

longer considered a mandatory submission; EPA is therefore proposing to find that the EPA's October 23, 2023 (88 FR 72688), disapproval action should not trigger imposition of mandatory sanctions under CAA section 179 and 40 CFR 52.31 or a FIP obligation under CAA 110(c)(1)(B). The EPA notes that it is not proposing to correct the merits of the October 23, 2023 disapproval nor is it withdrawing that disapproval action—the EPA does not believe that the substantive basis for the disapproval as explained in that final action was erroneous; rather, the EPA is proposing to find that because the SIP submittal itself is no longer mandatory following the D.C. Circuit's partial vacatur, the triggering of sanctions under section 179 and 40 CFR 52.31, and the triggering of the EPA's FIP obligation under 110(c)(1)(B), was in error. Therefore, if the EPA finalizes this error correction action as proposed, the imposition of sanctions for the State of Delaware and the FIP obligation for the EPA that were triggered as result of the October 23, 2023 (88 FR 72688), final disapproval action would no longer be in effect.

#### IV. What action is the EPA taking?

As a result of the D.C. Circuit's decision in *Environ. Comm. Fl. Elec. Power v. EPA*, the EPA is proposing to determine that, pursuant to section 110(k)(6) of the CAA, a portion of the EPA's October 23, 2023 (88 FR 72688), final disapproval action of Delaware's SIP revision was in error with respect to the consequences of that disapproval. By partially vacating the EPA's 2015 SSM SIP Action, the D.C. Circuit's decision rendered Delaware's SIP submission in response to the 2015 SSM SIP action voluntary rather than mandatory. Thus, the EPA is proposing to find that the triggering of mandatory sanctions and FIP obligation following the October 23, 2023 (88 FR 72688), final disapproval was erroneous and, through this action, is proposing to terminate the imposition of sanctions for the State and the FIP obligation for the EPA triggered by that disapproval as they are no longer legally valid.

#### V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders (E.O.) can be found at [www.epa.gov/laws-regulations/laws-and-executive-orders](http://www.epa.gov/laws-regulations/laws-and-executive-orders).

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

EPA's role is to approve State choices, provided that they meet the criteria of the CAA. This action merely corrects an error in EPA's prior action 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 is an error correction taken under section 110(k)(6) of the CAA and does not directly or disproportionately affect children.
- 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 EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the action 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*

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 minority populations and low-income populations to the greatest extent practicable and permitted by law. 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.” 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 air agency did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action as the EPA views this action as a necessary procedural step following the D.C. Circuit decision and vacatur of portions of the 2015 SIP call. 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 environmental justice for people of color, low-income populations, and Indigenous peoples.

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

Environmental protection, Administrative practice and procedures, Air pollution control, Approval and promulgation of implementation plans, Incorporation by reference, Intergovernmental relations, and Reporting and recordkeeping requirements.

**Adam Ortiz,**

*Regional Administrator, EPA Region III.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA–R09–OAR–2024–0339; FRL–12125–01–R9]

### Air Plan Approval; Arizona; Yuma 2015 8-Hour Ozone Nonattainment Area; Redesignation Request and Maintenance Plan

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve the State of Arizona's request to redesignate the Yuma nonattainment area from nonattainment to attainment for the 8-hour national ambient air quality standards (NAAQS or "standard") for ozone promulgated in 2015 ("2015 ozone NAAQS"). The EPA is also proposing to approve the "SIP Revision: 2015 Ozone NAAQS, Yuma Redesignation Request and Maintenance Plan" ("Yuma Maintenance Plan" or "Plan") as a revision to the State Implementation Plan (SIP) for the State of Arizona. The Yuma Maintenance Plan includes, among other elements, an emissions inventory consistent with attainment, a maintenance demonstration, contingency provisions, and a motor vehicle emissions budget for the first ten-year maintenance period. With this proposed rulemaking, the EPA is beginning the adequacy process for the 2020, 2030, and 2037 motor vehicle emissions budgets. The EPA is proposing these actions because this SIP revision meets the applicable Clean Air Act (CAA or "the Act") requirements for maintenance plans and because the State has met the requirements under the Act for redesignation of a nonattainment area to attainment with respect to the Yuma 2015 ozone NAAQS nonattainment area ("Yuma area").

**DATES:** Written comments must arrive on or before December 5, 2024.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2024-0339 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:**

Andrew Ledezma, Planning and Analysis Branch (AIR-2), Air and Radiation Division, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972-3985, or by email at [Ledezma.Andrew@epa.gov](mailto:Ledezma.Andrew@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, "we," "us," and "our" refer to the EPA.

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**I. Background**

*A. The 2015 Ozone National Ambient Air Quality Standards*

Ground-level ozone pollution is formed from the reaction of volatile organic compounds (VOC) and oxides of nitrogen (NO<sub>x</sub>) in the presence of sunlight. These two pollutants, referred to as ozone precursors, are emitted by many types of sources, including on- and nonroad 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 public health effects occur following exposure to 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.<sup>1</sup>

Under section 109 of the Act, the EPA promulgates NAAQS for pervasive air pollutants, such as ozone. The NAAQS are concentration levels the EPA has determined to be requisite to protect public health and welfare. On February 8, 1979, the EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm) averaged over a 1-hour period.<sup>2</sup> On July 18, 1997, the EPA revised the primary and secondary standards for ozone to set the acceptable level of ozone in the ambient air at 0.080 ppm averaged over an 8-hour period ("1997 ozone NAAQS").<sup>3</sup>

In 2008, the EPA lowered the 8-hour ozone NAAQS to 0.075 ppm ("2008 ozone NAAQS") to revise the 1997 ozone NAAQS.<sup>4</sup> Then, in 2015, the EPA lowered the primary and secondary 8-hour ozone NAAQS to 0.070 ppm ("2015 ozone NAAQS" or "standard").<sup>5</sup> Most recently, in December 2020, the EPA finalized review of the ozone NAAQS, retaining the form and level of the standards.<sup>7</sup> As a result, no new ozone area designations were triggered under the CAA, and therefore, no new nonattainment area requirements will apply. This action pertains to only the 2015 ozone NAAQS.

*B. The Yuma Area and Regulatory Actions*

Following promulgation of a new or revised NAAQS, the EPA is required by the CAA to promulgate designations for areas throughout the U.S. in accordance with section 107(a)(1) of the CAA. Effective August 3, 2018, the EPA

<sup>1</sup> "Fact Sheet—2008 Final Revisions to the National Ambient Air Quality Standards for Ozone," dated March 2008.

<sup>2</sup> See 44 FR 8202 (February 8, 1979).

<sup>3</sup> See 62 FR 38856. On April 30, 2004, the EPA designated and classified areas of the country with respect to the 1997 ozone NAAQS. See 69 FR 23858.

<sup>4</sup> 73 FR 16436 (March 27, 2008).

<sup>5</sup> Since the primary and secondary 2015 ozone standards are the same, we hereafter refer to them herein using the singular "2015 ozone NAAQS" or "standard."

<sup>6</sup> 80 FR 65292 (October 26, 2015).

<sup>7</sup> 85 FR 87256 (December 31, 2020). This proposed action relates to the requirements for the 2015 ozone NAAQS. Information regarding the December 31, 2020 retention of the prior 2015 ozone NAAQS is provided for reference only.

established the initial air quality designations for most areas in the United States for the 2015 ozone NAAQS.<sup>8</sup> The EPA designated the Yuma area as “Marginal” nonattainment for the 2015 ozone NAAQS based on monitoring data from 2014–2016. Areas classified as Marginal must attain the NAAQS within three years of the effective date of the nonattainment designation.<sup>9</sup> The Yuma area covers 52 square miles in the Sonoran Desert region of southwestern Arizona and is adjacent to California and the international border with Mexico.<sup>10</sup> In response to the designation and classification of the Yuma area as a Marginal area, Arizona submitted to the EPA revisions to its nonattainment new source review (NNSR) program. The EPA approved the revisions and determined that the NNSR program meets the applicable NNSR program requirements for areas classified as Marginal nonattainment for the 2015 ozone NAAQS.<sup>11</sup> Arizona also submitted a plan titled “Marginal Ozone Plan for the Yuma Nonattainment Area” and a technical supplement which address the emissions inventory requirement in CAA section 182(a)(1) and the emissions statement requirement in CAA section 182(a)(3). The EPA approved the emissions inventory for the Yuma area on April 5, 2022,<sup>12</sup> and the emissions statement on July 29, 2022.<sup>13</sup>

On October 7, 2022, the EPA determined that the Yuma area attained the 2015 ozone NAAQS by August 3, 2021, the attainment deadline specified by the Act, with a design value of 0.068 ppm.<sup>14</sup> The EPA relied on 2018–2020 quality-assured, certified ambient ozone data in making the determination that the Yuma area had attained the NAAQS by the applicable date.

### C. CAA and Regulatory Requirements for Redesignations and Maintenance Plans

The CAA establishes the criteria that must be met for the EPA to redesignate

a nonattainment area to attainment for a given NAAQS. Specifically, section 107(d)(3)(E) sets forth the following criteria: (1) the EPA must determine that the area has attained the applicable NAAQS; (2) the EPA must have a fully approved SIP for the area under CAA section 110(k); (3) the EPA must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions; (4) the EPA must have fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and, (5) the State must have met all requirements applicable to the area under section 110 and title I, part D (“part D”) of the CAA. Section 110 identifies a comprehensive list of elements that must be included in SIPs, and part D establishes the SIP requirements for nonattainment areas. Part D is divided into six subparts. The generally applicable SIP requirements for nonattainment areas are found in subpart 1 of part D, and the ozone-specific SIP requirements are found in subpart 2 of part D. The EPA provided guidance on redesignations in a document titled “State Implementation Plans; General Preamble for the Implementation of title I of the Clean Air Act Amendments of 1990,” published in the **Federal Register** on April 16, 1992,<sup>15</sup> and supplemented on April 28, 1992<sup>16</sup> (collectively referred to herein as the “General Preamble”). The EPA issued additional guidance in two memoranda: a September 4, 1992 memorandum from John Calcagni, titled “Procedures for Processing Requests to Redesignate Areas to Attainment” (“Calcagni memo”);<sup>17</sup> and a 1995 memorandum from Mary D. Nichols, titled “Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment” (“Nichols memo”).<sup>18</sup>

The EPA’s approval of a State’s maintenance plan is one of the CAA prerequisites for redesignation of a nonattainment area to attainment.

Section 175A of the CAA provides the general framework for a State’s maintenance plans. A State’s initial 10-year maintenance plan must provide for maintenance of the NAAQS for at least 10 years after redesignation and include any additional control measures necessary to ensure such maintenance. In addition, maintenance plans must contain contingency provisions necessary to assure the prompt correction of a violation of the NAAQS during the maintenance period. At a minimum, these contingency provisions must include a requirement that a State will implement all control measures contained in the nonattainment SIP prior to redesignation. Because a State’s maintenance plan submittals are SIP revisions, the EPA is obligated under CAA section 110(k) to approve them or disapprove them depending upon whether they meet the applicable CAA requirements for such plans outlined above.

For the reasons described in section III of this proposal, the EPA is proposing to approve the Yuma Maintenance Plan and approve Arizona’s request for redesignation of the Yuma area to attainment for the 2015 ozone NAAQS. The EPA’s proposed approvals are based on our conclusion that Arizona has satisfied all the criteria under CAA section 107(d)(3)(E).

## II. Submissions From the State of Arizona To Redesignate the Yuma Area to Attainment for the 2015 Ozone NAAQS

### A. Summary of State Submissions

On December 27, 2023, the Arizona Department of Environmental Quality (ADEQ) submitted to the EPA its redesignation request and the Yuma Maintenance Plan as a revision to the Arizona SIP.<sup>19</sup> This document addresses all of the CAA section 107(d)(3)(E) requirements for redesignating a nonattainment area to attainment for the NAAQS and includes the required maintenance plan elements. The Yuma Maintenance Plan is organized into eight chapters and two appendices. Appendix A of the Plan provides technical support for the emissions inventory, and appendix B of the Plan contains the procedural requirements and authority to implement the Yuma Maintenance Plan.

<sup>19</sup> Letter dated December 27, 2023, from Hether Krause, Deputy Assistant Director, ADEQ, to Martha Guzman, Regional Administrator, EPA Region IX.

<sup>8</sup> 83 FR 25776 (June 4, 2018).

<sup>9</sup> CAA section 181(a)(1), 40 CFR 51.1102 and 51.1103(a).

<sup>10</sup> The Yuma nonattainment area is bounded on the north and west by the Arizona state line, bounded on the south by the line of latitude at 32°39′20″ N, bounded on the east by the line of longitude 114°33′50″ W, and excluding the section 10, 11, and 12 of township T9S, R23W and any portion in Indian Country. See 40 CFR 81.303.

<sup>11</sup> 89 FR 22963 (April 3, 2024).

<sup>12</sup> 87 FR 19629 (April 5, 2022).

<sup>13</sup> 87 FR 45657 (July 29, 2022).

<sup>14</sup> 87 FR 60897 (October 7, 2022). The design value for the 2015 ozone NAAQS is the fourth-highest daily maximum 8-hour average concentration of ozone averaged over a three-year period. 40 CFR part 50, appendix U.

<sup>15</sup> 57 FR 13498 (April 16, 1992).

<sup>16</sup> 57 FR 18070 (April 28, 1992).

<sup>17</sup> Memorandum dated September 4, 1992, from John Calcagni, Air Quality Management Division, U.S. EPA, to Regional Air Directors, Regions I–X, Subject: “Procedures for Processing Requests to Redesignate Areas to Attainment,” available at [https://www.epa.gov/sites/default/files/2016-03/documents/calcagni\\_memo\\_-\\_procedures\\_for\\_processing\\_requests\\_to\\_redesignate\\_areas\\_to\\_attainment\\_090492.pdf](https://www.epa.gov/sites/default/files/2016-03/documents/calcagni_memo_-_procedures_for_processing_requests_to_redesignate_areas_to_attainment_090492.pdf).

<sup>18</sup> Memorandum dated October 14, 1994, from Mary D. Nichols, Assistant Administrator, U.S. EPA, to EPA Regional Air Directors, Region I–X, Subject: “Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,” available at <https://www.epa.gov/sites/default/files/2015-07/documents/101494m.pdf>.

### B. CAA Procedural Requirements for Adoption and Submission of SIP Revisions

CAA sections 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 revision to the EPA. To meet this procedural requirement, a State must include evidence that it provided adequate public notice and an opportunity for a public hearing, consistent with the EPA's implementing regulations in 40 CFR 51.102.

ADEQ's December 27, 2023 SIP submittal includes documentation of the public process conducted by ADEQ in its adoption of the Yuma Maintenance Plan.<sup>20</sup> On November 15, 2023, ADEQ released a draft version of the plan for public review and published a notice of public meeting to be held on December 15, 2023, to consider the adoption of the Yuma Maintenance Plan. ADEQ adopted the Yuma Maintenance Plan on December 15, 2023, following a public hearing, as documented in the public hearing presiding officer certification<sup>21</sup> and public hearing transcript.<sup>22</sup> Based on the documentation in the December 27, 2023 SIP submittal, ADEQ has satisfied the applicable statutory and regulatory requirements for reasonable public notice and hearing prior to adoption and submission of the Plan. Therefore, the submission of the Yuma Maintenance Plan meets the procedural requirements for public notice and hearing in CAA sections 110(a) and 110(l) and in 40 CFR 51.102.

On June 23, 2024, the Yuma Maintenance Plan became complete by operation of law pursuant to CAA section 110(k)(1)(B).<sup>23</sup>

### III. Evaluation of Arizona's Redesignation Request for the Yuma Area

#### A. Evaluation of Whether the Yuma Area Has Attained the 2015 Ozone NAAQS

##### 1. Statutory and Regulatory Requirements

Pursuant to section 107(d)(3)(E)(i) of the CAA, for a nonattainment area to be redesignated to attainment, the EPA must determine that the area has attained the relevant NAAQS. The EPA interprets this requirement to mean that the area must have an attaining design value based on the most recently available and quality-assured air quality monitoring data, collected in accordance with the requirements of 40 CFR part 58.<sup>24</sup> These requirements include quality assurance procedures for monitor operation and data handling, siting parameters for instruments or instrument probes, and minimum ambient air quality monitoring network requirements.<sup>25</sup> State, local, or Tribal agencies that operate air monitoring sites in accordance with 40 CFR part 58 must enter the ambient air quality data from these sites in the EPA Air Quality System (AQS) database.<sup>26</sup> These monitoring agencies certify annually that these data are accurate to the best of their knowledge, taking into consideration the quality assurance findings.<sup>27</sup> Accordingly, the EPA relies primarily on AQS data when determining the attainment status of an area.

In accordance with 40 CFR part 50, appendix U, the EPA's finding of attainment of the 2015 ozone NAAQS must be based upon complete, certified data gathered at monitoring sites in the nonattainment area in accordance with 40 CFR part 58 and entered into AQS.<sup>28</sup> Under 40 CFR 50.19 and in accordance with part 50, appendix U, an area meets the 2015 ozone NAAQS when the design value at each eligible monitoring site within the area is less than or equal to 0.070 ppm, based on the calculations set forth in 40 CFR part 50, appendix U.<sup>29</sup>

To have a valid design value showing attainment of the ozone standard at a given monitoring site, the ambient air

quality data must meet data completeness or substitution requirements for each year under consideration. The completeness requirements are met when at least 90 percent of the days in the ozone season are complete,<sup>30</sup> on average, for the three-year period, with a minimum of at least 75 percent of the complete days within the ozone monitoring period in any one year.<sup>31</sup> When computing whether the minimum data completeness requirements have been met, meteorological or ambient data may be sufficient to demonstrate that meteorological conditions on missing days were not conducive to concentrations above the level of the 2015 ozone NAAQS. Missing days assumed less than the level of the 2015 ozone NAAQS are counted for the purpose of meeting the minimum data completeness requirements, subject to the approval of the Regional Administrator.<sup>32</sup>

##### 2. Monitoring Network Review, Quality Assurance, and Data Completeness

ADEQ is the governmental agency with the authority and responsibilities under the State's laws for collecting ambient air quality data in the Yuma area. As a result, ADEQ submits annual monitoring network plans to the EPA.<sup>33</sup> These plans document the status of ADEQ's air monitoring network, as required under 40 CFR 58.10. The EPA reviews these annual network plans for compliance with the specific requirements in 40 CFR part 58. With respect to ozone, we have found that the annual network plans submitted by ADEQ met these requirements under 40 CFR part 58, including the minimum monitoring requirements.<sup>34</sup> Yuma Supersite (AQS ID No. 04-027-8011) is the only ozone monitor in the Yuma area.

In accordance with 40 CFR 58.15, ADEQ certifies annually that the previous years' ambient concentration and quality assurance data are completely submitted to AQS and that

<sup>20</sup> ADEQ submitted a signed version of its "Notice of Public Hearing" published online, and in print in *The Arizona Republic* on November 14 and 15, 2023 and in the *Yuma Sun* on November 14, 2023.

<sup>21</sup> ADEQ submitted a signed version of the "Public hearing presiding officer certification," which certifies that ADEQ conducted public hearing on December 15, 2023.

<sup>22</sup> ADEQ submitted a written transcript of the public hearing conducted on December 15, 2023, in which the Yuma Maintenance Plan was adopted.

<sup>23</sup> For more information regarding the completeness criteria as per CAA section 110(k)(1)(A) and 40 CFR part 51, appendix V, see the completeness checklist in the Yuma Maintenance Plan, v-viii.

<sup>24</sup> 57 FR 13948 at 13563 (April 12, 1992).

<sup>25</sup> 40 CFR 58.2(a).

<sup>26</sup> 40 CFR 58.16. AQS is the EPA's national repository of ambient air quality data.

<sup>27</sup> 40 CFR 58.15(a).

<sup>28</sup> 40 CFR part 50, appendix U, section 3.

<sup>29</sup> The 2015 ozone NAAQS design value is the annual fourth-highest daily maximum 8-hour average ozone concentration, averaged over three years.

<sup>30</sup> Ozone season refers to seasons of the year that are conducive to ozone formation, identified on a state-by-state basis per 40 CFR part 58, appendix D 4.1(i), table D-3. The Yuma Maintenance Plan identifies their high ozone season as April to September. Yuma Maintenance Plan, 9.

<sup>31</sup> 40 CFR part 50, appendix U, section 4.b.

<sup>32</sup> 40 CFR part 50, appendix U, section 4.c.

<sup>33</sup> We have included in the docket for this rulemaking, EPA reviews of ADEQ annual network plans and the correspondence transmitting this review, e.g., from Dena Vallano, Manager, Monitoring and Analysis Section, EPA Region IX, to Daniel Czecholinski, Air Division Director, ADEQ.

<sup>34</sup> See e.g., "Arizona Air Monitoring Network Plan for the Year 2023," Tables 2.1-10 and 2.1-11, "Minimum Monitoring Requirements for O<sub>3</sub>."

the ambient concentration data are accurate, taking into consideration the quality assurance findings.<sup>35</sup> Along with the certification letters, ADEQ submits a summary of the precision and accuracy data for all ambient air quality data.<sup>36</sup> The EPA's evaluations of the relevant quality assurance data are reflected in the associated AQS design value reports.<sup>37</sup> These reports include a certification evaluation and concurrence ("Cert&Eval") flag indicating the overall quality of the corresponding monitoring data. Over the period of 2021–2023, the associated Cert&Eval flag in the design value report was "Y" for the monitoring site in the Yuma area,<sup>38</sup> meaning that "[t]he certifying agency has submitted a certification letter, and EPA has no unresolved reservations about data quality (after reviewing the letter, the attached summary reports, the amount of quality assurance data submitted to AQS, the quality statistics, and the highest reported concentrations)."<sup>39</sup>

The Yuma area Design Value Report also included a validity indicator ("Y") that reflects whether the design value is valid (*i.e.*, calculated using data that meet the applicable completeness criteria). For the purposes of this proposal, we reviewed the data for the 2021–2023 period for completeness and determined that the ozone data collected by ADEQ met the completeness criterion at the ozone monitoring site in the Yuma area.<sup>40</sup>

Finally, the EPA conducts regular technical system audits (TSAs) where we review and inspect State and local ambient air monitoring programs to assess compliance with applicable regulations concerning the collection, analysis, validation, and reporting of ambient air quality data. For the purposes of this proposal, we reviewed the findings from the EPA's 2021 TSA of ADEQ's ambient air monitoring program.<sup>41</sup> In Finding 4 of the 2021

<sup>35</sup> We have included in our docket ADEQ's annual data certifications for 2020–2022. Annual data certification requirements can be found at 40 CFR 58.15.

<sup>36</sup> 40 CFR 58.15(c).

<sup>37</sup> AQS, Design Value Report (AMP480), dated February 21, 2024.

<sup>38</sup> In 2021, the one-point quality control check requirement was not met. ADEQ did not complete the required number of checks throughout the year. However, according to 40 CFR part 58, appendix A, section 1.2.3, failure to conduct or pass a required check or procedure, or a series of required checks or procedures, does not by itself invalidate data for regulatory decision making.

<sup>39</sup> AQS, Design Value Report (AMP480), dated February 21, 2024.

<sup>40</sup> Id.

<sup>41</sup> Technical Systems Audit of the Ambient Air Monitoring Program: Arizona Department of Environmental Quality, February 8–12, 2021; Final Report dated April 2022 ("2021 TSA"). The 2021

TSA, the EPA noted that ADEQ did not report all valid measurement quality checks to AQS as required by the CFR. ADEQ conducted nightly zero/precision/span checks on its ozone analyzers with certified transfer standards but did not report these to AQS. In the past, the rationale for not reporting these checks was that the stability was not tracked or was questionable given the limited time for the zero/precision/span to occur, (*i.e.*, 11:45 p.m.–12:15 a.m.). To address this finding, as of October 2023, ADEQ has begun to submit nightly ozone precision checks to AQS. The EPA did not recommend invalidating any data from the monitoring site in the Yuma area based on this TSA.

In summary, based on the EPA's reviews of the relevant monitoring network plans, certifications, quality assurance data, and the 2021 TSA, we propose to find that the ozone data collected in the Yuma area are suitable for determining whether the area has attained the 2015 8-hour ozone NAAQS based on the most recent certified data available in AQS.

3. Evaluation of Attainment

Table 1 shows the calculated 2015 ozone design values at the Yuma Supersite monitor (AQS ID No. 04–027–8011). The data show that the monitor in the Yuma area met the 2015 ozone NAAQS in the 2020–2022 period. In addition, preliminary data for 2024 shows that the Yuma Supersite monitor is attaining the 2015 ozone NAAQS.<sup>42</sup>

TABLE 1—YUMA SUPERSITE MONITOR (AQS ID NO. 04–027–8011) DESIGN VALUE FOR THE 2015 OZONE NAAQS FROM 2008–2022

[Parts per million (ppm)] <sup>a</sup>	
Year	Design value
2010 .....	0.073
2011 .....	0.073
2012 .....	0.077
2013 .....	0.076
2014 .....	0.077
2015 .....	0.076
2016 .....	0.074
2017 .....	0.072
2018 .....	0.071
2019 .....	0.071
2020 .....	0.068

TSA is attached to its transmittal letter dated April 7, 2022, from Elizabeth J. Adams, EPA Region IX, to Bradley Busby, Manager, ADEQ.

<sup>42</sup> See "AQS Quicklook Report," dated October 1, 2024, available in the docket for this proposed rule. At the Yuma Supersite, available data for 2024 on includes the first and second quarter of the year (January through June). Based on that first and second quarter, the fourth-highest 8-hour ozone concentration so far in 2014 is 0.068 ppm.

TABLE 1—YUMA SUPERSITE MONITOR (AQS ID NO. 04–027–8011) DESIGN VALUE FOR THE 2015 OZONE NAAQS FROM 2008–2022—Continued

[Parts per million (ppm)] <sup>a</sup>	
Year	Design value
2021 .....	0.067
2022 .....	0.068
2023 .....	0.070

<sup>a</sup>Source: AQS, Design Value Report, dated May 1, 2024.

Consequently, based upon three complete, quality assured and certified data from 2021–2023, the EPA proposes to determine that the Yuma area has attained and continues to attain the 2015 ozone NAAQS.

*B. The Area Must Have a Fully Approved SIP Meeting the Requirements Applicable for the Purposes of Redesignation Under Section 110 and Part D of the CAA*

Sections 107(d)(3)(E)(ii) and (v) of the CAA require the EPA to determine that the area has a fully approved applicable SIP under CAA section 110(k) that meets all applicable requirements under section 110 and part D for the purposes of redesignation. We interpret the references to the "applicable implementation plan" and "applicable requirements" in section 107(d)(3)(E)(ii) and in 107(d)(3)(E)(v), respectively, to mean that a SIP must be fully approved only with respect to requirements that are applicable for purposes of redesignation. The CAA section 110 and part D requirements that are linked to a particular nonattainment area's designation and classification (except those directly related to attainment) are the relevant measures to evaluate in reviewing a redesignation request. Requirements that apply regardless of the designation of an area of a State are not applicable requirements for the purpose of redesignation, and the State will remain subject to these requirements after the nonattainment area is redesignated to attainment.<sup>43</sup> The EPA may rely on prior SIP approvals in

<sup>43</sup> See the Calcagni memo; memorandum dated September 17, 1993, from Michael Shapiro, Acting Assistant Administrator for Air and Radiation, Subject: "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,"; 60 FR 12459, 12465–66 (March 7, 1995) (redesignation of Detroit-Ann Arbor, Michigan); 68 FR 25418, 25424–25427 (May 12, 2003) (redesignation of St. Louis, Missouri); and *Sierra Club v. EPA*, 375 F.3d 537, 541 (7th Cir. 2004) (upholding EPA's redesignation rulemaking applying this interpretation).

approving a redesignation request<sup>44</sup> as well as any additional measure or element it may approve in conjunction with a redesignation action.<sup>45</sup>

#### 1. State Implementation Plan Requirements Under Section 110

The general SIP elements and requirements set forth in CAA section 110(a)(2) include, but are not limited to, the following: (1) submittal of a SIP that has been adopted by the State after reasonable public notice and hearing; (2) provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; (3) implementation of a source permitting program; (4) provisions for the implementation of part C requirements for prevention of significant deterioration (PSD); (5) provisions for the implementation of part D requirements for nonattainment new source review permit programs; (6) provisions for air pollution modeling; and (7) provisions for public and local agency participation in planning and emission control rule development.

On numerous occasions, Arizona has submitted, and the EPA has approved provisions addressing the basic CAA section 110 provisions. The Arizona SIP contains enforceable emissions limitations, requires monitoring, compiling, and analyzing of ambient air quality data; requires preconstruction review of new or modified stationary sources; provides for adequate funding, staff, and associated resources necessary to implement its requirements; and provides the necessary assurances that the State maintains responsibility for ensuring that the CAA requirements are satisfied in the event that local or regional agencies are unable to meet their CAA obligations. Most recently, on September 4, 2024, the EPA finalized a partial approval and partial disapproval of SIP revisions submitted by the State of Arizona with respect to the requirements of CAA section 110(a)(2) for the 2015 ozone NAAQS.<sup>46</sup> Specifically, the EPA partially disapproved the SIP revisions for CAA requirements in sections 110(a)(2)(C) (program for enforcement of control measures and regulation of new stationary sources), 110(a)(2)(D)(i)(II) (interference with maintenance of the NAAQS in any other State, or “prong 3”), 110(a)(2)(D)(ii) (interstate pollution abatement, CAA section 126), and 110(a)(2)(J) (PSD and visibility

protection). The deficiencies are adequately addressed by existing Federal implementation plans.

In conclusion, we find that there are no outstanding or disapproved applicable SIP submittals that prevent redesignation of the Yuma area for the 2015 ozone NAAQS. Therefore, we propose to conclude that the State has met all SIP requirements for the Yuma area that are applicable for purposes of redesignation under section 110 of the CAA.

#### 2. State Implementation Plan Requirements Under Part D

Part D of the CAA establishes the plan requirements for nonattainment areas. Section 172(c) in subpart 1 of part D sets forth the basic requirements of air quality plans for States with nonattainment areas that are required to submit plans on a schedule pursuant to CAA section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the areas’ nonattainment classifications. The Yuma area is classified as Marginal nonattainment for the 2015 ozone NAAQS, and thus, the area is subject to the subpart 1 requirements contained in CAA sections 172(c) and 176, as well as CAA section 182(c). A thorough discussion of the requirements contained in sections 172(c) and 182(c) can be found in the “General Preamble for Implementation of Title I of the Clean Air Act Amendments of 1990.”<sup>47</sup>

CAA requirements for ozone nonattainment areas are cumulative in that “Extreme” areas must also meet the applicable requirements for the four lesser classifications: Marginal, “Moderate,” “Serious,” and “Severe.” Because the Yuma area was classified as Marginal nonattainment for ozone, the area is only required to meet the applicable Marginal ozone requirements.<sup>48</sup> Since its classification as a Marginal nonattainment area, the State has adopted and the EPA has approved into the Arizona SIP the following Marginal area requirements for the Yuma area with respect to the 2015 ozone NAAQS: emissions inventories,<sup>49</sup> emissions statements,<sup>50</sup> and nonattainment new source review programs.<sup>51</sup>

In conclusion, we find that the Yuma area has a fully approved SIP under

CAA section 110(k) that satisfies the criterion for redesignation under sections 107(d)(3)(E)(ii) and (v) of the CAA.

#### C. The Area Must Show That the Improvement in Air Quality Is Due to Permanent and Enforceable Emissions Reductions

To approve a redesignation to attainment, section 107(d)(3)(E)(iii) of the CAA requires the EPA to determine that the improvement in air quality is due to emissions reductions that are permanent and enforceable, and that the improvement results from the implementation of the applicable SIP, applicable Federal air pollution control regulations, and other permanent and enforceable regulations. Under this criterion, a State must be able to reasonably attribute the improvement in air quality to permanent and enforceable emissions reductions. Attainment resulting from temporary reductions in emissions (e.g., reduced production or shutdown due to temporary adverse economic conditions) or unusually favorable meteorology would not qualify as an air quality improvement due to permanent and enforceable emissions reductions.<sup>52</sup>

ADEQ found that the Yuma area has demonstrated that the observed air quality improvements with respect to the 2015 ozone NAAQS are due to enforceable emissions reductions through the implementation of Federal vehicle standards, engine standards, and rules for boilers, reciprocating internal combustion engines, and electrical utility generation units. ADEQ found that, within the Yuma area, Federal regulations have been the primary measures contributing to permanent and enforceable emissions reductions, leading to attainment of the NAAQS.<sup>53</sup>

The Federal motor vehicle program and Federal fuel standards for sulfur content in diesel have contributed to attainment of the 2015 ozone NAAQS in the Yuma area by reducing VOC and NO<sub>x</sub>.<sup>54</sup> Federal tier 2 and 3 motor vehicle standards implemented from 2004 to 2014 helped to reduce on-road mobile source VOC and NO<sub>x</sub> emissions in the Yuma area through increasingly stringent emissions standards. Federal sulfur content standards for diesel fuel were implemented in conjunction with the Federal motor vehicle program standards. Sulfur occurs naturally in gasoline and interferes with the operation of catalytic converters on vehicles, which results in higher NO<sub>x</sub>

<sup>44</sup> Calcagni memo, 3; Wall v. EPA, 265 F.3d 426, 438 (6th Cir. 2001).

<sup>45</sup> Calcagni memo, 3; 68 FR 25418, 25426 (May 12, 2003).

<sup>46</sup> 89 FR 71830 (September 4, 2024).

<sup>47</sup> 57 FR 13498 (April 16, 1992).

<sup>48</sup> The requirements can be found in CAA section 182(a).

<sup>49</sup> 87 FR 19629 (April 5, 2022).

<sup>50</sup> 87 FR 45657 (July 29, 2022).

<sup>51</sup> 89 FR 22963 (April 3, 2024).

<sup>52</sup> Calcagni memo, 4.

<sup>53</sup> Yuma Maintenance Plan, 28–32.

<sup>54</sup> Yuma Maintenance Plan, 28–31.

emissions. Lower sulfur content fuel has reduced sulfur dioxide (SO<sub>2</sub>) emissions and allowed pollution control equipment to operate more effectively to reduce emissions of other pollutants as well.

Federal nonroad and stationary standards also contributed to attainment of the 2015 ozone NAAQS. Nonroad spark-ignition and recreational engine standards implemented between 2003 and 2020 have contributed to a 72 percent reduction in VOCs and an 80 percent reduction in NO<sub>x</sub>.<sup>55</sup> The boiler and reciprocating internal combustion engines national emissions standards for hazardous air pollutants (NESHAPs), as well as the utility mercury and air toxics standards (MATS) and new source performance standards (NSPS) rules for electricity generating units also have contributed to VOC and NO<sub>x</sub> reductions in the Yuma area.<sup>56</sup> Taken together, these Federal programs contributed to VOC and NO<sub>x</sub> emissions reductions in the Yuma area.

With respect to the connection between the emissions reductions and the improvement in air quality, we also conclude that the air quality improvement in the Yuma area is due to permanent and enforceable emissions reductions and not the result of temporary or impermanent factors such as local economic downturn, temporary emissions reductions, or unusual or extreme weather patterns. Our conclusion is based on the observation that the ozone design value for the Yuma area has been below 0.070 ppm, the level of the 2015 ozone NAAQS, since 2020.<sup>57</sup> In sum, ambient ozone concentrations in the Yuma area have been consistently below the NAAQS since 2020 and have not been subject to large swings and disparate observations that might result from a sudden facility closure or an extreme weather pattern.

In conclusion, we find that the improvement in ambient air quality in the Yuma area is due to permanent and enforceable reductions in emissions of VOC and NO<sub>x</sub>, resulting from control measures such as (1) Federal vehicle standards and (2) stationary source control measures. Therefore, we propose

to find that Arizona has satisfied the criterion for redesignation set forth at CAA section 107(d)(3)(E)(iii).

*D. The Area Must Have a Fully Approved Maintenance Plan Under CAA Section 175A*

Section 107(d)(3)(E)(iv) of the CAA requires, as a pre-condition to being redesignated from nonattainment to attainment, that the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the Act.

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan is a SIP revision that provides for maintenance of the relevant NAAQS in the area for at least 10 years after redesignation. The Calcagni memo, dated September 4, 1992, provides additional guidance on the required content of a maintenance plan.

A maintenance plan should address the following five areas: the attainment emissions inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. The attainment emissions inventory identifies the emissions level in the area that is sufficient to attain the 2015 ozone NAAQS based on emissions during a three-year period which had no monitored violations. To demonstrate maintenance of the 2015 ozone NAAQS, ADEQ has projected the attainment emissions inventory through the first maintenance period and ensured that it was less than or equal to the inventory at the time of attainment. A maintenance plan must also include provisions for continued operation of an appropriate air quality monitoring network. The State must show how it will track and verify the progress of the maintenance plan. Finally, the maintenance plan must include a list of potential contingency measures which ensure prompt correction of any violation of the 2015 ozone NAAQS. Based on our review and evaluation of the Yuma Maintenance Plan, as described in the following sections, we are proposing to approve the Plan as meeting the requirements of CAA section 175A.

1. Attainment Inventories and Projected Future Inventories

A maintenance plan should include an “attainment emissions inventory” of ozone precursors in the area to identify a level of emissions sufficient to attain the NAAQS.<sup>58</sup> The attainment emissions inventory should be consistent with the EPA’s most recent guidance on emissions inventories for nonattainment areas available at the time it was developed and should represent emissions during the timeframe associated with the ambient air quality monitoring data showing attainment of the NAAQS. The attainment inventory will generally be the actual inventory during the time period that the area attained the standard. The EPA has provided guidance for developing ozone emissions inventories in “Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations”.<sup>59</sup>

ADEQ selected 2020 as the base year for the attainment inventory in the Yuma Maintenance Plan. The Yuma area attained the 2015 ozone NAAQS in 2020, and therefore, the emissions inventory from 2020 represents emissions levels consistent with continued attainment (*i.e.*, maintenance) of the NAAQS. We consider the selection of the 2020 base year inventory to be appropriate given that it was the most recent emissions inventory associated with the reporting schedule required under the Air Emissions Reporting Requirements rule at the time of development of the Plan.

Table 2 presents the VOC and NO<sub>x</sub> emissions estimates contained in the Yuma Maintenance Plan for 2020 and presents the Plan’s projected emissions inventories of ozone precursors for an interim year (2030) and the maintenance plan’s horizon year (2037).<sup>60</sup>

<sup>58</sup> Calcagni memo, 8–9.

<sup>59</sup> “Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards and Regional Haze Regulations,” EPA-454/B-17-002, May 2017.

<sup>60</sup> The maintenance plan horizon year refers to the final year of the maintenance period covered by the plan.

<sup>55</sup> Id.

<sup>56</sup> Id.

<sup>57</sup> Yuma Maintenance Plan, Figure 2–2.

TABLE 2—YUMA AREA 2020 AND PROJECTED 2030 AND 2037 VOC AND NO<sub>x</sub> OZONE SEASON DAY EMISSIONS  
[Pounds per day]<sup>a</sup>

Emissions source	2020		2030		2037	
	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>
Point .....	104	1,662	1,384	4,628	1,384	4,628
Nonpoint .....	5,754	1,410	6,281	1,556	6,738	1,660
Mobile—Nonroad .....	1,792	1,620	1,720	923	1,754	782
Mobile—On-road .....	8,939	5,412	4,908	2,747	4,222	2,390
Total <sup>b</sup> .....	16,589	10,104	14,293	9,854	14,098	9,460

<sup>a</sup> Source: Yuma Maintenance Plan, 43.

<sup>b</sup> Emissions have been added to the Mobile—On-road emissions source category to account for safety margins added to proposed motor vehicle emissions budget. See the Yuma Maintenance Plan, page 50.

The data shown in Table 3 in this document is based on the EPA's 2020 national emissions inventory (NEI). The inventory addresses point sources,<sup>61</sup> nonpoint sources,<sup>62</sup> nonroad mobile sources,<sup>63</sup> and on-road mobile sources. Appendix A to the Yuma Maintenance Plan contains source-specific descriptions of emissions calculation procedures and sources of input data.

The EPA has reviewed the emissions inventory submitted by ADEQ and proposes to conclude that the Plan's inventory is based on reasonable assumptions and methodologies, and that the inventory is comprehensive, current, accurate, and consistent with applicable CAA provisions and the Calcagni memo. Therefore, we are proposing that the inventory is acceptable for use in demonstrating maintenance of the 2015 ozone NAAQS.

## 2. Maintenance Demonstration

Section 175A(a) of the CAA requires that the maintenance plan "provide for the maintenance of the national primary ambient air quality standard for such air pollutant in the area concerned for at least 10 years after the redesignation." A State may generally demonstrate maintenance of the NAAQS by either showing that future emissions of a pollutant or its precursors will not exceed the level of the attainment inventory, or by conducting modeling that shows that the future mix of sources and emissions rates will not cause a violation of the NAAQS.<sup>64</sup> Assumptions concerning emissions

rates in maintenance demonstrations should generally reflect permanent, enforceable measures.<sup>65</sup> Therefore, the analysis should assume that sources are operating at permitted levels (or historic peak levels), unless evidence is presented that such an assumption is unrealistic.<sup>66</sup>

The Yuma Maintenance Plan demonstrates maintenance of the 2015 ozone NAAQS for a ten-year period beginning in 2027. ADEQ used the 2020 NEI and the Motor Vehicle Emission Simulator (MOVES) version 3.1 as the baseline to develop growth factors for point, nonpoint, mobile on-road, and mobile nonroad sources. For point sources, ADEQ used permitted potential to emit (PTE) levels of emissions, except for the Arizona Public Service (APS) Yucca Power Plant. ADEQ argues that, for the APS Yucca Power Plant, permitted PTE is calculated by assuming the facility would burn fuel oil at maximum capacity, overestimating emissions from the facility. ADEQ argues that the facility runs primarily on natural gas and burns little fuel oil each year.<sup>67</sup> Therefore, ADEQ used historic high emissions from 2018 for the baseline. We agree that this method for estimating emissions from APS Yucca Power Plant is consistent with EPA guidance. For nonpoint sources, ADEQ used the 2020 NEI held constant, or multiplied by a projection factor based on population.<sup>68</sup> ADEQ used MOVES 3.1 to model future on-road emissions, using Arizona

Department of Transportation vehicle registration data and MOVES defaults.<sup>69</sup> ADEQ used the EPA defaults for Yuma County and applied a population allocation factor to apportion the county-wide nonroad mobile source emissions to the Yuma nonattainment area. ADEQ also used MOVES to model future nonroad mobile source emissions.

Table 2 compares the VOC and NO<sub>x</sub> emissions estimated for the Yuma area for 2020 with those projected for 2030 and 2037 by source category. The projected VOC and NO<sub>x</sub> emissions show that VOC and NO<sub>x</sub> emissions are projected to remain below the attainment levels throughout the 10-year period following redesignation.

## 3. Monitoring Network

Once an area has been redesignated, the State should continue to operate an appropriate air quality monitoring network in accordance with 40 CFR part 58 to verify the attainment status of the area.<sup>70</sup> Data collected by the monitoring network are also needed to determine if the contingency provisions of the maintenance plan are triggered. ADEQ currently operates one ozone monitor (the Yuma Supersite monitor) in the Yuma area.

In the Yuma Maintenance Plan<sup>71</sup> ADEQ indicates its intention to continue operation of an air quality monitoring network to verify continued attainment of the 2015 ozone NAAQS.<sup>72</sup> We approved ADEQ's State and Local Air Monitoring Stations (SLAMS) air quality network in their annual monitoring network plan for year 2023

<sup>61</sup> For the Yuma Maintenance Plan, "point sources" include rock crusher/screener plants, electricity generation facilities, paper mills, gas filling stations, and vapor extraction units.

<sup>62</sup> For the Yuma Maintenance Plan, "nonpoint sources" include biogenic emissions, dry cleaning, surface coating, residential and industrial fuel combustion, and open burning.

<sup>63</sup> For the Yuma Maintenance Plan, "Mobile—Nonroad sources" includes agricultural, commercial, lawn and garden, pleasure craft, railroad, and recreational nonroad mobile sources.

<sup>64</sup> Calcagni memo, 9–11.

<sup>65</sup> Calcagni memo, 9.

<sup>66</sup> Id. at 4. See also, memorandum dated November 30, 1993, from Kent D. Berry, Acting Director, Air Quality Management Division, EPA, Subject: "Use of Actual Emissions in Maintenance Demonstrations for Ozone and Carbon Monoxide (CO) Nonattainment Areas."

<sup>67</sup> For the year 2018, the APS Yucca Power Plant utilized 99.3 percent natural gas and 0.7 percent fuel oil. For a demonstration and justification for this estimation method, see the Yuma Maintenance Plan, appendix A, section A8.1, A–54.

<sup>68</sup> Yuma Maintenance Plan, appendix A, A–41, A–42.

<sup>69</sup> Yuma Maintenance Plan, appendix A, A–42–A–50.

<sup>70</sup> Calcagni memo, 11.

<sup>71</sup> Yuma Maintenance Plan, 43.

<sup>72</sup> Although the Yuma Maintenance Plan is not explicit in this regard, we presume that ADEQ's intention to continue operation of a monitoring network indicates the agency's intention to do so consistent with the EPA's monitoring requirements in 40 CFR part 58 ("Ambient Air Quality Surveillance").



on October 30, 2023, prior to ADEQ's submittal of the Yuma Maintenance Plan.<sup>73</sup> We find ADEQ's commitment for continued ambient ozone monitoring set forth in the Yuma Maintenance Plan to be acceptable for the purpose of verifying continued maintenance in the Yuma area.

#### 4. Verification of Continued Attainment

Each State should ensure that it has the legal authority to implement and enforce all measures necessary to maintain the NAAQS.<sup>74</sup>

ADEQ has the legal authority to implement and enforce the requirements of the Yuma Maintenance Plan under title 49 of the Arizona Revised Statutes, "The Environment." This includes the authority to adopt, implement, and enforce any emissions control contingency measures determined to be necessary to correct 2015 ozone NAAQS violations. To verify continued attainment, ADEQ committed to the continued operation of an ozone monitoring network that meets the EPA air quality surveillance requirements. In addition, ADEQ committed to track the progress of the maintenance plan through continued development and submission of periodic emissions inventories to the EPA and review of the inventory to determine whether changes could affect maintenance of the 2015 ozone NAAQS. These methods are sufficient for the purpose of verifying continued attainment.

#### 5. Contingency Provisions

Section 175A(d) of the CAA requires that maintenance plans contain contingency provisions, as the EPA deems necessary, to promptly correct any violations of the NAAQS that occur after redesignation of the area. Such provisions must include a requirement that the State will implement all measures with respect to the control of the air pollutant concerned that were contained in the SIP prior to the area being redesignated to attainment. These contingency provisions are distinguished from contingency measures required for nonattainment areas under CAA section 172(c)(9) in that they are not required to be fully adopted measures that will take effect without further action by the State for the maintenance plan to be approved. The contingency provisions of a maintenance plan are, however, an enforceable part of the SIP and should

ensure that contingency measures are adopted expeditiously once the Plan's contingency provisions are triggered by a specified event. Thus, a State should identify the specific indicators or triggers that will be used to determine when the contingency measures need to be implemented. Next, the maintenance plan should clearly identify the measures to be adopted, include a schedule and procedure for adoption and implementation of the measures, and contain a specific timeline for action by a State.

As required by section 175A of the CAA, ADEQ has adopted a contingency plan to address possible future ozone air quality problems.<sup>75</sup> ADEQ identifies two triggers: a warning level response and action level response. The warning level response would be triggered if an annual 4th high monitored concentration is above the level of the 2015 ozone NAAQS. This would initiate an analysis to determine whether the high ozone concentrations indicate a trend towards high ozone levels. The study would include an assessment of meteorological conditions and an assessment of whether actual emissions have deviated significantly from the emissions projections contained in the maintenance plan, along with an evaluation of which source sectors are responsible for emissions increases. The action level response would be triggered if a certified design value exceeds the level of the 2015 ozone NAAQS. Within 18 months of the certified design value exceedance, ADEQ commits to identify and implement necessary control measures.

Potential contingency measures listed in the maintenance plan are those emissions controls or other measures that ADEQ may choose to adopt and implement in response to the contingency trigger. The contingency plan lists the following potential contingency provisions that will be considered for adoption and implementation by the applicable State agency, while the Plan indicates that the list is not considered to be exhaustive:

- Anti-idling control program for mobile sources, targeting diesel vehicles;
- Diesel exhaust retrofits;
- Traffic flow improvements;
- Park and ride facilities; and
- Rideshare/carpool program.

Upon our review of the Plan, we find that the contingency provisions in the Yuma Maintenance Plan clearly identify specific contingency measures, contain sufficient tracking and triggering mechanisms to determine when

contingency provisions are needed, contain an adequate description of the process of recommending and implementing contingency measures, and contain specific timelines for action. Thus, we conclude that the contingency provisions of the Yuma Maintenance Plan are adequate to ensure prompt correction of a violation and therefore comply with section 175A(d) of the Act.

#### 6. Motor Vehicle Emissions Budgets

Section 176(c) of the CAA requires Federal actions in nonattainment and maintenance areas to conform to the SIP's goals of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of the standards. Conformity to the SIP's goals means that such actions will not: (1) cause or contribute to violations of the NAAQS, (2) worsen the severity of an existing violation, (3) or delay timely attainment of any NAAQS or any interim milestone.

Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the EPA's transportation conformity rule, codified in 40 CFR part 93, subpart A. Under this rule, regional transit authorities in nonattainment and maintenance areas coordinate with State and local air quality and transportation agencies, the EPA, FHWA, and FTA to demonstrate that an area's regional transportation plans and transportation improvement programs conform to the applicable SIP. This demonstration is typically done by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the motor vehicle emissions budgets ("budgets") contained in submitted or approved control strategy SIPs and maintenance plans.<sup>76</sup>

These control strategy SIPs and maintenance plans typically set budgets for criteria pollutants and/or their precursors to address pollution from cars and trucks. Budgets are generally established for specific years and specific pollutants or precursors. Maintenance plan submittals should identify budgets for transportation related VOC and NO<sub>x</sub> emissions in the last year of the maintenance period.

For budgets in a maintenance plan to be approvable, they must meet, at a minimum, the EPA's adequacy criteria.<sup>77</sup> To meet these requirements,

<sup>76</sup> Control strategy SIPs refer to reasonable further progress (RFP) and attainment demonstration SIPs. 40 CFR 93.101.

<sup>77</sup> 40 CFR 93.118(e)(4) and (5). For more information on the transportation conformity requirement and applicable policies on budgets,

<sup>73</sup> The EPA's requirements for annual review of monitoring networks are no longer codified at 40 CFR 58.20(d) but are now found at 40 CFR 58.10.

<sup>74</sup> Calcagni memo, 11.

<sup>75</sup> Yuma Maintenance Plan, 45–47.

the budgets must be consistent, when considered with emissions from all other sources, with maintenance of the NAAQS and reflect all the motor vehicle control measures relied upon for the maintenance demonstration. The EPA's process for determining adequacy of a budget consists of three basic steps: (1) providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the budgets during a public comment period; and (3) making a finding of adequacy. The process for determining the adequacy of a submitted budget is codified at 40 CFR 93.118(f). The EPA can notify the public by either posting an announcement that the EPA has received SIP budgets on the EPA's adequacy website,<sup>78</sup> or via a **Federal Register** notice of proposed rulemaking when the EPA reviews the adequacy of a maintenance plan budget simultaneously with its review and action on the SIP submittal itself.<sup>79</sup>

The Yuma Maintenance Plan contains VOC and NO<sub>x</sub> budgets for 2020, 2030, and 2037. Any and all comments on the approvability of the budgets should be submitted during the comment period stated in the Dates section of this document.

The EPA proposes to approve the 2020, 2030, and 2037 budgets in the Yuma Maintenance Plan for transportation conformity purposes. If the EPA issues a final action to approve the budgets, these budgets must be used in future transportation conformity determinations for the Yuma area for the 2015 ozone standard.

The new budgets, if approved in the final rulemaking, will be effective on the date of publication of the EPA's final rulemaking in the **Federal Register**. The applicable VOC and NO<sub>x</sub> budgets for the Yuma nonattainment area are defined in Table 3.

TABLE 3—PROPOSED MOTOR VEHICLE EMISSIONS BUDGETS FOR THE YUMA AREA

[Pounds per ozone season day]

Budget year	VOC	NO <sub>x</sub>
2020 .....	8,939	5,412
2030 .....	4,908	2,747
2037 .....	4,222	2,390

Source: Yuma Maintenance Plan, Table 7–1.

which can be found at <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-C/part-93>.

<sup>78</sup> See the EPA adequacy website: <https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-eпа>.

<sup>79</sup> See the EPA memorandum dated July 15, 2024, titled: "Adequacy Documentation for Motor Vehicle Emissions Budgets in the Yuma Maintenance Plan."

The budgets are the on-road mobile source VOC and NO<sub>x</sub> emissions for the Yuma area for 2020, 2030, and 2037. The budgets are compatible with the 2020, 2030, and 2037 on-road mobile source VOC and NO<sub>x</sub> emissions included in Yuma's 2020, 2030 and 2037 emissions inventories, as summarized in Table 2. The derivation of the budget is thoroughly discussed in appendix A to the Yuma Maintenance Plan.

We evaluated the budgets against our adequacy criteria in 40 CFR 93.118(e)(4) and (5) as part of our review of the budget's approvability and expect to complete the adequacy review of the budgets concurrent with our final action on the Yuma Maintenance Plan. The EPA is not required under its transportation conformity rule to find budgets adequate prior to proposing approval of them. In this notice, the EPA is announcing that the adequacy process for these budgets begins, and the public has 30 days to comment on their adequacy, per the transportation conformity rule at 40 CFR 93.118(f)(2)(i) and (ii).

ADEQ developed budgets for 2020, 2030 and 2037 using on-road motor vehicle emission estimates using the EPA's MOVES3 model fleet data from Arizona Motor Vehicle Division registration data, and travel demand modeling from the Yuma Metropolitan Planning Organization (YMPO). As documented in a separate memorandum<sup>80</sup> included in the docket for this rulemaking, we preliminarily conclude that the budgets in the Yuma Maintenance Plan meet each adequacy criterion. While adequacy and approval are two separate actions, reviewing the budgets in terms of the adequacy criteria informs the EPA's decision to propose to approve the budgets. We have completed our detailed review and are proposing to approve the demonstration of maintenance for the 2015 ozone area through the year 2037. We have also reviewed the budgets in the Yuma Maintenance Plan and found that they are consistent with the maintenance demonstration for which we are proposing approval, are clearly identified and precisely quantified, are based on control measures that have already been adopted and implemented and meet all other applicable statutory and regulatory requirements including the adequacy criteria in 40 CFR 93.118(e)(4) and (5). The EPA is proposing to approve the budgets for 2020, 2030, and 2037 as part of our

<sup>80</sup> See the EPA memorandum dated July 15, 2024, titled: "Adequacy Documentation for Motor Vehicle Emissions Budgets in the Yuma Maintenance Plan."

approval of the Yuma Maintenance Plan. Once the EPA finalizes the adequacy process or approves the budgets as proposed (whichever occurs first, noting that finalization of the adequacy process and approval of the budgets may also occur concurrently per 40 CFR 93.118(f)(2)(iii)), the budgets must be used by YMPO for transportation conformity determinations for the Yuma area.

#### IV. Proposed Action and Request for Public Comment

Under CAA section 110(k)(3), and for the reasons set forth in this document, the EPA is proposing to approve the Yuma Maintenance Plan submitted by ADEQ on December 27, 2023, as a revision to the Arizona SIP,<sup>81</sup> and to redesignate the Yuma nonattainment area to attainment for the 2015 ozone NAAQS. We are proposing to approve the maintenance demonstration and contingency provisions as meeting all applicable requirements for maintenance plans and related contingency provisions in CAA section 175A, and the budgets for 2020, 2030 and 2037 (shown in Table 4) for transportation conformity purposes as we find they meet all applicable criteria for such budgets including the adequacy criteria under 40 CFR 93.118(e). We are soliciting comments on these proposed actions. We will accept comments from the public for 30 days following publication of this proposal in the **Federal Register** and will consider any relevant comments before taking final action.

#### V. Statutory and Executive Order Review

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by State law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 review State choices, and approve those choices if they meet

<sup>81</sup> Yuma Maintenance Plan (submitted electronically December 27, 2023).

the criteria of the CAA. 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 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 13563 (76 FR 3821, January 21, 2011);

- 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);

- 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 Clean Air Act; and

- Will not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994), as discussed in section VI of this proposal.

The EPA has identified Tribal areas within the Yuma area covered by this rulemaking that would be potentially affected by this proposed action. Specifically, the Cocopah Tribe of Arizona and the Quechan Tribe of the Fort Yuma Indian Reservation are located within the boundaries of the Yuma area.

The EPA has concluded that the final rule may have Tribal implications for these tribes for the purposes of transportation conformity only, as this document sets motor vehicle emissions budgets for ozone precursors for the Yuma area, which includes some Tribal roads. The EPA has communicated with

the potentially affected tribes located within the boundaries of the Yuma nonattainment area.<sup>82</sup>

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 communities with environmental justice (EJ) concerns to the greatest extent practicable and permitted by law. EPA defines 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.” 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 air agency did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. 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 E.O. 12898 of achieving environmental justice for communities with EJ concerns.

#### List of Subjects

##### 40 CFR Part 52

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

<sup>82</sup> Letter dated June 4, 2024, from Matthew Lakin, Director, EPA Region IX to Sherry Cordova, Chairwoman, Cocopah Tribe of Arizona, Subject: “Invitation to Consult on a Redesignation Request and Maintenance Plan from the State of Arizona for the 2015 Ozone National Ambient Air Quality Standards (NAAQS),” and letter dated June 4, 2024 from Matt Lakin, Director, EPA Region IX to Jordan Joaquin, President, Quechan Tribe of the Fort Yuma Indian Reservation, Subject: “Invitation to Consult on a Redesignation Request and Maintenance Plan from the State of Arizona for the 2015 Ozone National Ambient Air Quality Standards (NAAQS).”

##### 40 CFR Part 81

Environmental Protection, Air pollution control.

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

Dated: October 29, 2024.

**Martha Guzman Aceves,**

*Regional Administrator, Region IX.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 665

[Docket No. 240220-0053240]

RIN 0648-BM01

#### Pacific Island Fisheries; Withdrawal of Proposed Rule; Catch and Retention Limits for Striped Marlin in the Western and Central Pacific Ocean North of the Equator

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** NMFS withdraws the proposed rule for “Catch and Retention Limits for Striped Marlin in the Western and Central North Pacific Ocean North of the Equator” that published in the **Federal Register** on February 26, 2024. This proposed rule was intended to satisfy Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) obligations to address U.S. fishing vessels’ relative impact on this internationally managed stock that, based on a prior stock assessment and domestic status determination criteria, NMFS determined was overfished. NMFS is now withdrawing the proposed rule because NMFS has determined the stock is no longer overfished, not approaching an overfished condition, and is rebuilding, based on a more recent assessment. Thus, the factual and legal bases for the proposed rule no longer apply.

**DATES:** The proposed rule published February 26, 2024 (89 FR 14036) is withdrawn as of November 5, 2024.

**ADDRESSES:** Copies of the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (Pelagic FEP) are available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel. 808-522-8220, fax 808-