valley nonattainment area for the 1997 ozone standard 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.¹¹ The population of the San Joaquin Valley in 2020 was

⁸ 80 FR 12264 (March 6, 2015).

⁹ 40 CFR 51.1100(o).

¹⁰ 90 FR 46065 (September 25, 2025).

¹¹ For a precise definition of the boundaries of the San Joaquin Valley 1997 ozone nonattainment area, see 40 CFR 81.305.

estimated to be more than 4.4 million people and is projected to increase to nearly 5 million people by 2035.¹²

C. Previous EPA Actions Related to Contingency Measures for the 1997 Ozone NAAQS in San Joaquin Valley

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 revisions, and it has authority under the Clean Air Act to establish emissions standards with certain limitations and other requirements for mobile sources. 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”) is responsible for stationary source regulation, and it also develops and adopts air quality management plans to address CAA planning requirements applicable to that region. Such plans are then submitted to CARB for adoption and submission to the EPA as revisions to the California SIP.

Under CAA section 110(k), the EPA is charged with evaluation of each SIP revision submitted by states for compliance with applicable CAA requirements and with acting on each submission. The EPA evaluates SIP submissions and takes action to approve or disapprove them through notice-and-comment rulemaking published in the *Federal Register*. Where appropriate, the EPA may act on separate portions of a SIP submission in separate rulemaking actions.

To address the SIP requirements for the 1997 ozone NAAQS for San Joaquin Valley, CARB submitted multiple plans and plan supplements as a revision to the California SIP. The submissions made during 2007-2011 are detailed in our proposed rulemaking published on September 16, 2011.¹³ In our March 1, 2012 final rule on the submissions for the 1997 ozone NAAQS for the San Joaquin Valley, the EPA approved the submissions as meeting various SIP

¹² The population estimates and projections include all of Kern County, not just the portion of Kern County within the San Joaquin Valley Air Basin. See Chapter 2 and table 2-1 of the District’s “2022 Ozone Plan for the 2015 8-Hour Ozone Standard.”

¹³ 76 FR 57846 (September 16, 2011).

requirements, including the requirement for contingency measures for failure to meet an RFP milestone (“RFP contingency measures”) under CAA sections 172(c)(9) and 182(c)(9).¹⁴ However, with respect to the requirement in CAA section 172(c)(9) for a state to provide contingency measures for failure to attain (“attainment contingency measures”), the EPA approved the submissions based on a commitment by CARB to develop, adopt and submit by 2020 attainment contingency measures meeting the requirements of CAA section 172(c)(9).¹⁵ We indicated that, following the State’s submission of these additional contingency measures, the EPA would approve or disapprove the provisions in accordance with CAA section 110.¹⁶

On November 13, 2023, CARB submitted the Smog Check Contingency Measure SIP as a revision to the California SIP. CARB adopted the Smog Check Contingency Measure SIP to fulfill the commitment made by CARB in connection with the EPA’s approval of the San Joaquin Valley plan for the 1997 ozone NAAQS with respect to the attainment-related contingency measure SIP requirement and also to provide for a contingency measure that could be triggered in multiple California nonattainment areas for different ozone and fine particulate matter (PM_{2.5}) NAAQS.

The Smog Check Contingency Measure SIP submission includes a contingency measure that would narrow the exemption for new vehicles from emissions testing under the Smog Check program from eight model years old to seven model years old in a given nonattainment area if triggered by an EPA finding of failure to meet a reasonable further progress (RFP) milestone or an EPA finding of failure to attain the NAAQS by the applicable attainment date for such area. The SIP submission also includes estimates of emissions reductions from implementation of the Smog Check Contingency Measure in the relevant years and nonattainment areas to which the measure applies, CARB’s evaluation of various mobile and area source categories to identify

¹⁴ 77 FR 12652 (March 1, 2012).

¹⁵ *Id.*, p. 12670. Also, see 40 CFR 52.220(c)(396)(ii)(A)(2)(i).

¹⁶ 76 FR 57846, at 57864 (September 16, 2011).

other feasible contingency measures, and justification for not adopting additional contingency measures (i.e., other than the Smog Check Contingency Measure).

In July 2024, EPA approved the Smog Check Contingency Measure as a stand-alone contingency measure.¹⁷ In our final rule, we indicated that we were not making any determination as to whether this individual contingency measure is sufficient by itself for CARB and the relevant air district to fully comply with the contingency measure requirements in any specific nonattainment area or specific NAAQS.¹⁸ With respect to San Joaquin Valley for the 1997 ozone NAAQS, we indicated that we would be taking a separate action on the Smog Check Contingency Measure SIP to evaluate whether the Smog Check Contingency Measure SIP fulfills the attainment-related contingency measure requirements under CAA section 172(c)(9) for the San Joaquin Valley for the 1997 ozone NAAQS.¹⁹ Our proposed rulemaking herein is the separate action to which we referred in our July 2024 final rule.

II. Contingency Measure Requirements and EPA Guidance

The EPA first provided its views on the CAA’s requirements for ozone plans under part D, title I of the Act in the following guidance documents: (1) “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990” (“General Preamble”)²⁰; and (2) “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Supplemental.”²¹ In the “Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2,” the EPA provided further interpretive guidance on the statutory SIP requirements that apply to areas designated nonattainment for the 1997 ozone NAAQS.²²

A. Statutory and Regulatory Requirements

¹⁷ 89 FR 56222 (July 9, 2024).

¹⁸ *Id.*, p. 56230.

¹⁹ *Id.*, p. 56227.

²⁰ 57 FR 13498 (April 16, 1992), referred to as the “General Preamble”.

²¹ 57 FR 18070 (April 28, 1992).

²² 70 FR 71612 (November 29, 2005).

Under CAA section 172(c)(9), states required to make an attainment plan SIP submission must include contingency measures to be implemented if the area fails to meet RFP (“RFP contingency measures”) or to attain the NAAQS by the applicable attainment date (“attainment contingency measures”). For ozone nonattainment areas classified Serious or above, CAA section 182(c)(9) further specifies that states must include contingency measures to be implemented if the area fails to meet any applicable milestone. An EPA determination that the state failed to meet an RFP milestone or to attain the NAAQS by the applicable attainment date is referred to as a “triggering event” because it triggers the requirement to implement the contingency measures.

Contingency measures must be fully adopted rules or control measures that are ready to be implemented upon a triggering event. In general, the EPA expects all actions needed to effect full implementation of the measures to occur within 60 days after the EPA notifies the state of a failure to meet RFP or to attain. Moreover, we generally expect the additional emissions reductions from the contingency measures to be achieved within a year of the triggering event.

The purpose of contingency measures is to continue progress in reducing emissions while a state revises its SIP to meet the missed RFP milestone or to develop a new plan demonstrating attainment of the NAAQS. Neither the CAA nor the EPA’s implementing regulations establish a specific level of emissions reductions that implementation of contingency measures must achieve, but the EPA traditionally recommended that contingency measures should provide for emissions reductions equivalent to approximately one year of reductions needed for RFP in the nonattainment area. In the event that a state is unable to identify and adopt contingency measures that will provide for approximately one year’s worth of emissions reductions, the state should provide a reasoned justification why the smaller amount of emissions reductions is appropriate.²³

B. Revised Contingency Measure Guidance

²³ 81 FR 58010, at 58067 (August 24, 2016).

In December 2024, the EPA released the “Guidance on the Preparation of State Implementation Plan Provisions that Address the Nonattainment Area Contingency Measure Requirements for Ozone and Particulate Matter (December 3, 2024)” (“Revised Contingency Measure Guidance”).²⁴ The principal differences between the revised guidance and previous guidance on contingency measures relate to the EPA’s recommendations concerning the specific amount of emissions reductions that implementation of contingency measures should achieve and the timing for when the emissions reductions from the contingency measures should occur.

The previous EPA recommendation for the amount of emissions reductions to achieve from implementation of contingency measures was one year’s worth of RFP, which, for ozone, is 3 percent of baseline emissions of VOC, and the previous recommendation for time over which the reductions from contingency measures may occur was one year. The Revised Contingency Measure Guidance introduces “one year’s worth of progress” (“OYW of progress”), a metric intended to be more closely tied to the emissions reductions required for attainment of the NAAQS, for determining the amount of emissions reductions that contingency measures should achieve.

One year’s worth of “progress” is calculated by determining the average annual reductions between the base year emissions inventory and the projected attainment year emissions inventory, determining what percentage of the base year emissions inventory this amount represents, and then applying that percentage to the projected attainment year emissions inventory to determine the amount of reductions needed to ensure ongoing progress if contingency measures are triggered.²⁵

²⁴ The EPA announced the availability of the guidance document at 89 FR 101602 (December 16, 2024). A copy of the guidance document itself is available in the docket for this action. The EPA had previously released a draft of this document, “Draft: Guidance on the Preparation of State Implementation Plan Provisions that Address the Nonattainment Area Contingency Measure Requirements for Ozone and Particulate Matter (DRAFT--3/17/23--Public Review Version)” (“Draft Revised Contingency Measure Guidance”). The EPA published a notice of availability for the Draft Revised Contingency Measure Guidance at 88 FR 17571 (March 23, 2023). The Revised Contingency Measure Guidance that the EPA finalized in December 2024 is consistent with the guidance set forth in the Draft Revised Contingency Measure Guidance that the EPA released in March 2023.

²⁵ See chapter 3 of the Revised Contingency Measure Guidance.

The Revised Contingency Measure Guidance also provides recommended procedures for developing a demonstration, if applicable, that the area lacks sufficient feasible contingency measures to achieve the recommended amount of reductions, which builds on existing guidance that the state provide a reasoned justification for why the smaller amount of emissions reductions from contingency measures is appropriate.²⁶

More specifically, if, after adequately evaluating additional control measures, the state is unable to identify contingency measures that would provide approximately one year's worth of emissions reductions, the Revised Contingency Measure Guidance recommends that the state should provide a reasoned justification (also referred to herein as an "infeasibility demonstration"). This reasoned justification should explain and document the state's evaluation of all existing and potential control measures relevant to the appropriate source categories and pollutants in the nonattainment area and the state's conclusions regarding whether such measures are feasible.

As explained in the Revised Contingency Measure Guidance, CAA sections 172(c)(9) and 182(c)(9) do not explicitly provide for consideration of whether specific measures are feasible.²⁷ However, the Agency does not read these statutory provisions to require states to adopt contingency measures that are not feasible. The statutory provisions applicable to other nonattainment area plan control measure requirements, including reasonably available control measures (RACM)/reasonably available control technology (RACT) (for ozone and PM), best available control measure (BACM)/best available control technology (BACT) (for PM), and most stringent measures (MSM) (for PM), allow air agencies to exclude certain control measures that are deemed unreasonable or infeasible (depending on the requirement). For example, the MSM provision in CAA section 188(e) requires plans to include "the most stringent measures that are included in the implementation plan of any state or are achieved in practice in any state,

²⁶ See chapter 4 of the Revised Contingency Measure Guidance.

²⁷ Revised Contingency Measure Guidance, pp. 33-34.

and can feasibly be implemented in the area.” While the contingency measures provisions do not include such caveats, the EPA does not conclude that the contingency measures provisions should be read to require plans to include infeasible measures. Thus, the EPA anticipates that a demonstrated lack of feasible measures would be a reasoned justification for adopting contingency measures that achieve less than the recommended amount of emissions reductions.

With respect to the time period within which to achieve reductions, the Revised Contingency Measure Guidance specifies that it may be appropriate to allow reductions to occur over two years, if sufficient reductions cannot be put in place in the first year after the triggering event. (In either case, contingency measures must take effect within 60 days of the triggering event.)²⁸

III. Evaluation

A. Procedural Requirements for Adoption and Submission of SIP Revisions

CAA section 110(a) and 110(l) require a state to provide reasonable public notice and opportunity for public hearing prior to the adoption and submission of a SIP or SIP revision. To meet this requirement, every SIP submission 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. The EPA previously determined that CARB has fulfilled the applicable requirements for public notice and public hearing for the Smog Check Contingency Measure SIP submission.²⁹

B. Evaluation for Compliance with Clean Air Act Contingency Measure Requirements

1. Smog Check Contingency Measure SIP

The Smog Check Contingency Measure SIP includes one contingency measure (the Smog Check Contingency Measure) for the San Joaquin Valley for the 1997 ozone NAAQS. As noted previously, the EPA has already approved the Smog Check Contingency Measure as

²⁸ See chapter 5 of the Revised Contingency Measure Guidance.

²⁹ 89 FR 56222, at 56229 (July 9, 2024).

meeting the applicable requirements for a valid contingency measure under the CAA and the EPA's implementation regulations and providing for additional emissions reductions of NO_x and VOC in the nonattainment areas to which it applies upon the occurrence of certain triggering events, such as a determination by the EPA that an area has failed to attain the applicable NAAQS by the applicable attainment date.³⁰

In the case of San Joaquin Valley for the 1997 ozone NAAQS, the EPA recently made a determination that the area failed to attain the NAAQS by the applicable attainment date,³¹ and CARB is in the process of implementing the Smog Check Contingency Measure in the area. In the Smog Check Contingency Measure SIP, CARB estimates that implementation of the Smog Check Contingency Measure in the San Joaquin Valley, in the wake of a determination of failure to attain the 1997 ozone NAAQS by the applicable attainment date, would achieve emissions reductions of approximately 0.112 tons per day (tpd) and 0.056 tpd of NO_x and VOC, respectively.³²

The Smog Check Contingency Measure SIP also includes estimates of one year's worth (OYW) of progress for the nonattainment areas and NAAQS to which the Smog Check Contingency Measure applies. The estimates of OYW of progress can be compared to the emissions reductions estimated for the contingency measures adopted for a given nonattainment area. The EPA's revised contingency measure guidance recommends OYW of progress as the amount of emissions reductions that contingency measures for a given area should achieve to meet CAA contingency measure SIP requirements.

For the San Joaquin Valley for the 1997 ozone NAAQS, CARB estimates OYW of progress as 7.57 tpd and 2.40 tpd of NO_x and VOC, respectively.³³ The EPA has independently estimated OYW of progress for the San Joaquin Valley for the 1997 ozone NAAQS based both

³⁰ Id., at 56229-56230.

³¹ 90 FR 46065 (September 25, 2025). The EPA's determination of failure to attain the 1997 ozone NAAQS in the San Joaquin Valley also triggered the District's alternative fee rule (District Rule 3171) that was adopted to comply with the SIP requirements under CAA sections 182(d)(3) and 185.

³² Smog Check Contingency Measure SIP, p. 34. These estimates reflect summertime conditions.

³³ Id. at 33.

on the emissions inventory information in the approved plan for the 1997 ozone NAAQS for the San Joaquin Valley and, alternatively, based on more recent emissions inventory information. Based on the approved plan for the 1997 ozone NAAQS for the San Joaquin Valley, the EPA estimates OYW of progress as 5.0 tpd and 4.1 tpd of NO_x and VOC, respectively.³⁴ Using more recent emissions inventory information, the EPA estimates OYW of progress as 5.3 tpd and 5.4 tpd of NO_x and VOC, respectively.³⁵ Regardless of the calculation method used to estimate OYW of progress for the San Joaquin Valley for the 1997 ozone NAAQS, the Smog Check Contingency Measure provides a small fraction of the recommended amount of emissions reductions to meet the CAA contingency measure SIP requirement.³⁶

Previously in this document, we described the recommendation in our Revised Contingency Measure Guidance that if, after adequately evaluating the availability of additional control measures, the state is unable to identify contingency measures that would provide approximately one year's worth of emissions reductions, we recommend that the state should provide a reasoned justification (also referred to herein as an "infeasibility demonstration"). This reasoned justification should explain and document the state's evaluation of all existing and potential control measures relevant to the appropriate source categories and pollutants in the nonattainment area and the state's conclusions regarding whether such measures are feasible to adopt as contingency measures.

In the Smog Check Contingency Measure SIP, CARB provides an infeasibility demonstration for mobile and area sources subject to CARB jurisdiction to justify why the State has not adopted additional contingency measures (i.e., in addition to the Smog Check

³⁴ OYW of progress is based on base year (2002) and attainment target level emissions estimates as shown in the EPA's proposed approval published at 76 FR 57846, at 57858 (September 16, 2011) of the San Joaquin Valley 2007 Ozone Plan for the 1997 ozone NAAQS. The EPA finalized approval of the plan at 77 FR 12652 (March 1, 2012).

³⁵ OYW of progress is based emissions estimated using CARB's CEPAM2019v.1.04 model for the base year (2002) and year 2023 emissions from appendix B of the San Joaquin Valley 2022 Ozone Plan for the 2015 Ozone NAAQS, pp. B-8 (NO_x) and B-13 (VOC).

³⁶ In the range of one to two percent of OYW of progress for both NO_x and VOC.

Contingency Measure) sufficient to achieve one year’s worth of progress for, in this case, the San Joaquin Valley for the 1997 ozone NAAQS.³⁷

2. 2024 SJV Ozone Contingency Measure Plan

The Smog Check Contingency Measure SIP does not include an infeasibility demonstration for stationary sources. However, since submission of the Smog Check Contingency Measure SIP, CARB has submitted the “Ozone Contingency Measure State Implementation Plan Revision for the 2008 and 2015 8-hour Ozone Standards (April 25, 2024)” (“2024 SJV Ozone Contingency Measure Plan”), which addresses the contingency measure SIP requirements for the San Joaquin Valley for the 2008 and 2015 ozone NAAQS.³⁸

The 2024 SJV Ozone Contingency Measure Plan includes the District’s infeasibility demonstration for stationary and area sources under District jurisdiction,³⁹ CARB’s expanded infeasibility demonstration for certain area sources under State jurisdiction,⁴⁰ and the District’s infeasibility demonstration for transportation control measures.⁴¹ The 2024 SJV Ozone Contingency Measure Plan refers to CARB’s infeasibility demonstration for mobile sources from the Smog Check Contingency Measure SIP.⁴² We have taken into account the infeasibility demonstrations included in the 2024 SJV Ozone Contingency Measure Plan in our evaluation of the Smog Check Contingency Measure SIP with respect to contingency measure SIP requirements for the San Joaquin Valley for the 1997 ozone NAAQS. Our reliance on the infeasibility demonstrations included in the 2024 SJV Ozone Contingency Measure Plan is appropriate even though it was not developed or submitted to address the contingency measure requirements for the 1997 ozone NAAQS because control strategies for all three ozone NAAQS (the 1997 ozone NAAQS, the 2008 ozone NAAQS, and the 2015 ozone NAAQS) relate to the

³⁷ CARB, Smog Check Contingency Measure SIP, appendix A (“Infeasibility Analysis”).

³⁸ CARB submitted the 2024 SJV Ozone Contingency Measure Plan to the EPA on April 29, 2024. The EPA proposed conditional approval of the 2024 SJV Ozone Contingency Measure Plan with respect to the 2008 ozone NAAQS at 89 FR 85119 (October 25, 2024).

³⁹ 2024 SJV Ozone Contingency Measure Plan, sections 5.1-5.7 and 5.12.

⁴⁰ 2024 SJV Ozone Contingency Measure Plan, section 5.10.

⁴¹ 2024 SJV Ozone Contingency Measure Plan, section 5.11.

⁴² 2024 SJV Ozone Contingency Measure Plan, sections 5.8 and 5.9.

same averaging period (8-hour average), the same precursor emissions (NO_x and VOC) and the same emissions sources, the same planning emissions inventories (summertime average day), and the same types of control measures. In addition, CARB and the District recommend that the EPA take into consideration the District's and CARB's 2024 SJV Ozone Contingency Measure Plan and the accompanying feasibility analyses in determining whether the Smog Check Contingency Measure SIP fully satisfies the attainment-related contingency measure requirements for the San Joaquin Valley with respect to the 1997 ozone NAAQS.⁴³

As relevant to our evaluation of the State's SIP submissions for compliance with the contingency measure SIP requirements for the 1997 ozone NAAQS, the 2024 SJV Ozone Contingency Measure Plan includes an analysis of top source categories in the emissions inventory, a list of existing contingency measures and commitments to adopt and submit additional contingency measures for the 2008 and 2015 ozone NAAQS, and a contingency measure feasibility analysis. In this section, we describe each of these components of the plan.

a. Emissions Inventory Analysis and Contingency Measures

The District reviewed the 2017, 2031, and 2037 baseline summer average emissions inventories for NO_x and VOC to identify the principal source categories that contribute to regional emissions totals and thereby to identify the source categories for which meaningful emissions reductions from contingency measures might be achievable.⁴⁴ Their analysis also included an evaluation of select source categories that comprise less than one percent of the total VOC emissions inventory.⁴⁵ Year 2017 represents the base year of the most recent emissions inventory for San Joaquin Valley, 2031 represents the attainment year for the 2008 ozone NAAQS, and 2037 represents the attainment year for 2015 ozone NAAQS.

⁴³ See letter from Ariel Fideldy, Chief, CARB Air Quality Planning Branch to Michelle Angelich, Acting Director, EPA Region IX Air and Radiation Division, dated October 16, 2025, and letter from Sheraz Gill, Deputy Air Pollution Control Officer, SJVUPACD to Edie Chang, Deputy Executive Officer, CARB, dated October 10, 2025.

⁴⁴ 2024 SJV Ozone Contingency Measure Plan, section 5, 13-18.

⁴⁵ 2024 SJV Ozone Contingency Measure Plan, section 5.12, p. 74.

Table 1 of this document shows that emissions from the top ten source categories for NO_x and VOC constituted approximately 82 percent and 74 percent of the total inventory of NO_x and VOC, respectively, in the San Joaquin Valley in 2017.⁴⁶ Appendix A to the 2024 SJV Ozone Contingency Measure Plan contains additional tables showing these emissions categories and their magnitudes.

Table 1: Top Ten Source Categories of NO_x and VOC Emissions, San Joaquin Valley, 2017 (Summer Average)

Ozone Precursor	Source Category	Emissions (tpd)	Emissions as a percentage of a total inventory
NO _x	Heavy Heavy Duty Trucks (HHDT) ^a	56.65	24.63
	Farm Equipment	50.45	21.93
	Off Road Equipment	24.01	10.44
	Trains	13.12	5.70
	Medium Heavy Duty Trucks (MHDT) ^b	9.22	4.01
	Light Heavy Duty Trucks (LHDT1) ^c	7.94	3.45
	Food and Agricultural Processing	7.12	3.09
	Medium Duty Trucks (MDT) ^d	6.86	2.98
	Light Duty Passenger (LDA)	6.47	2.81
	Off Road Equipment (PERP) ^e	5.87	2.55
	Total of Top Ten Source Subcategories – NO _x	187.71	81.59
VOC	Farming Operations ^f	93.76	27.93
	Consumer Products	25.78	7.68
	Other (Waste Disposal) ^g	21.54	6.42
	Pesticides/Fertilizers ^h	20.81	6.20
	Recreational Boats	20.37	6.07
	Managed Burning and Disposal	16.38	4.88
	Off-Road Equipment	14.95	4.45
	Food and Agriculture	12.76	3.80
	Oil and Gas Production	11.46	3.41
	Light Duty Passenger (LDA)	10.82	3.22
	Total of Top Ten Source Subcategories – VOC	248.63	74.06

^a HHDT have a gross vehicle weight rating (GVWR) greater than 33,000 pounds.
^b MHDT have a GVWR of 14,001 to 33,000 pounds.
^c LHDT1 have a GVWR of 8,501 to 10,000 pounds.
^d MDT have a GVWR of 5,751 to 8,500 pounds.
^e Off Road Equipment (PERP) refers to off-road equipment registered under CARB’s Portable Equipment Registration Program. Owners or operators of portable engines and other types of equipment can register their units under the CARB Statewide Portable Equipment Registration Program (PERP) in order to operate their equipment throughout California without having to obtain individual permits from local air districts.
^f Most of the VOC emissions within this source category is associated with livestock husbandry, particularly silage and dairy cattle waste.

⁴⁶ 2024 SJV Ozone Contingency Measure Plan, table 6.

^g Most of the VOC emissions within this source category is associated with composting.

^h Most of the VOC emissions within this source category is association with agricultural pesticide use.

Source: 2024 SJV Ozone Contingency Measure Plan, table 6.

Based on the emissions inventory information, SJVUAPCD identified existing and planned future controls for each sector in the nonattainment area. In this context, existing controls refer to the limits and requirements for different source categories set forth in the District, CARB, and EPA rules and regulations. Planned future controls refer to the commitments to develop and propose control measures found in District plans⁴⁷ and in CARB's Valley State SIP Strategy and the 2022 State SIP Strategy.⁴⁸ Next, the District conducted a search for potential additional controls by source category that could achieve additional emissions reductions that are not already adopted or implemented.⁴⁹ In accordance with the Draft Revised Contingency Measures Guidance, the District evaluated the technological and economic feasibility of the potential measures, whether the potential measure could be implemented within 60 days of being triggered, and whether they could achieve the necessary reductions within two years of being triggered.⁵⁰ Based on the feasibility of the potential contingency measures, the District conducted a further evaluation of specific source categories and contingency measure opportunities.⁵¹

Concurrently, CARB identified existing and planned future controls for mobile and area sources that could achieve additional emissions reductions that are not already adopted or implemented.⁵² CARB then evaluated the technological and economic feasibility of the potential measures, whether the potential measure could be implemented within 60 days of being

⁴⁷ See 2024 SJV Ozone Contingency Measure Plan, table 3, and section 5.

⁴⁸ CARB, "San Joaquin Valley Supplement to the 2016 State Strategy for the State Implementation Plan" ("Valley State SIP Strategy"), table 7, approved at 85 FR 44192 (July 22, 2020); and CARB, "2022 State Strategy for the State Implementation Plan (adopted September 22, 2022)" ("2022 State SIP Strategy"), submitted on February 23, 2023, table 3.

⁴⁹ 2024 SJV Ozone Contingency Measure Plan, sections 5.1 – 5.7, and 5.11 (pp. 19-54 and 72-74, respectively).

⁵⁰ Id.

⁵¹ 2024 SJV Ozone Contingency Measure Plan, section 5.12 (pp. 74-89).

⁵² 2024 SJV Ozone Contingency Measure Plan, section 5.8, 5.9 and 5.10, and appendix B.

triggered, and whether they could achieve the necessary reductions within two years of being triggered.⁵³

The 2024 SJV Ozone Contingency Measure Plan identifies two already-adopted contingency measures (i.e., rules that contain contingency provisions to be triggered in the event of a failure to attain or to meet an RFP milestone) and five additional contingency measures that the District has committed to adopt and CARB has committed to submit to the EPA as a revision to the California SIP. The two existing contingency measures include the District’s Architectural Coatings Contingency Measure⁵⁴ and CARB’s Smog Check Contingency Measure. The five contingency measures to which the District has committed to adopt and CARB has committed to submit to the EPA involve amendments to the District’s Rule 4601 (Architectural Coatings) (“Architectural Coatings Rule”), Rule 4603 (Surface Coating of Metal Parts and Products, Plastic Parts and Products, and Pleasure Crafts) (“Surface Coating of Metal Parts and Products Rule”), Rule 4604 (Can and Coil Coating Operations) (“Can and Coil Coatings Rule”), Rule 4653 (Adhesives and Sealants) (“Adhesives and Sealants Rule”), and Rule 4663 (Organic Solvent Cleaning, Storage and Disposal) (“Organic Solvent Cleaning Rule”). The Smog Check Contingency Measure applies to the 1997, 2008, and 2015 ozone NAAQS in the San Joaquin Valley, but the other contingency measures described in the 2024 SJV Ozone Contingency Measure Plan relate solely to the 2008 and 2015 ozone NAAQS.

b. Contingency Measure Feasibility Analysis

The 2024 SJV Ozone Contingency Measure Plan includes infeasibility justifications for providing contingency measures that achieve less than one year’s worth of progress, generally following the approach that the EPA describes for such analyses in the EPA’s Revised Contingency Measure Guidance. The feasibility analysis for source categories under District

⁵³ 2024 SJV Ozone Contingency Measure Plan, table 9.

⁵⁴ SJVUAPCD Rule 4601 (Architectural Coatings), section 4.3. The EPA approved the District’s Architectural Coatings Contingency Measure as a revision to the California SIP at 87 FR 78544 (December 22, 2022). Upon a triggering event, this contingency measure would remove the exemption for certain categories of architectural coatings sold in containers with a volume of one liter or less (referred to as the small container exemption (SCE)).

jurisdiction is found in sections 5.1-5.7 of the 2024 SJV Ozone Contingency Measure Plan, and further evaluation of select source categories under SJV District jurisdiction is found in section 5.12. The feasibility analysis for source categories under State jurisdiction is found in sections 5.8-5.10 and appendix B. For certain source categories, such as commercial charbroiling and such as boilers, steam generators, and process heaters with total rated heat input greater than five million British thermal units per hour (MMBtu/hr), the District relies on and refers to a previous analysis that the District included in the PM_{2.5} Contingency Measure SIP Revision.⁵⁵ Lastly, in section 5.11 of the 2024 SJV Ozone Contingency Measure Plan, the District addresses opportunities for transportation control measures (TCMs) to be adopted as contingency measures.

With respect to source categories under District jurisdiction, the District analyzed the wide range of stationary and area sources for contingency measure opportunities, which included identifying potential control measures, analyzing the technological and economic feasibility of such measures, and assessing whether the measures could be implemented within 60 days and achieve emissions reductions within one to two years. The District analyzed potential control measures in the fuel combustion, waste disposal, cleaning and surface coating, petroleum production and marketing, industrial processes, solvent evaporation, and miscellaneous processes emissions inventory source categories. Based on this analysis, the District further analyzed certain specific categories for contingency measure opportunities. More specifically, the District analyzed Rule 4565 (Biosolids, Animal Manure, and Poultry Litter Operations), Rule 4570 (Confined Animal Facilities), Architectural Coatings Rule, Surface Coating of Metal Parts and Products Rule, Can and Coil Coatings Rule, Rule 4605 (Aerospace Assembly and Component Coating Operations), Adhesives and Sealants Rule, Organic Solvent Cleaning Rule, Rule 4684 (Polyester Resin Operations), and Rule 4694 (Wine Fermentation and Storage Tanks).

⁵⁵ SJVUAPCD, PM_{2.5} Contingency Measure State Implementation Plan Revision, May 18, 2023 (“PM_{2.5} Contingency Measure SIP Revision”). The EPA took final action to approve the PM_{2.5} Contingency Measure SIP Revision at 89 FR 80749 (October 4, 2024).

Through this process, the District identified additional possible contingency measures, through amendments to the Architectural Coatings Rule, the Surface Coating of Metal Parts and Products Rule, the Can and Coil Coatings Rule, the Adhesives and Sealants Rule and the Organic Solvent Cleaning Rule. The committed-to revisions to the District's Architectural Coatings Rule, Surface Coating of Metal Parts and Products Rule, Can and Coil Coatings Rule, Adhesives and Sealants Rule, and Organic Solvent Cleaning Rule are described in section 5.12 of the 2024 SJV Ozone Contingency Measure Plan. The 2024 SJV Ozone Contingency Measure Plan included commitments to adopt the amendments to these rules. Additionally, the District and CARB have committed to adopt and submit the amended rules to the EPA as revisions to the California SIP within one year of the EPA's final conditional approval of the 2024 SJV Ozone Contingency Measure Plan.⁵⁶

With respect to the other source categories under District jurisdiction, the District's analysis found that it was infeasible to adopt additional contingency measures for these categories. A detailed accounting of reasons for which new contingency measures in each source category were determined to be infeasible is contained in sections 5.1 through 5.7, and 5.12 of the 2024 SJV Ozone Contingency Measure Plan. These reasons include conclusions that further controls are not technologically or economically feasible, that rules have recently been amended and owners or operators in affected source categories are still working to comply with recently adopted rule changes, that the source category does not lend itself to a rule that has a trigger mechanism, and that the District is already implementing the most stringent controls feasible. Additional reasons include that the rule meets or exceeds Federal RACT requirements and that the rulemaking process, including public process, to develop such a rule would take longer than two years.

⁵⁶ The timing for the adoption and submission of the amended rules to the EPA for inclusion in the SIP was clarified by letter, after submission of the 2024 SJV Ozone Contingency Measure Plan. See letter from Samir Sheikh, Executive Director/Air Pollution Control Officer, SJVUAPCD, to Dr. Steven S. Cliff, Executive Officer, CARB and Martha Guzman, Regional Administrator, EPA Region IX, dated June 18, 2024, and letter from Michael Benjamin, D. Env., Division Chief, Air Quality Planning & Science Division, CARB, to Martha Guzman, Regional Administrator, EPA Region IX, dated June 24, 2024.

With respect to source categories under State jurisdiction, CARB stated that opportunities for contingency measures that would achieve the recommended amount of emissions reductions are limited, due to the stringency of their existing mobile source control program, and the fact that the portion of emissions due to federally-regulated sources is expected to increase in the coming years.⁵⁷ CARB further noted that a relatively limited portion of NO_x emissions are regulated by local air districts in California and that additional control measures to achieve the one year's worth of emissions reductions are scarce or nonexistent.

CARB stated that if such measures were identified, they would be adopted to improve air quality and help attain the NAAQS, rather than held in reserve as contingency measures, and that control measures to achieve large emissions reductions often take longer than two years to implement—beyond the one- to two-year timeframe for achieving emissions reductions for contingency purposes.⁵⁸ For example, CARB stated that the three largest NO_x reduction measures committed to in the 2022 State SIP Strategy rely on accelerated turnover of engines and trucks and shifting to zero-emission equipment, which is limited by infrastructure and equipment options.⁵⁹ CARB further stated that a central difficulty in considering contingency measures is that CARB has already committed to zero emissions standards where feasible and as expeditiously as possible to fulfill goals established in California Executive Order N-79-20 for mobile sources ranging from light-duty cars by 2035 to heavy-duty trucks by 2045.⁶⁰

More specifically, CARB analyzed all mobile sources under its authority to identify potential contingency measures using three criteria: CAA requirements, court decisions, and the EPA's Draft Revised Contingency Measure Guidance.⁶¹ First, CARB assessed whether the measure could be implemented within 60 days of a triggering event and achieve the recommended amount of emissions reductions within one to two years. Second, CARB assessed

⁵⁷ 2024 SJV Ozone Contingency Measure Plan, appendix B, pp. 7-8.

⁵⁸ 2024 SJV Ozone Contingency Measure Plan, appendix B, p. 7.

⁵⁹ CARB, "2022 State Strategy for the State Implementation Plan," adopted September 22, 2022, Chapter 5 ("State SIP Measures").

⁶⁰ Executive Department, State of California, Executive Order N-79-20, September 23, 2020.

⁶¹ 2024 SJV Ozone Contingency Measure Plan, appendix B, p. 45.

the technological and economic feasibility of implementing the measure, particularly within the one- to two-year timeframe. Third, CARB evaluated whether it could adopt the measure and secure EPA approval by the September 30, 2024 consent decree deadline for the EPA to promulgate a PM_{2.5} contingency measures Federal Implementation Plan (FIP) or, alternatively, approve PM_{2.5} contingency measure SIP submissions meeting the contingency measure requirements.⁶²

Regarding mobile source contingency measures, CARB described several challenges that limit the control measure options that would meet contingency measure requirements. For new engine standards, CARB stated that engine manufacturers need lead time to “design, plan, certify, manufacture, and deploy cleaner engines.”⁶³ On the consumer side, CARB stated that additional time would be required for “procurement implementation and there may be additional infrastructure needed to meet new requirements.”⁶⁴ Based on the time required for implementing such measures, CARB concluded that measures that require fleet turnover or new engine standards are not appropriate for contingency measures.

In addition to mobile source control measures, CARB noted that vehicular emissions can be reduced through implementation of TCMs.⁶⁵ CARB stated that county planning and transportation districts, and local jurisdictions are responsible for identifying, adopting, and implementing TCMs. Because of timing concerns associated with the transportation planning process, CARB concluded that TCMs are not feasible contingency measures.

Furthermore, CARB stated that its regulations are technology-forcing, which requires time for industry to plan, develop, and implement new technologies, and that it is driving mobile sources to zero-emissions where feasible to achieve criteria, air toxic, and climate pollutant

⁶² The consent decree to which CARB is referring is the consent decree in the *Comité Progreso de Lamont, et al. v. United States Environmental Protection Agency, et al.*, No. 3:21-cv-08733-WHA (N.D. Cal.). See 87 FR 71631 (November 23, 2022). With respect to mobile sources, CARB is relying on the same infeasibility demonstration in connection with the contingency measure elements for San Joaquin Valley for both the PM_{2.5} NAAQS and the ozone NAAQS.

⁶³ *Id.*

⁶⁴ 2024 SJV Ozone Contingency Measure Plan, appendix B, pp. 45-46.

⁶⁵ 2024 SJV Ozone Contingency Measure Plan, section 5.11, pp. 72-74.

goals. Similarly, CARB argued that the technology-forcing and zero-emission-based nature of its mobile source regulations reduce or eliminate opportunities for contingency measure emissions reductions. Lastly, CARB stated that its full rulemaking process for most mobile source measures takes about five years to develop and adopt, which would not be possible prior to the September 30, 2024 consent decree deadline for the EPA to promulgate a PM_{2.5} contingency measure FIP or approve PM_{2.5} contingency measure SIP submissions meeting the contingency measure requirements.⁶⁶

Through its review of potential contingency measures, CARB identified certain revisions to the California Smog Check program as feasible for adoption as a contingency measure, culminating in the adoption and submission to the EPA of the Smog Check Contingency Measure. As noted previously, the EPA has approved the Smog Check Contingency Measure as a revision to the California SIP. The Smog Check Contingency Measure complements the District contingency measure for architectural coatings for the 2008 and 2015 ozone NAAQS and the commitments to submit additional contingency measures to the EPA for the 2008 and 2015 ozone NAAQS. A detailed accounting of the reasons CARB cites in determining that additional mobile source contingency measures are infeasible is contained in appendix B of the 2024 SJV Ozone Contingency Measure Plan.⁶⁷

CARB also evaluated VOC area source emissions categories and controls for potential contingency measures.⁶⁸ The specific source categories evaluated by CARB include consumer products, crude oil and natural gas facilities, petroleum marketing (vehicle refueling and cargo tanks), portable fuel containers (gas cans), and pesticides. CARB concluded that there are no feasible contingency measures for these source categories and summarized the Agency's assessment and rationale in table 9 of the 2024 SJV Ozone Contingency Measure Plan.⁶⁹

⁶⁶ 2024 SJV Ozone Contingency Measure Plan, appendix B, p. 46.

⁶⁷ 2024 SJV Ozone Contingency Measure Plan, appendix B, table 51, pp. 46-58.

⁶⁸ 2024 SJV Ozone Contingency Measure Plan, section 5.10.

⁶⁹ 2024 SJV Ozone Contingency Measure Plan, table 9, pp. 69-71.

In sum, based on the adoption of the Smog Check Contingency Measure and the infeasibility demonstrations included in the Smog Check Contingency Measure SIP and the 2024 SJV Ozone Contingency Measure Plan, CARB and the District conclude that the Smog Check Contingency Measure SIP fulfills the contingency measure requirements for the 1997 ozone NAAQS for San Joaquin Valley.

c. EPA Evaluation

The EPA has reviewed the State's infeasibility demonstrations for not adopting contingency measures beyond the Smog Check Contingency Measure for the 1997 ozone NAAQS, the Architectural Coatings Contingency Measure adopted for the 2008 ozone NAAQS, and the five new or amended contingency measures that the District has committed to adopt for the 2008 and 2015 ozone NAAQS, including both the processes used by the District and CARB and their assessments specific to a wide range of stationary, area, and mobile source categories. Notably, in connection with the EPA's proposed contingency measure FIP for the San Joaquin Valley, in 2023 the EPA prepared a detailed evaluation of source categories and measures that we considered as potential additional contingency measures but determined to be infeasible or otherwise unsuitable for contingency measures. Although the EPA proposed the FIP to address the fine particulate matter (PM_{2.5}) contingency measure requirement, some of the analysis is relevant for ozone, as NO_x was evaluated in the FIP as a PM_{2.5} precursor, and it is also a precursor for ozone. See "EPA Source Category and Control Measure Assessment and Reasoned Justification Technical Support Document, Proposed Contingency Measures Federal Implementation Plan for the Fine Particulate Matter Standards for San Joaquin Valley, California," July 2023 ("EPA's Reasoned Justification TSD"). We have relied on that TSD given its breadth and depth, as well as the expertise of EPA Region IX staff, to review the District's and CARB's infeasibility demonstrations with respect to NO_x measures, understand where the State's and the EPA's analyses draw largely similar conclusions, and identify those source

categories where the control measure analyses differ.⁷⁰ As described in the following paragraphs, the EPA proposes to find that the District's and CARB's infeasibility demonstrations adequately justify the collection of contingency measures selected by the State to meet the contingency measure requirement under CAA section 172(c)(9) for the San Joaquin Valley for the 1997 ozone NAAQS.

In terms of process, the District and CARB identified and evaluated existing and potential control measures using components of the process recommended in the EPA's Revised Contingency Measures Guidance.⁷¹ As described previously in this proposed rulemaking, for the wide range of stationary and area sources under its jurisdiction, the District described its ongoing stationary source regulatory efforts, identified potential control measures as candidate contingency measures, and analyzed the technological and/or economic feasibility of each candidate measure, including the feasibility of implementing such measures within 60 days and achieving the resulting emission reductions within one to two years.⁷² The District also provided more in-depth analysis of potential control measures for ten source categories, ultimately adopting commitments for new or amended contingency measures for the 2008 and 2015 ozone NAAQS for five source categories and providing a reasoned justification for not adopting such measures for the other five source categories.⁷³ We are proposing to find that the District employed a reasonable process to identify and assess the feasibility and suitability of potential control measures as contingency measures for stationary and area sources in the San Joaquin Valley.

⁷⁰ While the EPA Reasoned Justification TSD was prepared in connection with a PM_{2.5} contingency measure FIP, the analysis contained therein is relevant for our review of the 2024 SJV Ozone Contingency Measure Plan to the extent it addresses NO_x emissions sources and controls given that NO_x is a precursor for both ozone and PM_{2.5} in the San Joaquin Valley.

⁷¹ EPA's Contingency Measure Guidance, section 4 ("Contingency Measures and Reasoned Justification for Less Than [One Year's Worth] of Progress").

⁷² 2024 SJV Ozone Contingency Measure Plan, sections 5.1 through 5.7, and 5.11.

⁷³ 2024 SJV Ozone Contingency Measure Plan, section 5.12, and the PM_{2.5} Contingency Measure SIP Revision (for the boilers, steam generators, and process heaters >5 MMBtu/hour source category).

Similarly, CARB identified potential mobile source and area source control measures, assessed whether each candidate measure could be implemented within 60 days of a triggering event and emissions reductions achieved within one to two years, and then analyzed their technological and/or economic feasibility.⁷⁴ Regarding timing of emissions reductions from mobile sources, CARB concluded that new engine standards are not appropriate for contingency measures given the time needed for manufacturers to design, develop, and deploy cleaner engines or equipment at scale, especially for zero-emission equipment.

As described in the EPA's Reasoned Justification TSD,⁷⁵ as a general matter, new mobile source engine or vehicle emission standards require significant lead time (more than two years) to allow manufacturers time to retool factories to produce compliant engines or vehicles. Retrofit or replacement requirements also require significant lead time to allow owners and operators to manage the process of retrofitting or replacing old engines or vehicles. Therefore, we agree with CARB that such mobile source control measures (that require significant lead time to implement) would not achieve emissions reductions within one to two years of a contingency measure triggering event. In sum, we are proposing to find that CARB employed a reasonable process to identify and assess the feasibility and suitability of potential control measures as contingency measures for mobile sources in the San Joaquin Valley.

With respect the District's and CARB's justifications that it is infeasible to adopt additional contingency measures, the EPA notes that technological and economic feasibility are generally acceptable considerations for evaluating the feasibility of additional contingency measure controls for relevant source categories. Accordingly, we are proposing to find the infeasibility demonstrations are adequately justified for the following reasons (as described in the 2024 SJV Contingency Measure Plan): further controls for specific source categories are not technologically or economically feasible; the source category does not lend itself to a rule that

⁷⁴ 2024 SJV Ozone Contingency Measure, section 5.10, and appendix B, pp. 44-58.

⁷⁵ EPA's Reasoned Justification TSD, pp. 141-144.

has a trigger mechanism; or the District is already implementing the most stringent controls possible.

However, the EPA notes that the fact that a particular rule meets or exceeds Federal RACT requirements is not a sufficient justification for concluding that additional controls for that category are infeasible. Contingency measures are intended to be measures that achieve reductions beyond the reductions associated with other applicable CAA requirements for the nonattainment area. Therefore, additional controls that exceed what is required to implement RACT could very well be viable candidates for contingency measures. Additionally, the length of the rulemaking process is not a valid consideration for finding a control measure infeasible that would otherwise be feasible to adopt. We expect states with nonattainment area contingency measure requirements to proactively identify relevant candidate measures such that the rulemaking process does not impede timely development of contingency measures. We are therefore proposing to find that the District's and CARB's stated reasons of already meeting or exceeding RACT for the relevant source category or expecting a lengthy rulemaking process are not relevant justifications for not adopting additional contingency measures. In this instance, however, neither CARB nor the District found potential contingency measures infeasible solely because additional controls would exceed the RACT requirement or because the rulemaking process would take too long.

For each of the stationary and area source categories examined that relate primarily to NO_x emissions, the EPA is proposing to find that additional control measures cannot feasibly reduce emissions within one to two years. In the following paragraphs, we describe those source categories where we agree with the bases presented by the District. We then discuss those source categories where the basis of the EPA's conclusion differs from that of the District, even while the conclusion itself is the same – that the additional control measure evaluated cannot feasibly reduce emissions within one to two years.

The District's analyses are substantially the same as those of the EPA for the following source categories: flares (Rule 4311), solid fuel fired boilers, steam generators, and process heaters (Rule 4352), glass melting furnaces (Rule 4354), internal combustion engines (Rule 4702), stationary gas turbines (Rule 4703), and natural gas-fired, fan type residential central furnaces (Rule 4905).

We note that the candidate NO_x control measures evaluated for internal combustion engines, stationary gas turbines, boilers, steam generators, and process heaters would require installation of costly and engineering-intensive devices (e.g., oxyfuel fired furnaces and natural gas furnaces equipped with selective catalytic reduction (SCR) for glass melting). As described in the EPA's Reasoned Justification TSD, while these technologies may be available and feasible in some contexts, we concluded there that it would be technologically infeasible for these measures to be implemented and achieve meaningful emissions reductions within one to two years.⁷⁶ We are therefore proposing to agree with the District's determinations that such measures are technologically infeasible as contingency measures at this time.

We note that the EPA's Reasoned Justification TSD does not evaluate potential contingency measures specifically related to District Rules 4309 and 4352 and, thus, we provide our review and evaluation in this document.

With respect to sources covered by Rule 4309, the District considered controls for dryers, dehydrators, and ovens, citing their analysis of this source category for the 2022 Ozone Plan.⁷⁷ The District found that additional controls such as low NO_x burners could not feasibly be implemented within the relevant timeframes for contingency measures for this source category. The District noted that the time associated with design, planning, and installation of controls would not be feasible to implement within 60 days of triggering and would exceed the one- to

⁷⁶ See, e.g., EPA's Reasoned Justification TSD, pp. 9–22 (the EPA's evaluation of contingency measures for boilers, steam generators, and process heaters).

⁷⁷ SJVUAPCD, *2022 Plan for the 2015 8-Hour Ozone Standard*, December 15, 2022 ("2022 Ozone Plan"), submitted as a SIP revision on February 23, 2023.

two-year timeline for a contingency measure to achieve emissions reductions as recommended in EPA's Draft Revised Contingency Measure Guidance. Further, the District states that, in certain applications (e.g., dehydrators for onions), the controls may have an adverse effect on food product quality, which diminishes the technical feasibility of using such controls until the technology is further improved.⁷⁸ We have reviewed the District's infeasibility demonstration and are proposing to agree that additional emissions reductions for this source category could not feasibly be achieved within one to two years or are not technically feasible in the case of dehydrators for certain products, and therefore measures for this source category are not feasible as contingency measures. The EPA recommends that the District continue to evaluate dryers, dehydrators, and ovens for opportunities to further reduce NO_x emissions in developing subsequent plans.

With respect to Rule 4352, which covers solid fuel fired boilers, steam generators, and process heaters, the State's submission notes that the District adopted amendments to Rule 4352 in December 2021. The District's analysis associated with the 2021 amendments to Rule 4352 found that all control alternatives that would further reduce emissions require technology that had prohibitively high capital costs and therefore were not cost effective.⁷⁹ Given the economic infeasibility of additional controls for the sources covered by Rule 4352, we are proposing to agree with the District's conclusion with respect to Rule 4352.

For several other source categories, the EPA finds that the NO_x contingency measure analyses by the District and the EPA differ in certain respects that warrant further discussion. Notwithstanding these differences, both the District's analyses and the EPA's analyses supporting our recent contingency measure FIP proposal support our proposed conclusion that the measures evaluated are technologically infeasible because they cannot feasibly reduce

⁷⁸ 2024 SJV Ozone Contingency Measure Plan, p. 44.

⁷⁹ SJVUAPCD, "Appendix C, Cost Effectiveness Analysis for Proposed Amendments to Rule 4352 (Solid Fuel Fired Boilers, Steam Generators, and Process Heaters)," December 16, 2021.

emissions within one to two years. We discuss each of these source categories in the paragraphs that follow.

With respect to residential water heaters (Rule 4902) and residential furnaces (Rule 4905), the District evaluated a candidate contingency measure to adopt electrification requirements (i.e., requiring newly purchased furnaces and water heaters to be zero-emission units) on a more expedited timeline than CARB's committed-to statewide building electrification measure that would achieve emissions reductions starting in 2030.⁸⁰ The District deemed this contingency measure option technologically infeasible, citing the lead time necessary for manufacturers to design and produce electric units, the need for collaboration with energy and building code regulators, the desire for consistency with State and local efforts, the potential for housing cost and affordability impacts, and the impact on equity considerations for low-income and environmental justice communities.⁸¹ While we note that some of these factors do not necessarily align with the feasibility criteria outlined in the EPA's Revised Contingency Measures Guidance,⁸² the EPA is proposing to find that the building electrification contingency measure option is not feasible because we expect that the measure would not result in emissions reductions within two years after a triggering event.⁸³

With respect to District Rules 4306 and 4320, which cover oil and gas production combustion equipment requirements, the District evaluated numerous control options including electrification of oilfield steam generators and solar powered oilfield steam generators, citing its analysis for this source category for the PM_{2.5} Contingency Measure SIP Revision.⁸⁴ For each of these options, the District provided technological and/or economic infeasibility justifications. The District also evaluated imposing lower emissions limits for boilers and steam generators.⁸⁵

⁸⁰ 2024 Ozone Contingency Measure Plan, pp. 52-54.

⁸¹ For further discussion of these factors, see CARB, "2022 State Strategy for the State Implementation Plan," adopted September 22, 2022, pp. 101-103 ("Proposed Measures: Residential and Commercial Buildings").

⁸² EPA's Revised Contingency Measures Guidance, pp. 37-45.

⁸³ EPA's Reasoned Justification TSD, pp. 43-51.

⁸⁴ PM_{2.5} Contingency Measure SIP Revision, pp. 44-47.

⁸⁵ PM_{2.5} Contingency Measure SIP Revision, pp. 47-49.

In this evaluation, the District explained that the EPA has determined that Rule 4306 meets MSM requirements and that Rule 4320 goes beyond MSM by establishing even lower emissions limits. The District noted that equipment operators are already in the process of investing in and installing technology to meet the recently amended Rule 4320 limits and suggested that the time needed to plan, prepare for installation, and install control equipment to meet lower limits would exceed the one- to two-year timeline for a contingency measure to achieve emissions reductions.

The EPA's evaluation focused on lowering emissions limits for boilers and steam generators, including identification of lower emissions limits adopted by the South Coast AQMD for oilfield steam generators than those adopted in Rule 4306. While the EPA's evaluation does not indicate that control requirements to meet the lower limits would be technologically infeasible altogether (in light of the lower limits adopted by South Coast AQMD), we are proposing to determine that it would be technologically infeasible to meet the lower limits within the two-year timeframe for contingency measures due to the likely requirement that affected units would need to install SCR to meet the lower limits. The District noted that the time associated with design, planning, and installation of SCR would exceed the one- to two-year timeline for a contingency measure to achieve emissions reductions.

The District also included evaluations for boilers, steam generators, and process heaters that are covered by District Rules 4307 and 4308.⁸⁶ The District's assessments for these rules focuses on economic and technological feasibility, citing dollar-per-ton cost-effectiveness values for numerous control options and adding technological feasibility concerns for SCONO_x/EM_x units. The EPA's evaluation for boilers does not provide cost-effectiveness values to suggest that lower emissions limits for boilers, steam generators, and process heaters are economically infeasible. However, as described in the EPA's evaluation, we are proposing to find that units required to meet lower limits than those already adopted in Rules 4307 and 4308 would require

⁸⁶ 2024 SJV Ozone Contingency Measure Plan, pp. 20-22.

installation of SCR and that this cannot be feasibly achieved within the two-year timeframe for contingency measures.⁸⁷

As noted previously, the EPA's Reasoned Justification TSD for the EPA's proposed San Joaquin Valley PM_{2.5} contingency measure FIP focused solely on controls of direct PM_{2.5} and NO_x. Thus, unlike source categories that are entirely or substantially associated with NO_x emissions, the EPA could not rely on its previous evaluation in EPA's Reasoned Justification TSD for that FIP action to inform our review of the District's analysis of VOC emissions sources and controls in the 2024 SJV Ozone Contingency Measure Plan.

For this proposed rulemaking, the EPA reviewed the District's evaluation in the 2024 SJV Ozone Contingency Measure Plan of the seven stationary or area source categories under District jurisdiction and the numerous existing District rules that apply to sources in those categories for potential VOC contingency measures. For most of the rules that were evaluated, the District concluded that further controls would not be economically or technologically feasible but identified ten rules in five source categories for further analysis. With respect to the sources and rules that the District did not identify for further analysis, we propose to find that the District has adequately supported its evaluation and rationale for its conclusion that there are no feasible contingency measures available due to the small contribution from these source categories to the overall emissions inventory.

Of the ten rules that the District identified for further analysis,⁸⁸ the District has committed to adopt contingency measures for the 2008 and 2015 ozone NAAQS for five of them. For the other five rules, the District concluded that there are no feasible contingency measures to adopt. We evaluate the District's rationale in the following paragraphs.

With respect to Rule 4565, which covers biosolids, animal manure, and poultry litter operations, the District's analysis concluded that no technologies were currently available to

⁸⁷ EPA's Reasoned Justification TSD, pp. 9–22.

⁸⁸ The District's evaluation for the ten rules for which the District concluded further analysis is warranted is found in section 5.12 of the 2024 SJV Ozone Contingency Measure Plan.

further achieve emissions reductions from organic material composting. The District further concluded that requiring additional controls for small-to-medium-sized facilities was not cost-effective.⁸⁹ We are proposing to agree that there are no technologically feasible contingency measures for organic material composting and that there are no economically feasible contingency measures for small-to-medium-sized facilities, although we recommend that the District further evaluate Rule 4565 for additional opportunities to further reduce VOC emissions in developing subsequent plans.

With respect to Rule 4605, which covers aerospace assembly and component coating operations, and Rule 4684, which covers polyester resin operations, the District's analysis concluded that additional emissions reductions from these two source categories would be insignificant, given that the sources under these two rules emit 0.18 tpd of VOC emissions, representing only 0.054 percent of the entire VOC emissions inventory.⁹⁰ Therefore, the District did not identify contingency measure opportunities for either of these source categories. We are proposing to agree with the District's conclusions with respect to Rules 4605 and 4684 given that the emissions reductions from these two source categories would be insignificant, representing an insignificant percentage of the VOC emissions inventory.

With respect to Rule 4694, which covers wine fermentation and storage tanks, the District's analysis concluded that the most stringent controls are already in place, and additional control technologies have not been proven at the scale of the wineries found in the San Joaquin Valley or in the climatic conditions that prevail in the San Joaquin Valley. Specifically, the District analyzed a published BACT guideline, which established a 67 percent combined capture-and-control efficiency requirement, averaged over the fermentation season for closed-top

⁸⁹ The District presents its cost-effectiveness estimates for various Class 1 and Class 2 mitigation measures for medium- and small-sized facilities on pages 78 and 79 of the 2024 SJV Ozone Contingency Measure Plan.

⁹⁰ Aerospace assembly and component coating operations represent 0.004 percent of the San Joaquin Valley's VOC emissions inventory, and polyester resin operations represent 0.05 percent of the inventory. See the 2024 SJV Ozone Contingency Measure Plan, pp. 82, 84.

wine fermentation tanks with capacities equal to or less than 30,000 gallons.⁹¹ This analysis found that the majority of wine fermentation tanks in the San Joaquin Valley are significantly greater than 30,000 gallons in capacity and that winemaking practices are significantly different in the San Joaquin Valley compared with practices elsewhere nationwide.⁹² As such, the District concluded that a contingency measure would be incompatible with the technologies involved in reducing emissions in this source category due to the time needed for necessary construction activities such as engineering, redesigning facilities, procuring materials, equipment, utilities, scheduling contractors, and installing and testing the fermentation controls.⁹³ We propose to find that the District's evaluation and rationale for its conclusion of no feasible contingency measures for this source category is adequately supported such that the most stringent controls are already in place, and additional control technologies have not been proven at the scale of the wineries found in the San Joaquin Valley or in the climatic conditions that prevail in the Valley.

With respect to Rule 4570, which covers confined animal facilities, the District's analysis concluded that that the District is implementing the most stringent measures feasible and determined that further controls of this source category would be technologically infeasible. The District based this conclusion on the absence of more stringent requirements anywhere in the country that had been achieved in practice.⁹⁴ We are proposing to agree with the District's conclusions with respect to Rule 4570.

Similar to our evaluation of the District's feasibility analysis for potential NO_x contingency measures for sources it regulates, we have evaluated CARB's feasibility analysis for the sources it regulates, in part by comparing the bases and conclusions of the State's analysis

⁹¹ Santa Barbara Air Pollution Control District BACT Guideline 4.1, available at <https://www.ourair.org/wp-content/uploads/BACT-Guideline-4.1.pdf>.

⁹² 2024 SJV Ozone Contingency Measure Plan, pp. 84-89.

⁹³ 2024 SJV Ozone Contingency Measure Plan, pp. 84-89.

⁹⁴ 2024 SJV Contingency Measure Plan, pp. 79-80. The District identified an analogous rule adopted by another air district (Imperial County APCD) that has a lower applicability threshold for the "other cattle" category when compared to SJVUAPCD Rule 4570. However, Imperial County APCD indicated that Imperial County APCD does not have any large "other cattle" confined animal facilities (CAFs) operating in their region and therefore do not have any facilities that would have to comply with this lower threshold. See ICAPCD Rule 217 (Large Confined Animal Facilities (LCAF) Permits Required) (Revised February 9, 2016). Retrieved from: <https://apcd.imperialcounty.org/wp-content/uploads/2020/01/1RULE217.pdf>.

against those presented in the EPA’s Reasoned Justification TSD.⁹⁵ Both CARB and the EPA note the importance of mobile source emissions in the San Joaquin Valley, particularly given that the large majority of NO_x emissions are from mobile sources, and describe the breadth of control measures considered by CARB to reduce NO_x emissions for broader CAA purposes in the San Joaquin Valley. These include new vehicle and engine emissions standards, for both on-road and non-road applications, which generally apply to manufacturers and achieve emissions reductions through vehicle turnover; retrofit or replacement requirements for existing vehicles and fleets; and inspection and maintenance (I/M) program requirements, such as the requirements implemented under California’s Smog Check program for light-duty passenger cars and trucks and the requirements that are starting to be implemented under California’s Heavy-Duty I/M program. We agree that the adopted measures and on-going development of mobile source measures by CARB, including zero-emissions standards, further constrain the available opportunities for additional emissions reductions via contingency measures.⁹⁶

With respect to contingency measure requirements, CARB examined potential controls across the wide range of mobile source categories, including on-road light-duty passenger cars, trucks, and motorcycles; medium- and heavy-duty trucks and buses and transportation refrigeration units; commercial harbor craft, recreational boats, and ocean going vessels; off-road industrial, construction, and mining equipment; airport ground equipment, port and rail operations, and locomotives; lawn and garden equipment; and space and water heaters. As potential controls, CARB considered and evaluated pulling forward compliance dates and/or phase-in requirements; setting more stringent standards (often atop recently-tightened standards) through mechanisms such as emissions standards, emissions caps, thresholds for compliance, testing frequency, making optional standards required, or percentage of sales requirements; and removing exemptions and/or compliance options. In virtually all cases, CARB found that control

⁹⁵ EPA’s Reasoned Justification TSD, section H (“Mobile Sources”).

⁹⁶ EPA’s Reasoned Justification TSD, pp. 139–142. See also, 2024 SJV Ozone Contingency Measure Plan, appendix B, pp. 8–10.

measures beyond those already adopted or in development to fulfill commitments (e.g., under the 2022 State SIP Strategy) were not technologically feasible overall.⁹⁷ In all cases (except the adopted Smog Check Contingency Measure), CARB found that the measures were not technologically feasible specifically as contingency measures due to lead time to develop, certify, adopt, and/or implement the measures and because the potential measures could not be implemented within 60 days of a triggering event and achieve emission reductions within one or two years of the triggering event.

We have reviewed CARB's specific control measure analyses and are proposing to agree that such potential control measures are not feasible within the timeframe necessary for contingency measures and, in many cases, are not technologically feasible to the extent that they build upon on-the-books and on-the-way measures that are already technology- or market-forcing. The EPA has not identified any engine or vehicle emissions standards for consideration as contingency measures, which remains consistent with the evaluation presented in the EPA's Reasoned Justification TSD.⁹⁸ Beyond the wide range of source types and control approaches examined by CARB, the EPA also examined a handful of potential additional controls in the EPA's Reasoned Justification TSD, and our conclusion that they too were not suitable as contingency measures remains unchanged. Specifically, we have determined that the following are not suitable as contingency measures: expansion of Enhanced I/M requirements to areas currently subject to Basic I/M or Partial Enhanced I/M requirements in the San Joaquin Valley,⁹⁹

⁹⁷ There were three measures that CARB indicated as technologically feasible. One is the Smog Check Contingency Measure that CARB has adopted and submitted, and that the EPA has approved. A second was a different Smog Check measure that would require testing on an annual basis (rather than the current biennial basis) or require testing on an annual basis only for high mileage vehicles; however, CARB found that the compliance burden would disproportionately fall on low-income populations and disadvantaged communities. 2024 SJV Ozone Contingency Measure Plan, appendix B, p. 47. The third was to increase the testing frequency under the Heavy-Duty I/M program; however, CARB found that the compliance burden would disproportionately fall on small businesses and low-income populations. 2024 SJV Ozone Contingency Measure Plan, appendix B, p. 49. In the latter two cases, CARB also found that, even if the measure were technologically feasible, the measures could not be effectuated within the timeframe necessary for contingency measures.

⁹⁸ EPA's Reasoned Justification TSD, pp. 138–144.

⁹⁹ EPA's Reasoned Justification TSD, section IV.E. In addition, CARB noted in its comment letter on the EPA's proposed PM_{2.5} contingency measure FIP that, under the I/M measure evaluated by the EPA, 50% of the vehicles

provisions to expand the applicability of and add requirements to District Rule 9510 (“Indirect Source Review”),¹⁰⁰ and additional transportation control measures.¹⁰¹ Therefore, we propose to find that CARB’s infeasibility demonstration adequately justifies the contingency measures selected by CARB for the San Joaquin Valley for the 1997 ozone NAAQS.

CARB supplemented the NO_x mobile source control measure evaluation that CARB provides in the Smog Check Contingency Measure SIP, which is included as appendix B of the 2024 SJV Ozone Contingency Measure Plan, with an evaluation of VOC area source categories that fall under State jurisdiction.¹⁰² The area source categories include Pesticides, Oil and Gas, Consumer Products, Portable Fuel Containers (Gas Cans), Cargo Tanks and Petroleum Marketing. Based on that evaluation, CARB explained why it would be infeasible to achieve additional emissions reductions from these source categories within one or two years of triggering. We have reviewed CARB’s evaluation and propose to find that contingency measures for these area source categories would be technologically infeasible because they will not achieve emissions reductions within one or two years of the triggering event.

d. Conclusion

Based on the feasibility analyses prepared for the Smog Check Contingency Measure SIP and the 2024 SJV Ozone Contingency Measure SIP, the District and CARB have committed to adopt and submit five additional contingency measures to meet the contingency measure requirements for the 2008 and 2015 ozone NAAQS to supplement the two contingency measures that are already submitted and approved for those NAAQS (the Smog Check Contingency

that would be newly subject to Enhanced I/M would be in disadvantaged communities whereas only 35% of San Joaquin Valley’s residents live in such disadvantaged communities. Letter dated September 22, 2023, from Steven S. Cliff, Ph.D., Executive Officer, CARB to Martha Guzman, Regional Administrator, EPA Region IX. In other words, the compliance burden would disproportionately fall on low-income populations and disadvantaged communities.

¹⁰⁰ EPA’s Reasoned Justification TSD, section IV.B.

¹⁰¹ EPA’s Reasoned Justification TSD, pp. 144–146.

¹⁰² CARB’s evaluation of VOC area sources is found in section 5.10 of the 2024 SJV Ozone Contingency Measure Plan.

Measure and the Architectural Coatings Contingency Measure¹⁰³). For the reasons given above, we preliminarily find that the infeasibility demonstrations provided in the Smog Check Contingency Measure SIP and the 2024 SJV Ozone Contingency Measure SIP support the conclusion that the contingency measures already adopted and approved plus the contingency measures to which the District and CARB have committed currently constitute the entire set of feasible contingency measures for ozone precursor emissions in the San Joaquin Valley. While the District and CARB have chosen to adopt them already, or committed to adopt them in the future, to address the contingency measure requirements for the 2008 and 2015 ozone NAAQS purposes, they are not obligated to adopt them also to address the contingency measure requirements for the 1997 ozone NAAQS.

Furthermore, because the identified feasible contingency measures have been selected to address only the 2008 and 2015 ozone NAAQS, they are not available for the 1997 ozone NAAQS, which means that the only feasible contingency measure for the purposes of the 1997 ozone NAAQS is the Smog Check Contingency Measure. Therefore, based on achieving a portion of one year's worth of progress for NO_x and VOC reductions from a contingency measure (the Smog Check Contingency Measure) that meets the requirements of CAA section 172(c)(9) and the reasoned justifications contained in the feasibility analyses, the EPA proposes to find that the Smog Check Contingency Measure SIP fulfills the attainment-related contingency measure SIP requirements for the 1997 ozone NAAQS for the San Joaquin Valley.

IV. Proposed Action

For the reasons given in this document, we are proposing to approve the Smog Check Contingency Measure SIP with respect to the CAA's attainment-related contingency measure requirement under CAA section 172(c)(9) for the San Joaquin Valley area for the 1997 ozone

¹⁰³ At the present time, the contingency measure provision in the District's Architectural Coatings Rule applies only to the 2008 ozone NAAQS but the District has committed to amend the rule to incorporate the removal of the small container exemption for rust preventative coatings with respect to the 2008 and 2015 ozone NAAQS. amend the rule to apply also to the 2015 ozone NAAQS. See the 2024 SJV Ozone Contingency Measure Plan, p. 80.

NAAQS. Our proposed approval relies on the previously-approved contingency measure for the 1997 ozone NAAQS for the San Joaquin Valley (i.e., the Smog Check Contingency Measure) and the justifications from CARB and the District for not adopting additional contingency measures so as to provide for the recommended amount of emissions reductions for such measures. Based on this proposed approval, the EPA is also proposing to determine that the State of California has fulfilled the commitment made by the State in connection with a previous approval action to develop, adopt and submit attainment contingency measures for the San Joaquin Valley for the 1997 ozone NAAQS meeting the requirements of CAA section 172(c)(9).

V. 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.

VI. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it proposes to approve a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to 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. In those areas of Indian country, the proposed rulemaking does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: November 3, 2025.

Cheree Peterson,

Acting Regional Administrator, Region IX.

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