



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2023-0448; FRL-11677-03-R9]

Approval and Promulgation of Implementation Plans; State of California; Coachella Valley; Extreme Attainment Plan for 1997 8-Hour Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve elements of a state implementation plan (SIP) submittal from the State of California to meet Clean Air Act (CAA) “Extreme” nonattainment area requirements for the 1997 8-hour ozone national ambient air quality standards (NAAQS) in the Riverside Co. (Coachella Valley), CA nonattainment area (“Coachella Valley”). We are specifically approving the reasonable further progress (RFP) demonstration and the vehicle miles traveled demonstration.

DATES: This rule is effective [Insert date 30 days after date of publication in the *FEDERAL REGISTER*].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2023-0448. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. 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: Tom Kelly, Geographic Strategies and Modeling Section (AIR-2-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; phone: (415) 972-3856; or email: *kelly.thomasp@epa.gov*.

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

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I. Proposed Action

A. Summary

On April 16, 2024,¹ the EPA proposed to approve two SIP submittals from the South Coast Air Quality Management District (SCAQMD or “District”) and the California Air Resources Board (CARB) addressing the Extreme area planning requirements for the 1997 ozone NAAQS in Coachella Valley. The first submittal, the “Final Coachella Valley Extreme Area Plan for the 1997 8-Hour Ozone Standard” (“Coachella Valley Ozone Plan” or “Plan”),² was prepared by the SCAQMD and submitted by CARB on December 29, 2020.³ We proposed to approve all elements of the Plan except the reasonably available control technology (RACT) demonstration, which we plan to address in a subsequent rulemaking. The second submittal, the “2020 Coachella Valley Vehicle Miles Traveled Emissions Offset Demonstration” (“VMT Offset Demonstration”),⁴ was prepared by CARB and submitted on March 18, 2021.⁵ We

¹ 89 FR 26817.

² SCAQMD, “Final Coachella Valley Extreme Area Plan for the 1997 8-Hour Ozone Standard,” December 2020.

³ Letter dated December 28, 2020, from Richard W. Corey, Executive Officer, CARB, to John W. Busterud, Regional Administrator, EPA Region 9 (submitted electronically December 29, 2020).

⁴ CARB, Staff Report, “2020 Coachella Valley Vehicle Miles Traveled Emissions Offset Demonstration,” release date January 22, 2021.

⁵ Letter dated March 15, 2021, from Richard W. Corey, Executive Officer, CARB, to Deborah Jordan, Acting Regional Administrator, EPA Region 9 (submitted electronically March 18, 2021).

proposed to approve the entire VMT Offset Demonstration. Our proposed action contains more information on the two submittals and our evaluation.

On June 12, 2024, we finalized our proposed action on certain portions of the Coachella Valley Ozone Plan.⁶ Specifically, we finalized approval of the reasonably available control measures demonstration, the attainment demonstration, and the State's demonstration that it has satisfied the clean fuels for boilers requirement for the Coachella Valley nonattainment area. Our June 12, 2024, notice stated that we intended to take final action on the remaining VMT Offset Demonstration and RFP demonstration in a future rulemaking. We are finalizing approval of these elements in this notice.

B. Correction

In summarizing the State's photochemical modeling and the associated control measures, the EPA's proposed rule incorrectly stated that the Coachella Valley control strategy for the 1997 ozone NAAQS relies on aggregate emissions reduction commitments from the "Final 2016 Air Quality Management Plan" ("2016 AQMP").⁷ While the Coachella Valley Ozone Plan discusses rules addressing the area's progress related to commitments needed for the area to meet the 2008 ozone NAAQS by 2026, the emissions reductions associated with these rules are not reflected in the area's inventory, and the Plan does not rely on the commitments to attain the 1997 ozone NAAQS in 2023.⁸

II. Public Comments and the EPA's Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received comments from Air Law for All (ALFA), dated May 16, 2024. These comments relate to our proposed action on the RFP demonstration. No comments were received on other parts of the proposal. The comments are summarized and addressed below.

⁶ 89 FR 49815.

⁷ 89 FR 26817, 26826.

⁸ See Coachella Valley Ozone Plan, pp. 4-4 through 4-17.

Comment #1: ALFA criticizes the EPA's proposal to decline to act on the area's contingency measures and new source review (NSR) submittals for the 1997 ozone NAAQS. The commenter argues that the EPA lacks discretion to act on selected portions of submittals when the 18-month statutory deadline for action has passed. The commenter states that CAA section 110(k) does not explicitly grant the EPA authority to act on selected portions of submittals, and argues that when an agency exercises discretion, it must give permissible reasons for doing so. The commenter asserts that the EPA has not given a permissible reason for acting on only portions of the submittal and speculates that the EPA has done so only to delay disapproval of the provisions and avoid starting the associated sanctions and federal implementation plan clocks. The commenter also points out that the EPA noted in the proposal that the State has not yet submitted certain required portions of the plan, and states that EPA has not offered an explanation for not making a finding of failure to submit for those missing portions of the attainment plan.

Response to Comment #1: As a general matter, comments regarding SIP elements not addressed in the proposed rule are outside the scope of this action. The EPA intends to address all required planning elements for the Coachella Valley for the 1997 ozone NAAQS in subsequent actions.⁹

While the EPA has a statutory deadline by which to act on all SIP submittals under CAA section 110(k)(2), the EPA is not obligated to act on all SIP submittals or all SIP elements for a nonattainment area in the same action. The EPA routinely takes separate actions on submittals or portions of submittals that address unique CAA requirements.¹⁰ The EPA strives to meet all statutory deadlines; however, the EPA acknowledges that we are sometimes delayed due to resource limitations and other practical constraints.

⁹ For example, in addition to the contingency measures submittal noted previously, the EPA recently received the State's submittal to address the fee requirements of CAA section 185 for the Coachella Valley. Letter from Steven S. Cliff, CARB, to Martha Guzman, EPA, dated August 9, 2024, and submitted electronically on August 13, 2024.

¹⁰ See, e.g., 85 FR 8181 (February 13, 2020), 85 FR 11817 (February 27, 2020) (acting separately on Imperial Valley RACT element and ozone plan, respectively, for the 2008 ozone NAAQS).

With respect to the Coachella Valley contingency measures, the EPA notes that CARB and the SCAQMD previously made a submittal addressing the contingency measures requirement for the 1997 ozone NAAQS that was subsequently withdrawn,¹¹ and the EPA has no obligation to act on withdrawn submittals. The EPA's current approach for evaluating contingency measures submittals has been shaped by several recent court decisions.¹² In response to these decisions, the EPA has issued the draft guidance cited in our proposed action, titled "DRAFT: Guidance on the Preparation of State Implementation Plan Provisions that Address the Nonattainment Area Contingency Measure Requirements for Ozone and Particulate Matter."¹³ Following our issuance of this draft guidance document, the District and CARB submitted Coachella Valley contingency measures for the 1997 ozone NAAQS to the EPA on April 3, 2024. The EPA notes that the statutory deadline to act on that submittal under CAA section 110(k)(2) has not yet passed.

Comment #2: ALFA comments that the submittal fails to show that the substitute NO_x emissions reductions will "result in a reduction of ozone concentrations at least equivalent" to the required 3 percent per annum VOC emissions reductions, and that as a result, the EPA's proposed approval is arbitrary and capricious and contrary to law. The commenter describes the relative roles of VOC and NO_x in ozone formation, including the existence of an "optimum" VOC to NO_x ratio for a given level of VOC (i.e., a NO_x concentration at which the maximum amount of ozone is produced). As explained by the commenter, in a "NO_x saturated" situation where NO_x levels exceed this optimum ratio, a reduction in NO_x levels can lead to increases in ozone levels, and in a "NO_x limited" situation with NO_x levels below the optimum ratio, VOC reductions toward the optimum ratio may have little effect on ozone levels. As a result, the

¹¹ Contingency measures were submitted on November 28, 2007, in the SCAQMD "Final 2007 Air Quality Management Plan," transmitted to the EPA in a letter from James N. Goldstene, CARB, to Wayne Nastri, EPA, and withdrawn by the District, in a letter dated April 7, 2020, from Wayne Nastri, SCAQMD to Richard Corey, CARB, and withdrawn by CARB in a letter dated April 28, 2020, from Richard Corey, CARB, to John W. Busterud, EPA.

¹² See esp. *Bahr v. EPA*, 836 F.3d 1218 (9th Cir. 2016); *Sierra Club v. EPA*, 21 F.4th 815 (D.C. Cir. 2021); *Association of Irrigated Residents v. EPA*, 10 F.4th 937 (9th Cir. 2021).

¹³ 88 FR 17571 (March 23, 2023).

commenter says, ozone response to precursor control can vary greatly between areas. The commenter argues that language in the CAA, including CAA sections 185B, 182(f), and 182(c)(2)(C), indicates that Congress was aware of these issues, including that in some scenarios NO_x reductions may not decrease ozone concentrations.

The commenter also points to the EPA's consideration of the relative effectiveness of NO_x and VOC controls for interpollutant offset trading under the new source review (NSR) permitting program and in applying requirements for major stationary sources of VOC to NO_x sources under CAA 182(f), noting that in these situations EPA guidance indicates that photochemical grid modeling of multiple scenarios should be conducted to support demonstrations related to the relative effectiveness of controls. Through these comparisons, the commenter suggests that the Coachella Valley submittal should have included similar photochemical grid modeling to determine whether the substitute NO_x emissions reductions result in equivalent ozone reductions.

While acknowledging that ozone isopleths, which are graphs of ozone levels resulting from various levels of emissions reductions for each monitoring station, are a technically sound method of comparing the relative benefits of reducing NO_x and VOC emissions, the commenter states that the EPA's overall analysis is insufficient and that there are missing steps in going from isopleths to a justification for the percentage method in the NO_x Substitution Guidance. The commenter states, "if EPA plans to rely on the isopleths" as the justification for NO_x substitution, "EPA must re-propose its action with an explanation that is reasonably detailed enough for the public to be able to comment on it." The commenter further states that CAA section 182(c)(2)(C)'s use of the plural "ozone concentrations" means that an equivalency demonstration at a single monitoring site would be contrary to the CAA and argues that Congress intended the equivalence requirement to apply throughout the nonattainment area.

Response to Comment #2: We disagree with the commenter's characterization of the District's submittal and the EPA's proposed approval. As described further in this document, the

EPA concludes that the analysis included with the modeling and control strategy in the Coachella Valley Ozone Plan adequately demonstrates that plan reductions of VOC and NO_x would result in a reduction in ozone concentrations at least equivalent to that resulting from VOC emissions reductions. This condition is required under CAA 182(c)(2)(C) for substituting NO_x reductions for VOC reductions. We therefore conclude that the District's use of NO_x substitution in the RFP demonstration for the Coachella Valley is appropriate in this circumstance.

One factor, not discussed in the Coachella Valley Ozone Plan, that contributes to the NO_x-limited conditions is biogenic VOC emissions from vegetation. Biogenic VOC emissions are not required to be reported in nonattainment area inventories. Biogenic emissions are, however, included in the inventory used to model attainment in the Plan, and do contribute to the formation of ozone in the area. The most recent National Emissions Inventory estimates that biogenic VOC emissions represent more than 37 percent of VOC emissions in Riverside County.¹⁴ California's statewide estimate for biogenic VOC emissions represents nearly 43 percent of the total VOC inventory. Biogenic NO_x, in comparison, represent only 3.4 percent of Riverside County NO_x emissions and 7.7 percent of statewide NO_x.¹⁵ Because biogenic VOC is such a large portion of the inventory, reducing anthropogenic VOC emissions represents a smaller reduction in total VOC than a corresponding reduction of anthropogenic NO_x compared to total NO_x reductions.¹⁶ When biogenic emissions are taken into account, the amount of NO_x relative to VOC is smaller, tending to make the ozone chemistry more NO_x-limited. That is, reductions of NO_x are even more effective than VOC reductions at reducing ozone, and

¹⁴ See file titled "D.1.a. Riverside NOX & VOC Emissions.xlsx" in the docket for this rulemaking, which displays information from the EPA's Emissions Inventory Gateway (<https://www.epa.gov/air-emissions-inventories/emissions-inventory-system-eis-gateway>).

¹⁵ Id.

¹⁶ Wildfire emissions are a large source of NO_x emissions and are included the model evaluation but are not factored into the base and future year attainment modeling. Additionally, the influence of wildfire can be excluded from an EPA attainment finding as an exceptional event, in accordance with the EPA's Exceptional Events Rule 81 FR 68216 (October 3, 2016).

appropriate to substitute for VOC reductions to achieve equivalent ozone concentration reductions.

The Coachella Valley Ozone Plan provides ample documentation that the transport of ozone and ozone precursors in the South Coast Air Basin is the primary cause of high ozone concentrations in the Coachella Valley, such as the correlation between the annual number of exceedance days for the two areas.¹⁷ The Plan relies on upwind reductions within the South Coast Air Basin, where NO_x and VOC emissions are respectively more than 20 and nearly 27 times larger than those within Coachella Valley.¹⁸ By the time ozone precursors have been transported to the Coachella Valley, NO_x has been preferentially removed by chemical and physical processes.¹⁹ At the same time, there are fewer NO_x emissions and more biogenic VOC emissions in moving from the more developed Los Angeles urban area to the more rural Coachella area. This leaves less NO_x available to form ozone, creating a NO_x-limited condition where NO_x emissions reductions are more effective than VOC emissions reductions at decreasing ozone concentrations.

The isopleth diagrams in the Coachella Valley Ozone Plan show that NO_x reductions are more effective than VOC reductions at decreasing ozone across a wide range of VOC emissions quantities, which is all that is needed to show that substitution on a 1-1 basis yields a reduction in ozone concentrations at least equivalent to the required VOC reductions.²⁰ The District generated these diagrams by using photochemical grid modeling to simulate various combinations of NO_x and VOC emissions reductions and then plotting the resulting ozone concentrations for the monitor. Thus, while the commenter suggests that the submittal should have included

¹⁷ Coachella Valley Ozone Plan, p. 2-3, figure 2-3.

¹⁸ 2018 Coachella Valley Ozone Plan, p. 3-6, table 3-3.

¹⁹ The VOC:NO_x ratio increases due to chemical conversion to HNO₃ and due to the process of deposition to surfaces, which removes NO_x (in the form of HNO₃) from the air more quickly than VOC. Barbara J. Finlayson-Pitts and James N. Pitts Jr., 1993, "Atmospheric Chemistry of Tropospheric Ozone Formation: Scientific and Regulatory Implications," *Journal of the Air and Waste Management Association*, 43:8, 1091-1100, <https://doi.org/10.1080/1073161X.1993.10467187>.

²⁰ The isopleths include biogenic VOCs in the analysis as constant values, showing changes only to anthropogenic emissions.

photochemical modeling, that modeling is the basis of the analysis already provided in the form of the isopleth diagrams. The isopleth diagrams have VOC emissions on the horizontal x-axis and NO_x emissions on the vertical y-axis. Isopleth lines represent the ozone concentration at different levels of VOC and NO_x emissions, and a 45-degree line sloping from upper left to lower right would indicate that NO_x and VOC emissions reductions are equally effective at reducing ozone concentrations.

For the Palm Springs monitor, which is the only monitor in the Coachella Valley exceeding the 1997 ozone NAAQS, the diagram shows nearly horizontal isopleth lines.²¹ This indicates a very small ozone response to VOC reductions, so that ozone formation in the Palm Springs area is much more responsive to NO_x emissions reductions than to VOC reductions. The 2016 AQMP's isopleth for Indio-Jackson Street monitor near the center of the nonattainment area shows a similarly flat slope.²²

In other words, the graphs show that when NO_x emissions are reduced, the level of ozone decreases substantially, and that, in contrast, reducing the level of VOC emissions results in much less reduction in the level of ozone. The curve of the line on the graphs indicates that reductions in NO_x emissions will be considerably more effective than VOC reductions in reducing ozone concentrations on both a mass and percentage basis, and that VOC reductions will achieve only minor reductions in ozone concentrations even under scenarios involving large VOC reductions relative to current levels. Because NO_x reductions are more effective than VOC reductions at reducing ozone concentrations, the Plan's NO_x to VOC substitution ratio of one to one (equivalent on a percentage basis) is a conservative way to determine the amount of NO_x reductions needed to replace VOC emissions reductions and result in at least an equivalent ozone decrease in ozone concentration as required under CAA section 182(c)(2).

²¹ Coachella Valley Ozone Plan, p. 5-8, Figure 5-5. See also 89 FR 26817, 26826 (citing isopleth and surrounding discussion).

²² 2016 AQMP, appendix V, Attachment 5, page 10.

In fact, the isopleths show that a given percentage of NO_x reductions provide more of a reduction in ozone concentration than the same percentage of VOC reductions.²³ Thus, the Plan's NO_x to VOC substitution ratio of one to one is an appropriate ratio here and the analysis is not missing steps, as the commenter has alleged. As explained, the isopleths for the two Coachella Valley monitoring sites (Indio-Jackson Street and Palm Springs-Fire Station) show that ozone concentrations are more sensitive to reductions in NO_x than reductions in VOC across a wide range of VOC emissions quantities. In addition, the Plan provides multiple lines of evidence to support its statement that "ozone concentration in Palm Springs is much more sensitive to changes in NO_x emissions than to changes in VOC emissions and indicates that NO_x emission reduction is key for ozone attainment in the Coachella Valley."²⁴ Thus, as the Coachella Valley Ozone Plan's modeling and control strategy demonstrates, NO_x reductions are more effective than VOC reductions in reducing ozone concentration for this area based on a one to one substitution ratio, and the underlying requirement in CAA section 182(c)(2)(C) has been met.

The EPA disagrees with the commenter's suggestion that our approval relies on demonstration of equivalence at a "a single monitoring site" and is therefore contrary to the CAA. As explained in this notice, this demonstration includes the analysis of isopleth graphs for both the Palm Springs-Fire Station and Indio-Jackson Street monitoring sites, which are the only two monitoring sites in the Coachella Valley nonattainment area. Moreover, the EPA disagrees that CAA section 182(c)(2)(C)'s use of the term "ozone concentrations" warrants the narrow interpretation that equivalence must be specifically demonstrated throughout a nonattainment area. As an initial matter, we note that the Act commonly uses the term "concentrations" to refer generally to ambient pollution levels at one or more (but not necessarily multiple) monitors or

²⁴ Id.

locations.²⁵ CAA section 182(c)(2)(C) grants the EPA discretion to define the conditions under which NO_x reductions may be substituted for or combined with VOC reductions “in order to maximize the reduction in ozone air pollution” and does not further specify the conditions that represent an “equivalent” reduction in ozone; for instance, it does not require a specific concentration test at every monitor or at specific locations within an area.²⁶ No such requirement appears in the Act’s other provisions governing the RFP demonstration, which define specific percentage reductions aimed at ensuring timely attainment of the NAAQS,²⁷ or in the EPA’s 1993 NO_x Substitution Guidance, which describes a recommended procedure for states to follow to utilize NO_x substitution.²⁸ We interpret CAA section 182(c)(2)(C) and these supporting authorities as properly reflecting Congress’ intent to allow NO_x reductions to be considered to substitute for the required VOC reductions so long as these reductions are at least as effective in reducing ozone concentrations and consistent with the area’s demonstration of timely attainment.²⁹

Further, we believe that the commenter’s comparison to the EPA’s requirements and recommendations for interpollutant trading and exemption from NO_x requirements under CAA 182(f) misunderstands the purpose of and requirements for NO_x substitution under CAA 182(c)(2)(B) relative to these other examples. First, interpollutant trading is no longer allowed for ozone.³⁰ Second, the guidance documents cited by the commenter for these examples are non-binding and do not constrain the EPA’s discretion to adopt a different approach where

²⁵ E.g., CAA section 107(e)(2); CAA section 110(a)(5)(D).

²⁶ NO_x Substitution Guidance, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, December 1993, available at <https://archive.epa.gov/ttn/ozone/web/html/index-13.html>.

²⁷ E.g., CAA 182(b)(1) and (c)(2)(B); see also CAA 171(1) (defining RFP as “such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date”).

²⁸ NO_x Substitution Guidance, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, December 1993.

²⁹ See *id.* at 8 (quoting H. Rept. No. 490, 101st Cong., 2d Sess. 239 (1990)) (“NO_x reductions may not be substituted for VOC reductions in a manner that delays attainment of the ozone standard or that results in lesser annual reductions in ozone concentration than provided for in the attainment demonstration.”).

³⁰ See 86 FR 37918, 37923–24 (July 19, 2021).

appropriate.³¹ The documents recommend photochemical grid modeling in some scenarios but do not require this approach or any other specific demonstration. This reflects the EPA's acknowledgement that the level of analysis required for any particular demonstration related to NO_x and VOC reductions will differ based on context and local conditions, such as those noted by the commenter regarding the relative effectiveness of controlling each. In the context of CAA 182(c)(2)(C), in an area where isopleths generated through photochemical grid modeling and accompanying analysis indicate that the VOC reductions required under CAA 182(c)(2)(B) will be less effective for reducing ozone concentrations than a corresponding percentage reduction in NO_x emissions, no additional modeling or demonstration is required.

For the reasons described herein, the EPA disagrees that additional justification is needed to show that equal percentage reductions of NO_x emissions can substitute for VOC emissions to meet the CAA requirements for RFP in this context. We find that the District has provided ample evidence to demonstrate that NO_x reductions will be more effective at reducing ozone concentrations in Coachella Valley, and that the photochemical grid modeling conducted for the attainment demonstration, in combination with the supporting analysis accompanying the control strategy and other demonstrations, is sufficient to support the District's use of NO_x substitution.

Comment #3: ALFA faults the EPA's NO_x Substitution Guidance, contending that it recommends a procedure that fails to demonstrate any equivalence between VOC and NO_x reductions, as required by CAA Section 182(c)(2)(C); relies on incorrect policy assumptions; and gives legal justifications that are without merit.

Response to Comment #3: Comments relating solely to the NO_x Substitution Guidance are outside the scope of this rulemaking action. Our proposed approval of the Plan's use of NO_x

³¹ See EPA, "Guideline for Determining the Applicability of Nitrogen Oxide Requirements under Section 182(f)" (December 16, 1993), 1; Memorandum dated January 14, 2005, from Stephen D. Page, Director, Office of Air Quality Planning and Standards, U.S. EPA, to EPA Regional Air Directors, Regions I-X, Subject: "Guidance on Limiting Nitrogen Oxides (NO_x) Requirements Related to 8-Hour Ozone Implementation," 3; EPA-454/R-18-004, "Technical Guidance for Demonstration of Inter-Precursor Trading (IPT) for Ozone in the Nonattainment New Source Review Program," Office of Air Quality Planning and Standards (May 2018) ("IPT Guidance"), 2. The IPT Guidance specifically excludes applicability to RFP demonstrations. IPT Guidance at 2, n.1.

substitution is consistent with the recommended approach outlined in the NO_x Substitution Guidance, which, while non-binding and not having the force of regulation, provides a recommended procedure for substituting NO_x emissions reductions for VOC reductions on a percentage basis, consistent with a state's ozone attainment plan, control strategy, modeled attainment demonstration, and RFP milestones and requirements. As noted in our response to Comment #2 above, our approval of the District's use of NO_x substitution is supported by local conditions and needs as documented in the modeling and analysis included in the Coachella Valley Ozone Plan and the 2016 AQMP's use of NO_x substitution in this RFP demonstration is consistent with the requirements of CAA 182(c)(2)(C) for the reasons described in this notice.

III. The EPA's Action

Pursuant to section 110(k)(3) of the CAA, and for the reasons provided in our April 16, 2024 proposed rule and this final action and response to comments, the EPA is taking final action to approve into the California SIP the RFP demonstration of the "Final Coachella Valley Extreme Area Plan for the 1997 8-Hour Ozone Standard," dated December 2020, as meeting the requirements of CAA sections 172(c)(2) and 182(c)(2)(B), and 40 CFR 51.1105(a)(1) and 51.1100(o)(4).

In addition, the EPA is taking final action to approve CARB's "2020 Coachella Valley Vehicle Miles Traveled Emissions Offset Demonstration," release date January 22, 2021, as meeting the requirements of CAA section 182(d)(1)(A) and 40 CFR 51.1105(a)(1) and 51.1100(o)(10).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional

requirements beyond those imposed by State law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- 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 approves 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 applications of those requirements would be inconsistent with the Clean Air Act.

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 rule 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).

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority

Populations and Low-Income Populations, 59 FR 7629, February. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on communities with environmental justice (EJ) concerns to the greatest extent practicable and permitted by law. Executive Order 14096 (Revitalizing Our Nation's Commitment to Environmental Justice for All, 88 FR 25251, April 26, 2023) builds on and supplements Executive Order 12898 and defines EJ as, among other things, “the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, Tribal affiliation, or disability, in agency decision-making and other Federal activities that affect human health and the environment.”

The State did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. Our June 12, 2024 final action on other elements of the Plan includes additional discussion about how SCAQMD responded to comments related to EJ concerns during development of the Plan.³² The EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Orders 12898 and 14096 of achieving EJ for communities with EJ concerns.

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the *FEDERAL REGISTER*]**. Filing a petition for

³² 89 FR 49815, 49816.

reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: January 8, 2025.

Martha Guzman Aceves,
Regional Administrator,
Region IX.

For the reasons stated in the preamble, the EPA amends Chapter I of Title 40 of the Code of Federal Regulations as follows:
PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(614)(ii)(A)(2) and (c)(624) to read as follows:

§52.220 Identification of plan—in part.

* * * * *

(c) * * *

(614) * * *

(ii) * * *

(A) * * *

(2) “South Coast Air Quality Management District, Final Coachella Valley Extreme Area Plan for the 1997 8-Hour Ozone Standard,” dated December 2020, the section titled “Reasonable Further Progress,” pages 6-1 through 6-7.

* * * * *

(624) The following plan was submitted electronically on March 18, 2021, by the Governor’s designee as an attachment to a letter dated March 15, 2021.

(i) [Reserved]

(ii) Additional materials.

(A) California Air Resources Board.

(I) California Air Resources Board, Staff Report, “2020 Coachella Valley Vehicle Miles Traveled Emissions Offset Demonstration,” Release Date: January 22, 2021.

(2) [Reserved]

(B) [Reserved]

