

implement RACT for each major NO<sub>x</sub> source in the District.

In addition, as discussed in our June 30, 2023 final action, the absence of emission limits that apply at all times was the basis for our disapproval of the major source NO<sub>x</sub> element of the 2017 RACT SIP. Since we are proposing to determine that the District Permits, in conjunction with the SIP-approved NO<sub>x</sub> limits already established in Rule 411 and 413, implement RACT for each major NO<sub>x</sub> source in the District, we are also proposing to approve the major source NO<sub>x</sub> element of the District's 2017 RACT SIP.

We will accept comments from the public on this proposal until August 1, 2024. If we take final action to approve the District Permits as proposed, our final action will incorporate these District Permits into the federally enforceable SIP. In addition, it will permanently stop the sanctions and Federal implementation plan (FIP) clocks started by our June 30, 2023 final action, and it will address the EPA's obligation to promulgate a FIP arising from our February 3, 2017 finding of failure to submit.<sup>12</sup>

### III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the District Permits listed in Table 2, as adopted on March 28, 2024, which regulate NO<sub>x</sub> emissions from boilers, gas turbines, and miscellaneous combustion units. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provision of the Act and applicable federal regulations. 42 U.S.C. 740(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to review state choices, and approve those choices if they meet the minimum criteria of the Act. Accordingly, this proposed action 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 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 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 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, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation,

and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

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. The EPA did not perform an EJ analysis and did not consider EJ in this action. 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 E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

### 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.

Dated: June 25, 2024.

**Martha Guzman Aceves,**

*Regional Administrator, Region IX.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2024-0237; FRL-11999-01-R9]

### Air Plan Revisions; California; Motor Vehicle Inspection and Maintenance Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Under the Clean Air Act (CAA or “Act”), the Environmental Protection Agency (EPA) is proposing to approve a revision to the California State Implementation Plan (SIP). This revision addresses the CAA requirements for the motor vehicle inspection and maintenance (I/M) programs (also referred to as “Smog Check” programs) for the 2015 8-hour ozone National Ambient Air Quality Standards (“2015 ozone NAAQS”). We are taking comments on this proposal and plan to follow with a final action.

<sup>12</sup> 82 FR 9158. The sanctions clock triggered by this finding of failure to submit was permanently stopped by a finding of completeness made by the EPA on August 23, 2018 for the District's 2017 RACT SIP submittal.

**DATES:** Comments must be received on or before August 1, 2024.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2024–0237 at <https://www.regulations.gov>. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Buss, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4152 or by email at [Buss.Jeffrey@epa.gov](mailto:Buss.Jeffrey@epa.gov).

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

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### III. Statutory and Executive Order Reviews

## I. The State’s Submittal

### A. What did the State submit?

On April 26, 2023, the California Air Resources Board (CARB) submitted the “California Smog Check Performance Standard Modeling and Program Certification for the 70 Parts Per Billion (ppb) 8-Hour Ozone Standard” (“Smog Check Certification SIP”) as a revision to the California SIP.<sup>1</sup> The Smog Check Certification SIP includes CARB’s evaluation of the California Smog Check program for compliance with the applicable Smog Check program requirements for SIPs under CAA sections 182(a)(2)(B), 182(b)(4), and 182(c)(3) and the EPA’s regulations in 40 CFR part 51, subpart S for certain nonattainment areas for the 2015 ozone NAAQS.<sup>2</sup> More specifically, the Smog Check Certification SIP addresses the applicable Smog Check SIP requirements for all California air quality planning areas classified as “Moderate” and above for the 2015 ozone NAAQS that are subject to State jurisdiction. These areas (and their respective classifications for the 2015 ozone NAAQS) include Coachella Valley (Severe–15), Eastern Kern (Serious), Mariposa County (Moderate), Sacramento Metro (Serious), San Diego County (Severe–15), San Joaquin Valley (Extreme), Los Angeles–South Coast Air Basin (Extreme), Ventura (Serious), West Mojave Desert (Severe–15) and Western Nevada County (Serious).<sup>3</sup> While Coachella Valley and Sacramento Metro are currently classified as Severe–15 and Serious, respectively, CARB has submitted voluntary reclassification requests for the areas to Extreme and Severe–15, respectively, and the performance standard modeling presented and documented by CARB in

<sup>1</sup> Letter (with enclosures) dated April 26, 2023, from Steven S. Cliff, Ph.D., Executive Officer, CARB, to Martha Guzman, Regional Administrator, EPA Region IX (submitted electronically April 26, 2023). The letter and enclosures, which include the Smog Check Certification SIP, among other materials, are included in the docket for this rulemaking. The “70 Parts Per Billion (ppb) 8-Hour Ozone Standard” refers to the ozone NAAQS the EPA established in 2015.

<sup>2</sup> We previously found that the Eastern Kern ozone nonattainment area was not subject to the Basic or Enhanced Smog Check SIP requirement for the 2008 ozone NAAQS. See 85 FR 68268, 68280 (October 28, 2020) (proposed rule for Eastern Kern) and 86 FR 33528 (June 25, 2021) (final rule for Eastern Kern). Also, we previously found that the West Mojave Desert ozone nonattainment area was not subject to the Enhanced Smog Check SIP requirement for the 2008 ozone NAAQS—see 86 FR 53223, at 53225 (September 27, 2021) (final rule for West Mojave Desert). For the San Diego County area, we recently approved the Smog Check Certification SIP as it relates to San Diego County for both the 2008 and 2015 ozone NAAQS. 89 FR 15035 (March 1, 2024).

<sup>3</sup> 40 CFR 81.305.

the Smog Check Certification SIP assumes the EPA’s grant of the reclassification requests for those areas.<sup>4</sup>

CARB’s SIP submittal package for the Smog Check Certification SIP includes CARB Resolution 23–9 (through which CARB adopted the Smog Check Certification as part of the California SIP<sup>5</sup>), public notice of CARB’s hearing on the proposed SIP revision, public comments and responses, and the EPA’s Motor Vehicle Emission Simulator model (MOVES)<sup>6</sup> input and output data sheets. Earlier this year, the EPA took final action to approve the San Diego County area portion of the Smog Check Certification SIP as part of the EPA’s action on the San Diego ozone attainment plan.<sup>7</sup> In this document, we are proposing action on the Smog Check Certification SIP as it relates to all the other nonattainment areas that are addressed in the SIP submission.

On October 26, 2023, the Smog Check Certification SIP submission was deemed complete by operation of law under CAA section 110(k)(1)(B).

### B. Are there other versions of this plan element?

In 2010, we approved the California Smog Check program as meeting all applicable SIP requirements for California nonattainment areas for the 1997 ozone NAAQS.<sup>8</sup> Since then, we have taken actions to approve area-specific SIP submissions addressing the Smog Check SIP requirements for California nonattainment areas for the 2008 ozone NAAQS.<sup>9</sup> The Smog Check Certification SIP submission that is the subject of this document relates to California nonattainment areas for the 2015 ozone NAAQS.

### C. What is the purpose of the submitted plan element?

Emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>) contribute to the production of ground-level ozone, or “smog,” which harm human health and the environment. The EPA has established NAAQS to protect public

<sup>4</sup> See letters from Steven S. Cliff, Ph.D., Executive Officer, CARB, to Martha Guzman, Regional Administrator, EPA Region IX, dated February 22, 2023 (Reclassification request to Extreme for Coachella Valley); CARB Resolution 23–19, October 26, 2023 (Adopting Severe area ozone plan for the 2015 ozone NAAQS for the Sacramento Metro area).

<sup>5</sup> CARB Board Resolution 23–9, March 23, 2023.

<sup>6</sup> MOVES is the acronym for the EPA’s Motor Vehicle Emission Simulator model.

<sup>7</sup> 89 FR 15035 (March 1, 2024).

<sup>8</sup> 75 FR 38023 (July 1, 2010).

<sup>9</sup> See, *e.g.*, 84 FR 3302, 3304 (February 12, 2019) (San Joaquin Valley); 84 FR 52005, 52013 (October 1, 2019) (South Coast Air Basin); and 85 FR 11814, 11816 (February 27, 2020) (Ventura County).

health and welfare for certain pervasive air pollutants, including ozone. Section 110(a)(1) of the CAA requires States to adopt and submit plans (“State Implementation Plans,” or “SIPs”) that provide for implementation, maintenance, and enforcement of the NAAQS within each State. Section 110(a)(2) of the CAA requires SIPs to include enforceable emission limitations and other control measures, means, or techniques to meet CAA SIP requirements, such as regulations that control VOC, NO<sub>x</sub>, and PM emissions.

States with areas designated as nonattainment for a NAAQS are required to submit SIP revisions to address additional requirements that apply to such areas. For certain ozone nonattainment areas, States must submit SIP revisions that address CAA and EPA requirements for Smog Check programs. More specifically, section 182(b)(4) of the CAA requires States with ozone nonattainment areas classified under subpart 2 as Moderate to submit SIP revisions that provide for the implementation of a “Basic” I/M program in those areas. Section 182(c)(3) of the CAA requires States with ozone nonattainment areas classified under subpart 2 as Serious or above to submit SIP revisions that provide for the implementation of an “Enhanced” I/M program in certain urbanized portions of those areas.<sup>10</sup>

As a general matter, Basic and Enhanced I/M programs both achieve their objective by identifying vehicles that have high emissions due to one or more malfunctions and requiring them to be repaired. An Enhanced I/M program covers more of the vehicles in operation, employs inspection methods that are better at finding high-emitting vehicles, and has additional features to better assure that all vehicles are tested properly and effectively repaired. The EPA has established specific requirements for Basic and Enhanced I/M programs in 40 CFR part 51, subpart S (“The EPA’s I/M regulation”). The EPA’s I/M regulation establishes minimum performance standards for Basic and Enhanced I/M programs as well as requirements for certain elements of the programs, including (among other elements) test frequency, vehicle coverage, test procedures and standards, stations and inspectors, and data collection, analysis, and reporting.<sup>11</sup>

An I/M performance standard is a collection of program design elements

that defines a benchmark program to which a State’s Smog Check program is compared in terms of its potential to reduce emissions of the ozone precursors, VOC and NO<sub>x</sub>. The performance standard is expressed as emission levels in area-wide average grams per mile (gpm), achieved from on-road motor vehicles based on a specified model I/M program design. The emission levels achieved by the State’s program design must be calculated using the most current version of the EPA mobile source emission factor model and must meet or exceed the emission reductions achieved by the model performance standard program both in operation and for SIP approval.

The EPA most recently approved a comprehensive update to California’s Smog Check program into its SIP in 2010, and in that action, the EPA approved the program as meeting the applicable I/M requirements for the various nonattainment areas in the State for the 1997 ozone NAAQS.<sup>12</sup> The California Bureau of Automotive Repair (BAR) implements the SIP-approved Smog Check program in California, including oversight of the automotive repair industry and administration of the State’s vehicle emissions reduction and safety programs. The California Department of Motor Vehicles (DMV) administers motor vehicle registration and licensing and supports BAR in administering the Smog Check program.<sup>13</sup>

Currently, BAR implements an Enhanced I/M program in the urbanized areas within the Coachella Valley, Sacramento Metro, San Diego County, San Joaquin Valley, South Coast, Ventura County and West Mojave Desert ozone nonattainment areas and a Basic I/M program outside the urbanized areas within these nonattainment areas. BAR implements a Basic I/M program in Western Nevada County and Eastern Kern. Owners of motor vehicles registered in Mariposa County are subject to certain Smog Check requirements only upon change of ownership.

Since the EPA’s most recent approval of a comprehensive update to the California I/M program in 2010, the State has taken steps to improve the effectiveness of the Smog Check program by requiring BAR to direct older vehicles to high-performing auto technicians and test stations for inspection and certification.<sup>14</sup> Further

changes to State law have required BAR to implement an updated protocol for testing 2000 and newer model-year vehicles that collects more complete On-Board Diagnostic (OBD) information than had been collected under the existing protocol.<sup>15</sup> The State publishes an annual report summarizing the performance of the California Smog Check program.<sup>16</sup>

CARB submitted the Smog Check Certification SIP to address the I/M SIP requirements for California ozone nonattainment areas classified as Moderate or above for the 2015 ozone NAAQS, including the Enhanced I/M performance standard evaluations required under 40 CFR 51.351(i). The provisions of 40 CFR 51.351(i) define the elements of the model Enhanced I/M program for areas required to implement an Enhanced I/M program as a result of designation and classification under the 8-hour ozone standard. As noted previously, a State’s Enhanced I/M program can differ from the model program, but it must meet or exceed the VOC and NO<sub>x</sub> emission reductions achieved by the model program.

As part of CARB’s certification of the existing California Smog Check program for compliance with the applicable I/M SIP requirements for the 2015 ozone NAAQS, the Smog Check Certification SIP includes Enhanced I/M performance standard evaluations for the urbanized areas within the ozone nonattainment areas for 2015 ozone NAAQS: Coachella Valley, Eastern Kern, Sacramento Metro, San Diego County,<sup>17</sup> San Joaquin Valley, South Coast, Ventura County and West Mojave Desert. For the I/M performance standard evaluations, CARB relied upon the EPA’s MOVES3 emissions model and the EPA’s most recent guidance for I/M performance standard modeling.<sup>18</sup> CARB did not provide I/M performance standard evaluations for the Western Nevada County and Mariposa County because the I/M SIP requirements apply only to areas that exceed certain population thresholds, and neither area

South Coast and San Joaquin Valley Air Basins and Proposed SIP Revisions (Release Date: March 29, 2011), Table 1.

<sup>15</sup> CARB, Revised Proposed 2016 State Strategy for the State Implementation Plan (March 7, 2017), pp. 52–53.

<sup>16</sup> The most recent performance report is BAR’s Smog Check Performance Report 2023, July 1, 2023.

<sup>17</sup> As noted previously, the EPA has already taken final action on the San Diego County area portion of the Smog Check Certification SIP, including the related Enhanced I/M performance evaluation. 89 FR 15035 (March 1, 2024).

<sup>18</sup> EPA, Performance Standard Modeling for New and Existing Vehicle Inspection and Maintenance (I/M) Programs Using the MOVES Mobile Source Emissions Model, EPA-420-B-22-034, October 2022.

<sup>12</sup> 75 FR 38023 (July 1, 2010).

<sup>13</sup> “Fiscal Year 2021–22 Annual Report,” Department of Consumer Affairs, at pages 40–44.

<sup>14</sup> CARB, Progress Report on Implementation of PM<sub>2.5</sub> State Implementation Plans (SIP) for the

<sup>10</sup> The CAA I/M SIP requirements apply to Moderate and above nonattainment areas for the 2015 ozone NAAQS pursuant to 40 CFR 51.1302.

<sup>11</sup> 40 CFR part 51, subpart S, §§ 350 through 373.

exceeds those thresholds.<sup>19</sup> The EPA's Technical Support Document (TSD) includes additional information regarding CARB's Smog Check Certification SIP submission.

## II. The EPA's Evaluation and Action

### A. How is the EPA evaluating the plan element?

The EPA has evaluated the Smog Check Certification SIP against the applicable procedural and substantive requirements of the CAA for SIPs and SIP revisions and is proposing to conclude that the Smog Check Certification SIP meets all applicable requirements. A SIP must include enforceable emission limitations and other control measures, means, or techniques, as well as schedules and timetables for compliance, that may be necessary to meet the requirements of the Act (see CAA section 110(a)(2)(A)); provide necessary assurances that the State will have adequate personnel, funding, and authority under State law to carry out such SIP (and is not prohibited by any provision of Federal or State law from carrying out such SIP) (see CAA section 110(a)(2)(E)); be adopted by a State after reasonable notice and public hearing (see CAA section 110(l)); and not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the Act (see CAA section 110(l)). We are also evaluating whether the Smog Check Certification SIP meets the statutory and regulatory requirements for I/M programs in the applicable California ozone nonattainment areas for the 2015 ozone NAAQS.

### B. Does the plan element meet the evaluation criteria?

1. Did the State provide for reasonable public notice and hearing prior to adoption?

Under CAA sections 110(a)(1), 110(a)(2), and 110(l), States must provide for reasonable notice and opportunity for a public hearing prior to adoption and submittal of SIPs and SIP revisions. In 40 CFR 51.102(d), the EPA specifies that reasonable public notice in this context is at least 30 days.

On February 10, 2023, CARB released for public review the draft Smog Check Certification SIP and published a notice of public meeting to be held on March 23, 2023, to consider adoption of the Smog Check Certification as a revision

to the California SIP.<sup>20</sup> On March 23, 2023, CARB held the hearing and adopted the Smog Check Certification as a revision to the California SIP and directed the Executive Officer to submit the Smog Check Certification SIP to the EPA for approval into the California SIP.<sup>21</sup> On April 26, 2023, the Executive Officer of CARB submitted the Smog Check Certification SIP to the EPA.

Based on the materials provided in the April 26, 2023 SIP submission and summarized above, we are now proposing to find that CARB has met the procedural requirements for adoption and submission of SIPs and SIP revisions under CAA sections 110(a)(1), 110(a)(2) and 110(l) and 40 CFR 51.102 with respect to the Smog Check Certification SIP.

2. Does the State have adequate legal authority to implement the plan element?

CAA section 110(a)(2)(E)(i) requires States to provide with their SIPs necessary assurances that the State or relevant local or regional agency will have adequate legal authority to carry out the SIP (and is not prohibited by any provision of Federal or State law from carrying out such SIP). In addition, the EPA's I/M regulation requires Smog Check SIPs to include the legal authority requiring or allowing implementation of the I/M program and providing either broad or specific authority to perform all required elements of the program.<sup>22</sup>

The statutory and regulatory foundation for the approved California I/M program is set forth in California Health & Safety Code (CH&SC), Division 26, Part 5, Chapter 5 (Motor Vehicle Inspection Program), Articles 1 through 9, and in title 16 of the California Code of Regulations (16 CCR), Division 33, Chapter 1, Article 5.5 (Motor Vehicle Inspection Program).<sup>23</sup> Additional I/M-related statutory and regulatory provisions in the California SIP include CH&SC section 39032.5; California Business and Professions Code sections 9886 and 9886.1–9886.4; California Vehicle Code sections 4000.1, 4000.2, 4000.3 and 4000.6; and 16 CCR sections 3303.1, 3303.2, 3392.1–3392.6 and 3394.1–3394.6.<sup>24</sup> Based on CARB's statutory and regulatory authority for

the Smog Check program that we approved in 2010 as part of our approval of CARB's comprehensive update to the California Smog Check SIP, the EPA is proposing to find that CARB has provided adequate necessary assurances for purposes of CAA section 110(a)(2)(E)(i) for the Smog Check Certification SIP and that the California Smog Check program continues to meet the SIP requirements for legal authority in 40 CFR 51.372(a)(5).

3. Will the State have adequate personnel and funding for the plan element?

CAA section 110(a)(2)(E)(i) requires States to provide with their SIPs necessary assurances that the State or relevant local or regional agency will have adequate personnel and funding to carry out the SIP. The California Smog Check program is a mature program that has been in existence for several decades. The State publishes periodic reports to the Legislature on the resources allocated to Smog Check program administration and enforcement.<sup>25</sup> The most recent periodic report identifies no substantial underfunding or lack of personnel for the administration of the Smog Check program.<sup>26</sup> Moreover, the Smog Check Certification SIP does not modify or expand the program and thus does not require any additional resources for implementation purposes. Therefore, we propose to find that the State has adequate personnel and funding to continue to implement the California Smog Check program.

4. Does the plan element meet the substantive requirements for I/M programs under the CAA and the EPA's I/M regulation?

For this proposed action, we reviewed the Smog Check Certification SIP and confirmed that the State continues to implement and enforce an Enhanced I/M program in the urbanized areas within the ozone nonattainment areas for which the Enhanced I/M program is required. These areas include the urbanized areas within nonattainment areas in Coachella Valley, Sacramento Metro, San Joaquin Valley, South Coast Air Basin, and Ventura County.<sup>27</sup>

<sup>25</sup> The most recent periodic report is BAR's Sunset Review Report 2022: presented to the Senate Committee on Business, Professions and Economic Development and the Assembly Committee on Business and Professions.

<sup>26</sup> Id.

<sup>27</sup> As noted previously in this proposed rule, the Enhanced I/M SIP requirement also applies in the urbanized area with San Diego County. We have already approved the Smog Check Certification SIP as it relates to San Diego County. 89 FR 15035 (March 1, 2024).

<sup>19</sup> CARB, Smog Check Certification SIP, page 4.

<sup>20</sup> Notice of Public Meeting to Consider the Proposed California Smog Check Performance Standard Modeling and Program Certification for the 70 parts per billion 8-hour Ozone Standard, signed by Steven S. Cliff, Ph.D., Executive Officer, CARB, February 10, 2023.

<sup>21</sup> CARB Resolution 23–9, page 6.

<sup>22</sup> 40 CFR 51.372(a)(5).

<sup>23</sup> 75 FR 38023, 38025–38026 (July 1, 2010).

<sup>24</sup> Id.

We agree with CARB that an Enhanced I/M program is not required in the Western Nevada County Serious ozone nonattainment area because it is not part of an area having a 1980 Bureau of Census-defined (Census-defined) urbanized area population of 200,000 or more.<sup>28</sup> We also note that the Western Nevada County area is not subject to the Basic I/M program requirement because it is not part of any 1990 Census-defined urbanized area with a population of 200,000 or more,<sup>29</sup> although the State has decided to implement a Basic I/M program in Western Nevada County as part of the ozone control strategy for the area.

For the same reasons, the West Mojave Desert Severe-15 and Eastern Kern Serious ozone nonattainment areas are not subject to the Basic or Enhanced I/M program requirement, although the State has decided to implement an Enhanced or Basic I/M program in portions of West Mojave Desert and a Basic I/M program in Eastern Kern as part of the ozone control strategies for the areas.

With respect to the Mariposa County Moderate ozone nonattainment area, we agree with CARB that a Basic I/M program is not required there because it is not part of a 1990 Census-defined urbanized area with a population of 200,000 or more.

In addition to certifying that the California Smog Check program meets the applicable I/M requirements for the 2015 ozone NAAQS, CARB's April 2023 submission includes CARB's Enhanced I/M performance standard modeling evaluation for the California ozone nonattainment areas that are subject to the Enhanced I/M requirement. For that evaluation, the Smog Check Certification SIP presents a comparison of July weekday emissions rates (in gpm) for VOC and NO<sub>x</sub> based on the existing California Smog Check program and the Enhanced I/M model program benchmark. For an Enhanced I/M program, if the proposed/existing program obtains the same or lower emissions levels for VOC and NO<sub>x</sub> as the performance standard benchmark program to within 0.02 gpm, then it is considered to have met the Enhanced performance standard. The analysis was performed for various years depending upon the relevant attainment years under the different nonattainment area classifications for the 2015 ozone NAAQS. Our TSD provides tables summarizing the results of CARB's performance standard modeling for the

nonattainment areas within Coachella Valley, Sacramento Metro, San Joaquin Valley, South Coast Air Basin, and Ventura County. We did not review CARB's performance standard modeling for Eastern Kern or West Mojave Desert areas because the areas are not subject to either the Enhanced or Basic I/M requirement.

For both VOC and NO<sub>x</sub> in all analysis years, CARB's MOVES3 modeling results indicate that the California Enhanced I/M program meets or exceeds the Federal Enhanced I/M performance standard benchmark program to within 0.02 gpm in all the subject areas. Based on our review of CARB's documentation included in the Smog Check Certification SIP, we find that CARB used appropriate methods and input data to perform the I/M performance standard evaluations for the subject areas, analyzed appropriate years consistent with 40 CFR 51.351(i)(13),<sup>30</sup> and included sufficient documentation to support the results.

In light of CARB's performance standard evaluation results and the improvements in the California Smog Check program, as described previously, since the EPA last approved the California Smog Check program as meeting all the applicable I/M requirements, we propose to find that the California Smog Check program meets the applicable I/M program SIP requirements under CAA sections 182(b)(4) and 182(c)(3) and 40 CFR 51.1302 for the 2015 ozone NAAQS in the Coachella Valley, Eastern Kern, Mariposa County, Sacramento Metro, San Joaquin Valley, South Coast Air Basin, Ventura County, West Mojave Desert and Western Nevada County areas.

5. Would approval of the plan element interfere with attainment and reasonable further progress or any other applicable requirement of the CAA?

The emissions reductions from implementation of the California Smog Check program are reflected in the baseline emissions projections that are relied upon to demonstrate reasonable further progress and attainment in the regional air quality plans developed for the nonattainment areas for the 2015 ozone NAAQS. The Smog Check Certification SIP would not relax any requirements of the program. Therefore,

<sup>30</sup> The analysis years for I/M performance standard evaluations for Coachella Valley and Sacramento Metro assume that the EPA will grant CARB's voluntary reclassification requests for Coachella Valley to Extreme and for Sacramento Metro to Severe. This assumption is appropriate given that the EPA is required to grant such requests under CAA section 181(b)(3).

we propose to find that the approval of the Smog Check Certification SIP would not interfere with attainment and reasonable further progress or any other applicable requirement of the CAA, consistent with the requirements for SIP revisions under CAA section 110(l).

*C. Did the State consider environmental justice in developing this plan element?*

Environmental justice (EJ) is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. As explained in the EJ Legal Tools to Advance Environmental Justice 2022 document,<sup>31</sup> the CAA provides states with the discretion to consider environmental justice in developing rules, measures and plan elements related to nonattainment area SIP requirements.

In this instance, CARB exercised this discretion and did not evaluate EJ considerations as part of its SIP submission. There is no information in the record inconsistent with the stated goals of E.O. 12898 of achieving EJ for people of color, low-income populations, and indigenous peoples.

*D. Proposed Action and Public Comments*

Pursuant to section 110(k)(3) of the Act, and for the reasons given above, the EPA is proposing to approve the Smog Check Certification SIP based on our finding that it meets the applicable procedural and substantive SIP requirements under the CAA and the EPA's I/M regulation for the applicable California nonattainment areas for the 2015 ozone NAAQS. These areas include Coachella Valley, Eastern Kern, Mariposa County, Sacramento Metro, San Joaquin Valley, South Coast Air Basin, Ventura, West Mojave Desert and Western Nevada County. If finalized as proposed, this action would add the Smog Check Certification SIP to the federally-enforceable California SIP.

We will accept comments from the public on this proposal until August 1, 2024.

### III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the relevant provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP

<sup>31</sup> EPA, EPA Legal Tools to Advance Environmental Justice, May 2022.

<sup>28</sup> See CAA section 182(c)(3)(A) and 40 CFR 51.350(a)(2).

<sup>29</sup> See 40 CFR 51.350(a)(4).

submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve a State plan element as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed 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), 13563 (76 FR 3821, January 21, 2011) 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 an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); 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 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, Feb. 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the

greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." The EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."

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. The EPA did not perform an EJ analysis and did not consider EJ in this proposed action. Due to the nature of this proposed action, if finalized, this action is expected to have a neutral to positive impact on the air quality of the various ozone nonattainment areas covered by this proposed action. 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 Order 12898, to achieve EJ for people of color, low-income populations, and Indigenous peoples.

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

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

Dated: June 25, 2024.

**Martha Guzman Aceves,**  
Regional Administrator, Region IX.

[FR Doc. 2024-14349 Filed 7-1-24; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R8-ES-2023-0088;  
FF09E22000 FXES1113090FEDR 245]

RIN 1018-BG50

#### Endangered and Threatened Wildlife and Plants; Removal of White Sedge (*Carex albida*) From the List of Endangered and Threatened Plants

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), propose to remove the white sedge (*Carex albida*) from the Federal List of Endangered and Threatened Plants (*i.e.*, "delist" the species). Our review of the best available scientific and commercial data indicate that the white sedge is not a discrete taxonomic entity and does not meet the definition of a species as defined by the Endangered Species Act of 1973, as amended (Act). White sedge has been synonymized with Lemmon's sedge (*Carex lemmonii*). This taxonomic revision means that the white sedge is no longer a scientifically accepted species. If we finalize this rule as proposed, the prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, would no longer apply to the white sedge.

**DATES:** We will accept comments received or postmarked on or before September 3, 2024. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by August 16, 2024.

**ADDRESSES:** You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Search box, enter FWS-R8-ES-2023-0088, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rule box to locate this document. You may submit a comment by clicking on "Comment."

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS-R8-ES-2023-0088, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

We request that you send comments only by the methods described above. We will post all comments on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

*Availability of supporting materials:* This proposed rule and supporting documents, including a copy of the 5-year review referenced throughout this