

emission sources facility-wide); Condition 14.A (applicable to Source IDs 041, 050 and 051, Emergency Generators and Diesel Fire Pump); Conditions 15.B and 16.B (applicable to Source IDs 033 and 039, Cleaver Brooks Boilers 1 and 2); Condition 15.D (applicable to Source ID 042, 4 combustion turbines); Condition 16.C (applicable to Source IDs 041, 050, 050A, 051, 051A, and 051B, Emergency Generators); and Condition 16.D (applicable to Source ID 039, Cleaver Brooks Boiler 2), which remain as RACT requirements. See also § 52.2063(c)(143)(i)(B)(1) for prior RACT approval.

(9) Cherokee Pharmaceuticals, LLC—Incorporating by reference Permit No. 49-00007, issued April 24, 2017, as redacted by Pennsylvania. All permit conditions in the prior RACT Permit No. OP-49-0007B, issued May 16, 2001 remain as RACT requirements. See also § 52.2063(d)(1)(v) for prior RACT approval.

(10) Resilite Sports Products Inc—Incorporating by reference Permit No. 49-00004, issued August 25, 2017, as redacted by Pennsylvania. All permit conditions in the prior RACT Permit No. OP-49-0003 issued December 3, 1996, remain as RACT requirements except for Condition 5c, which is superseded by the new permit. See also § 52.2063(c)(207)(i)(B)(1) for prior RACT approval.

(11) NRG Energy Center Paxton, LLC—Incorporating by reference Permit No. 49-00004, issued March 16, 2018, as redacted by Pennsylvania, which supersedes the prior RACT Permit Nos. OP-22-02005 and OP-22-02015, both issued March 23, 1999, for Source IDs 032 and 033, Boilers No. 13 and 14. However, RACT Permit No. OP-22-02005 remains in effect as to Source IDs 031 and 034, Boilers No. 12 and 15, except for Conditions 1(a), 7, 14, 16, 21; and RACT Permit No. OP-22-02015 remains in effect as to Source IDs 102 and 103, Engines 1 and 2, except for Conditions 1(a), 7, 8, 9, 10, 12(c), 13, 14. See also § 52.2063(d)(1)(l) for prior RACT approval.

(12) Containment Solutions, Inc./Mt. Union Plant—Incorporating by reference Permit No. 31-05005, issued July 10, 2018, as redacted by Pennsylvania, which supersedes the prior RACT Permit No. OP-31-02005, issued April 9, 1999. See also § 52.2063(c)(149)(i)(B)(11) for prior RACT approval.

(13) Armstrong World Industries, Inc.—Marietta Ceiling Plant—Incorporating by reference Permit No. 36-05001, issued June 28, 2018, as redacted by Pennsylvania, which

supersedes the prior RACT Permit No. 36-2001, issued July 3, 1999. See also § 52.2063(d)(1)(b) for prior RACT approval.

(14) Jeraco Enterprises Inc.—Incorporating by reference Permit No. 49-00014, issued January 26, 2018, as redacted by Pennsylvania. All permit conditions in the prior RACT Permit No. OP-49-0014, issued April 6, 1997, remain as RACT requirements. See also § 52.2063(d)(1)(h) for prior RACT approval.

(15) Texas Eastern Transmission, L.P.—Bernville—Incorporating by reference Permit No. 06-05033, issued March 16, 2018, as redacted by Pennsylvania, which supersedes the prior RACT Permit No. OP-06-1033, issued January 31, 1997, except for Conditions 6, 7, 9, 10, 11, 12 and 13 which remain as RACT requirements. See also § 52.2063(c)(120)(i)(B)(1) for prior RACT approval.

(16) Texas Eastern Transmission, L.P.—Shermans Dale—Incorporating by reference Permit No. 50-05001, issued March 26, 2018, as redacted by Pennsylvania, which supersedes the prior RACT Permit No. OP-50-02001, issued April 12, 1999. See also § 52.2063(d)(1)(n) for prior RACT approval.

(17) Texas Eastern Transmission, L.P.—Perulack—Incorporating by reference Permit No. 34-05002, issued March 16, 2018, as redacted by Pennsylvania, which supersedes the prior RACT Permit No. OP-34-2002, issued January 31, 1997, except for Conditions 5.c, 6.a and 15 which remain as RACT requirements. See also § 52.2063(d)(1)(r) for prior RACT approval.

(18) Texas Eastern Transmission, L.P.—Grantville—Incorporating by reference Permit No. 22-05010, issued March 27, 2018, as redacted by Pennsylvania, which supersedes the prior RACT Permit No. 22-2010, issued January 31, 1997. See also § 52.2063(d)(1)(f) for prior RACT approval.

(19) Texas Eastern Transmission, L.P.—Bechtelsville—Incorporating by reference Permit No. 06-05034, issued April 19, 2018, as redacted by Pennsylvania, which supersedes the prior RACT Permit No. OP-06-1034, issued January 31, 1997. See also § 52.2063(c)(120)(i)(B)(2) for prior RACT approval.

(b) [Reserved]

[FR Doc. 2020-21139 Filed 10-15-20; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2018-0824; FRL-10014-79-Region 10]

### Air Plan Approval; ID; 2015 Ozone NAAQS Interstate Transport Requirements

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

**ACTION:** Final rule.

**SUMMARY:** The Clean Air Act (CAA or the Act) requires each State Implementation Plan (SIP) to contain adequate provisions prohibiting emissions that will have certain adverse air quality effects in other states. On September 26, 2018, the State of Idaho (Idaho or the State) made a submission to the Environmental Protection Agency (EPA) to address these requirements for the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS). The EPA is approving the submission as meeting the requirement that each SIP contain adequate provisions to prohibit emissions that will significantly contribute to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other state.

**DATES:** This action is effective on November 16, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2018-0824. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Claudia Vaupel, (206) 553-6121, or [vaupel.claudia@epa.gov](mailto:vaupel.claudia@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Background Information

On January 23, 2020, the EPA proposed to approve Idaho's September 26, 2018 submission as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2015 8-hour ozone NAAQS (84 FR

7854). Please refer to the January 23, 2020 notice of proposed rulemaking (NPRM) for an explanation of the CAA requirements, a detailed analysis of the submissions, and the EPA's proposed rationale for approval. The public comment period for this NPRM ended on February 24, 2020.

## II. Response to Comments

The EPA received two sets of comments during the public comment period. Both commenters disagreed with the EPA's interpretation of *Wisconsin v. EPA*, 938 F.3d 303 (DC Cir. 2019) (*Wisconsin v. EPA*) as limited to the attainment dates for Moderate or higher classifications under CAA section 181, as well as the EPA's use of 2023 as the analytic year to determine whether sources in Idaho will significantly contribute to downwind nonattainment or interfere with maintenance of the 2015 ozone NAAQS.<sup>1</sup> One commenter argued that the EPA must reevaluate Idaho's significant contribution or interference with maintenance in alignment with the Marginal area attainment date. The other commenter supported the EPA's proposed approval of Idaho's SIP submission but argued that the EPA's approach to the treatment of Marginal nonattainment areas is inconsistent with *Wisconsin v. EPA* and is arbitrary and capricious. The commentator also disputed as arbitrary and capricious guidance published by the EPA in August 2018 indicating that, based on the EPA's analysis of its most recent modeling data, the amount of upwind collective contribution captured using a 1 parts per billion (ppb) contribution threshold is generally comparable, overall, to the amount captured using a threshold equivalent to 1 percent of the 2015 ozone NAAQS.<sup>2</sup> The following section summarizes the comments and provides the EPA's responses to them. The full set of comments is available in the docket for this action.

*Comment 1:* Commenters asserted that the EPA's proposed action improperly focuses on the Moderate attainment date (analytic year 2023), which commenters

<sup>1</sup> The EPA used the 2023 as the analytic year because that year aligns with the expected attainment year for Moderate ozone nonattainment areas. The attainment date for nonattainment areas classified as Moderate for the 2015 ozone NAAQS is August 3, 2024. See CAA section 181(a); 40 CFR 51.1303; 83 FR 25776 (June 4, 2018).

<sup>2</sup> *Analysis of Contribution Thresholds for Use in Clean Air Act Section 110(a)(2)(D)(i)(I) Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards*, August 31, 2018, available in the docket for this action or at <https://www.epa.gov/airmarkets/memo-and-supplemental-information-regarding-interstate-transport-sips-2015-ozone-naaqs>.

argued ignores the 2021 attainment year faced by Marginal 2015 8-hour ozone nonattainment areas.<sup>3</sup> These commenters asserted that the EPA's decision to focus on the Moderate attainment date, rather than the Marginal attainment date, contravenes the statutory text, the U.S. District of Columbia Circuit (D.C. Circuit) Court's decision in *Wisconsin v. EPA*, and is arbitrary and capricious.

One commenter specifically avers that the distinction the EPA has drawn between Marginal and Moderate areas is "unlawful" and that the EPA relies on flawed assumptions in its interpretation of *Wisconsin v. EPA*. Specifically, the commenter asserted that although the EPA acknowledged the *Wisconsin v. EPA* decision in its proposal, the EPA inappropriately claims that the ruling does not apply to Marginal nonattainment areas because such areas do not have formal SIP planning obligations and are presumed to rely on in-place emission control measures to reach attainment. The commenter stated that the statute prohibits upwind states from significantly contributing to nonattainment, or interfering with maintenance, in any other state, "regardless of the severity of the downwind state's nonattainment classification." Moreover, the commenter stated that "it would be illogical for the statute to contemplate action to address significant contribution to maintenance while disregarding contribution to marginal areas, which have worse air quality."

In support of the commenter's assertion that the EPA must consider Marginal nonattainment areas in 2021, the commenter argued that the EPA's methodology for classifying nonattainment areas is inaccurate, and therefore, the EPA cannot assume that Marginal nonattainment areas will attain the 2015 ozone NAAQS within 3 years. The commenter argues that because the EPA's "percent-above-the-standard" classification approach was developed for the 1979 1-hour ozone standard, it "will skew toward a lower classification threshold (*i.e.*, Marginal) at a much greater rate" and the ppb reductions needed to attain the NAAQS within 3 years of designation "is extremely unlikely to occur when relying solely on existing control programs." The commenter further asserts that there are many Marginal nonattainment areas not likely to attain the 2015 standard by the statutory

<sup>3</sup> The attainment date for nonattainment areas classified as Marginal for the 2015 ozone NAAQS is August 3, 2021. See CAA section 181(a); 40 CFR 51.1303; 83 FR 25776 (June 4, 2018).

deadline. These areas will then be reclassified as Moderate nonattainment areas that will continue to struggle to meet their obligations because, according to the commentator, the EPA does not enforce the Good Neighbor provision.

Another commenter also disagreed with the EPA's interpretation that the different statutory requirements applying to Marginal and Moderate ozone nonattainment areas provide a basis for aligning upwind Good Neighbor obligations with the Moderate area attainment date. They supported this argument by referring to the EPA's 2013 guidance for infrastructure SIP submissions. The commenter asserted that "EPA incorrectly relies on data and analysis that was flatly rejected by the *Wisconsin v. EPA* court case." They further asserted that "EPA must reevaluate its decision for Idaho and must evaluate interstate transport to marginal areas by their marginal attainment date of 2021."

*Response 1:* The commenters are referring to a D.C. Circuit court decision addressing, in part, the issue of the relevant analytic year for the purposes of evaluating interstate ozone transport under the good neighbor provision, CAA section 110(a)(2)(D)(i)(I). On September 13, 2019, the D.C. Circuit issued a decision in *Wisconsin v. EPA*, remanding the Cross-State Air Pollution Rule (CSAPR) Update<sup>4</sup> to the extent that Good Neighbor federal implementation plans in the CSAPR Update did not fully eliminate upwind states' "significant contribution" by the next applicable attainment date<sup>5</sup> by which downwind states must attain the 2008 ozone NAAQS. See 938 F.3d 303, 313. As explained in the proposal of this action, the EPA had interpreted that holding as limited to the attainment dates for Moderate or higher classifications under CAA section 181 on the basis that Marginal nonattainment areas have reduced nonattainment SIP planning requirements and other considerations. See, *e.g.*, 85 FR 3874, 3877–3878 (January 23, 2020).

On May 19, 2020, the D.C. Circuit in *Maryland v. EPA*, applying the *Wisconsin* decision, held that the EPA must assess the impacts of interstate transport on air quality at the next downwind attainment date, including Marginal area attainment dates, in evaluating the basis for the EPA's denial of a petition under CAA section 126(b). 958 F.3d at 1203–04. The EPA signed the NPRM proposing approval of

<sup>4</sup> 81 FR 74504 (October 26, 2016).

<sup>5</sup> See CAA section 181(a); 40 CFR 51.1303.

Idaho's good neighbor SIP prior to the D.C. Circuit's decision in *Maryland*. This decision also came after the close of the comment period on our proposed approval of Idaho's SIP submittal. However, this decision bears directly on our consideration of these comments. In accordance with the *Maryland* decision, the Agency now, in taking this final action approving the Idaho SIP, will consider 2021<sup>6</sup> to be the relevant analytic year for the purposes of determining whether sources in Idaho will significantly contribute to downwind nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other states.<sup>7</sup>

The points raised by the commenters to dispute the EPA's proposal to use 2023 as the analytic year are now moot because after the decision in *Maryland v. EPA*, the EPA is using 2021 as the analytic year in this final action. The EPA need not address commentator's claim that the 2015 ozone NAAQS designations were done incorrectly. This issue is beyond the scope of this action. As acknowledged by the commentator, they have previously raised this issue in comments on a different action, and the EPA responded to those comments in that context.<sup>8</sup> Regardless, the rulemaking to evaluate Idaho's September 26, 2018, good neighbor SIP submission is not the appropriate forum to contest the 2015 ozone NAAQS area designations.

Idaho's September 26, 2018 SIP submission includes an interstate ozone transport analysis for the Good Neighbor provision that relied on the modeling information provided in the EPA's March 2018 memorandum,<sup>9</sup> which used

2023 as the analytic year (corresponding with the 2024 Moderate area attainment date).<sup>10</sup> The State concluded that it has no emissions reduction obligations for purposes of CAA section 110(a)(2)(D)(i)(I) on the basis that its emissions are not linked to any nonattainment or maintenance receptors.

Relying in part on the same data that informed its analysis of the year 2023, the EPA finds it reasonable to conclude that the impacts from emissions from sources in Idaho will not exceed a contribution threshold of 1 percent of the 2015 ozone NAAQS to any downwind nonattainment and maintenance sites in 2021. This finding is a sufficient basis for the EPA to conclude that Idaho is not linked to any downwind receptors at step 2 of the four-step interstate transport framework.<sup>11</sup>

Based on the contribution modeling included in the March 2018 memorandum, the EPA concludes that Idaho's largest impact on any downwind nonattainment or maintenance receptors in 2023 are 0.18 ppb and 0.19 ppb, respectively.<sup>12</sup> These values are both far less than 1 percent of the 2015 ozone NAAQS (0.70 ppb). In response to the *Maryland* decision, using the best available information (including the same data that informed the EPA's 2023 modeling) to analyze Idaho's air quality impacts in the year 2021, the EPA finds it reasonable to conclude that Idaho's impact on any potential downwind nonattainment and

maintenance receptor in 2021 would be similar to those projected in 2023, and likewise well below 1 percent of the 2015 ozone NAAQS, as detailed in the methodology described in the following paragraphs. Therefore, the EPA finds that Idaho's September 26, 2018 infrastructure SIP submission satisfies the State's Good Neighbor obligations for the 2015 ozone NAAQS.

The EPA's analysis of receptors and contributions in 2021 relies in part on the 2023 modeling used in the NPRM of this action, the results of which were included with the March 2018 memorandum. These data are the most recent published applicable modeling data available at the time of this final action. To estimate Idaho's maximum contribution to a nonattainment or maintenance receptor in 2021, the EPA developed an interpolation analysis that evaluates available modeling, monitoring, and emissions data to assess air quality in this year. In general, this analysis utilizes 2019 measured design values<sup>13</sup> and 2023 modeled design values to estimate design values at each monitoring site in 2021. Specifically, 2021 average and maximum design values were calculated by straight-line linear interpolation between the 2019 measured data and the 2023 modeled data. The EPA believes that the linear interpolation methodology using measured data and 2023 model projections provides a technically sound basis for estimation of ozone design values in 2021 in part because of the relatively short two-year span between 2021 and 2023.

The EPA calculated ozone contributions in 2021 by applying the following two-step process. First, the contributions (in ppb) from each state to each monitoring site in 2023 were converted to a fractional portion of the 2023 average design value by dividing the contribution by the 2023 design value. In the second step, the resulting contribution fractions were multiplied by the estimated 2021 average design value to produce 2021 contributions from each state to each monitoring site.<sup>14 15</sup>

The 2021 design values and contributions were examined to determine if Idaho contributes at or above 1 percent of the 2015 ozone

<sup>6</sup> The attainment date for nonattainment areas classified as Marginal for the 2015 ozone NAAQS is August 3, 2021. See CAA section 181(a); 40 CFR 51.1303; 83 FR 25776 (June 4, 2018).

<sup>7</sup> The EPA notes that the court in *Maryland* did not have occasion to evaluate circumstances in which the EPA may determine that an upwind linkage to a downwind air quality problem exists at steps 1 and 2 of the four-step Good Neighbor framework by a particular attainment date, but for reasons of impossibility or profound uncertainty the Agency is unable to mandate upwind pollution controls by that date. See 938 F.3d at 319–320. The D.C. Circuit noted in *Wisconsin* that upon a sufficient showing, these circumstances may warrant a certain degree of flexibility in effectuating the implementation of the Good Neighbor provision. *Id.* Such circumstances are not at issue in the present action.

<sup>8</sup> See "Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach," 83 FR 10376, 10379 (March 9, 2018).

<sup>9</sup> *Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I)*, March 27, 2018, available in the docket for this action or at <https://www.epa.gov/interstate-air-pollution-transport/memos-and-notice-regarding-interstate-air-pollution-transport>.

<sup>10</sup> The year 2023 was used as the analytic year because that year aligns with the expected attainment year for Moderate ozone nonattainment areas. The attainment date for nonattainment areas classified as Moderate for the 2015 ozone NAAQS is August 3, 2024. See CAA section 181(a); 40 CFR 51.1303; 83 FR 25776 (June 4, 2018).

<sup>11</sup> Thus, it is not necessary for the EPA to proceed to evaluate whether the State's infrastructure SIP submission may also be approvable using an alternative contribution threshold of 1 ppb. *Analysis of Contribution Thresholds for Use in Clean Air Act Section 110(a)(2)(D)(i)(I) Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards*, August 31, 2018, available in the docket for this action or at <https://www.epa.gov/airmarkets/memo-and-supplemental-information-regarding-interstate-transport-sips-2015-ozone-naaqs>.

<sup>12</sup> The EPA's analysis indicates that Idaho will have a 0.18 ppb impact at the nonattainment receptor in Douglas County, Colorado (Site ID 80350004), which has a 2023 projected average design value of 71.1 ppb, and a 2023 projected maximum design value of 73.2 ppb. The EPA's analysis further indicates that Idaho will have a 0.19 ppb impact at the maintenance receptor in Arapahoe County, Colorado (Site ID 80050002), which has a projected 2023 average design value below the 2015 ozone NAAQS (69.3 ppb), and a 2023 projected maximum design value above the NAAQS (71.3 ppb). See the March 2018 memorandum, attachment C.

<sup>13</sup> The 2019 design values at each monitoring site nationwide are available at <https://www.epa.gov/air-trends/air-quality-design-values>.

<sup>14</sup> Note that the method used here for calculating contributions in 2021 is similar to the method used by the EPA to calculate the 2023 contributions from 2023 air quality modeling.

<sup>15</sup> Design values for 2019, 2021, and 2023 along with the contributions in 2021 and 2023 are provided in a file in the docket for this rule.

NAAQS threshold (0.70 ppb) to a downwind nonattainment or maintenance receptor. The data indicate that the highest contribution in 2021 from Idaho to a downwind receptor is 0.49 ppb to the nonattainment receptor site 490353006 in Salt Lake County, Utah. Based on this analysis, the EPA finds it reasonable to conclude that Idaho will contribute less than 1 percent of the 2015 ozone NAAQS to any potential nonattainment or maintenance receptors in 2021.

The EPA also analyzed ozone precursor emissions trends in Idaho to support the findings from the air quality analysis. In evaluating emissions trends, we focused on state-wide emissions of nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOCs) in

Idaho.<sup>16 17</sup> Emissions from mobile sources, electricity generating units (EGUs), industrial facilities, gasoline vapors, and chemical solvents are some of the major anthropogenic sources of ozone precursors. This evaluation looks at both past emissions trends, as well as projected trends.

As shown in Table 1 of this preamble, between 2011 and 2017, annual total NO<sub>x</sub> and VOC emissions have declined, by 19 percent and 8 percent, respectively. The projected reductions are a result of “on the books” and “on the way” regulations that will continue to decrease NO<sub>x</sub> and VOC emissions in Idaho, as indicated by our 2023 projected emissions. The large decrease in NO<sub>x</sub> emissions between 2017 emissions and projected 2023 emissions

in Idaho are primarily driven by reductions in emissions from onroad and nonroad vehicles. The EPA projects that the downward trend in both VOC and NO<sub>x</sub> emissions from 2011 through 2017 will continue at a steady rate to 2023 and further into the future due to the replacement of higher emissions vehicles with lower emitting vehicles as a result of several mobile source control programs.<sup>18</sup> This downward trend in emissions in Idaho adds support to the air quality analysis presented previously, which indicates that the impact of emissions from sources in Idaho to ozone in downwind states will continue to decline and remain below 1 percent of the NAAQS.

TABLE 1—ANNUAL EMISSIONS OF NO<sub>x</sub> AND VOC FROM ANTHROPOGENIC EMISSION SOURCES IN IDAHO [Tons]

	2011	2012	2013	2014	2015	2016	2017	Projected 2023
NO <sub>x</sub> .....	90	87	84	82	78	76	73	49
VOC .....	90	89	88	87	86	84	82	63

Additionally, the EPA proposed in the NPRM to find that emissions from Idaho will not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS at the Fort Hall Reservation in southeast Idaho in 2023.<sup>19</sup> The EPA has reassessed air quality impacts of emissions sources in Idaho on the Fort Hall Reservation for 2021 and continues to believe Idaho will not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS at the Fort Hall Reservation. As discussed in the proposal of this action, the EPA’s modeling in the March 2018 memorandum did not identify receptors in Idaho in 2023. Additionally, the ozone monitoring sites in Idaho are projected to remain below the current standard in 2023. The Idaho Falls area monitoring site (Site ID 160230101), which is nearest to the Fort Hall Reservation, had a 2014–2016 design value of 60 ppb and the EPA’s modeling projects a 2023 maximum design value of 60.2 ppb and a 2023 average design

value of 59.6 ppb, both below the 70 ppb standard.<sup>20</sup> The Boise area monitoring site with the highest 2023 projected ozone concentrations (Site ID 160010017) had a 2014–2016 design value of 67 ppb and the EPA’s modeling projects a 2023 maximum design value of 59.8 ppb and a 2023 average design value of 59.4 ppb. Because each of these monitoring sites were both attaining in 2016 and are projected to attain in 2023, and given the downward annual NO<sub>x</sub> and VOC emissions trends identified in the Table 1 of this preamble, the EPA therefore finds it reasonable to conclude that emissions from Idaho will not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS at the Fort Hall Reservation in 2021.

Thus, the EPA concludes that the air quality and emission analyses indicate that emissions from Idaho will not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state, including the Fort

Hall Reservation, in 2021. Therefore, the EPA concludes that Idaho’s infrastructure SIP submission satisfies the State’s Good Neighbor obligations for the 2015 ozone NAAQS.

*Comment 2:* One commenter disagreed with the EPA’s 1 ppb alternate contribution threshold for determining significant contributions. The commenter’s reasoning was that “a 1 ppb threshold would be a departure from the EPA’s precedent of using 1 percent of the ozone NAAQS as the screening threshold” and that this reversal of the EPA’s “longstanding practice without adequate explanation is arbitrary, capricious and unreasonable.” The commenter asserts that “reducing the amount of total upwind contribution that is required to be addressed in an upwind state’s state or federal implementation plan will necessarily increase the amount of ozone that a downwind state will be required to address on its own,” shifting responsibility for reductions from upwind states to downwind states and

<sup>16</sup> This is because ground-level ozone is not emitted directly into the air but is a secondary air pollutant created by chemical reactions between ozone precursors, chiefly NO<sub>x</sub> and non-methane VOCs, in the presence of sunlight.

<sup>17</sup> 81 FR 74504, 74513–14. (October 26, 2016).

<sup>18</sup> Tier 3 Standards (March 2014), the Light-Duty Greenhouse Gas Rule (March 2013), Heavy (and Medium)-Duty Greenhouse Gas Rule (August 2011), the Renewable Fuel Standard (February 2010), the Light Duty Greenhouse Gas Rule (April 2010), the Corporate-Average Fuel Economy standards for

2008–2011 (April 2010), the 2007 Onroad Heavy-Duty Rule (February 2009), and the Final Mobile Source Air Toxics Rule (MSAT2) (February 2007).

<sup>19</sup> On January 19, 2017, the EPA determined that the Shoshone-Bannock Tribes of the Fort Hall Reservation were eligible for treatment in the same manner as a state for CAA sections 110(a)(2)(D) and 126. The EPA’s determination is available in the docket for this action. See also <https://www.epa.gov/tribal/tribes-approved-treatment-state-tas>.

<sup>20</sup> The EPA previously provided the 2023 projected ozone design values at individual monitoring sites nationwide. *Supplemental Information on the Interstate Transport State Implementation Plan Submissions for the 2008 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I)*, October 27, 2017, available in the docket for this action or at <https://www.epa.gov/interstate-air-pollution-transport/memos-and-notice-regarding-interstate-air-pollution-transport>. For data for the Idaho monitors, see page A–10 of attachment A.

further impeding the ability of downwind states to attain the NAAQS.

*Response 2:* It is unnecessary for the EPA to determine whether it may be appropriate to approve a state's use of an alternative 1 ppb threshold for the purposes of this action. The EPA's proposal, and this final action, are based on a finding that Idaho will not contribute above one percent of the 2015 ozone NAAQS (0.70 ppb) at any projected nonattainment or maintenance receptor in 2021. Therefore, there is no need to evaluate any potential higher contribution threshold, as discussed in the August 2018 memorandum, in the present final action.

### III. Final Action

The EPA is approving Idaho's September 26, 2018 submission as meeting CAA section 110(a)(2)(D)(i)(I) interstate transport requirements for the 2015 ozone NAAQS.

### IV. Statutory and Executive Orders Review

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735; October 4, 1993) and 13563 (76 FR 3821; January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339; February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
  - Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255; August 10, 1999);
  - Is not 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
  - Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629; February 16, 1994).
- 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 it 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).
- The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to

publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 15, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See CAA section 307(b)(2).

### 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: September 22, 2020.

**Christopher Hladick,**  
Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

#### Subpart N—Idaho

- 2. In § 52.670, the table in paragraph (e) is amended by adding an entry at the end of the table for "Interstate Transport Requirements for the 2015 Ozone NAAQS" to read as follows:

#### § 52.670 Identification of plan.

\* \* \* \* \*

(e) \* \* \*

## EPA-APPROVED IDAHO NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
* Interstate Transport Requirements for the 2015 Ozone NAAQS.	* State-wide .....	* 9/26/2018	* 10/16/20, [Insert Federal Register citation].	* This action addresses CAA 110(a)(2)(D)(i)(I).

[FR Doc. 2020–21329 Filed 10–15–20; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R03–OAR–2020–0268; FRL–10015–02–Region 3]

#### Air Plan Approval; Pennsylvania; 1997 8-Hour Ozone National Ambient Air Quality Standards Second Maintenance Plan for the Franklin County Area

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision pertains to the Commonwealth’s plan, submitted by the Pennsylvania Department of Environmental Protection (DEP), for maintaining the 1997 8-hour ozone national ambient air quality standard (NAAQS) (referred to as the “1997 ozone NAAQS”) in the Franklin County, Pennsylvania area (Franklin County Area). EPA is approving these revisions to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on November 16, 2020.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2020–0268. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://>

[www.regulations.gov](http://www.regulations.gov), or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

#### FOR FURTHER INFORMATION CONTACT:

David Talley, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2117. Mr. Talley can also be reached via electronic mail at [talley.david@epa.gov](mailto:talley.david@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On August 3, 2020 (85 FR 46576), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Pennsylvania. In the NPRM, EPA proposed approval of Pennsylvania’s plan for maintaining the 1997 ozone NAAQS in the Franklin County Area through July 25, 2027, in accordance with CAA section 175A. The formal SIP revision was submitted by DEP on March 10, 2020.

##### II. Summary of SIP Revision and EPA Analysis

On July 25, 2007 (72 FR 40746 effective July 25, 2007), EPA approved a redesignation request (and maintenance plan) from DEP for the Franklin County Area. In accordance with section 175A(b), at the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years. CAA section 175A sets forth the criteria for adequate maintenance plans. In addition, EPA has published longstanding guidance that provides further insight on the content of an approvable maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emissions inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a

contingency plan.<sup>1</sup> DEP’s March 10, 2020 submittal fulfills Pennsylvania’s obligation to submit a second maintenance plan and addresses each of the five necessary elements.

As discussed in the August 3, 2020 NPRM, EPA allows the submittal of a less rigorous, limited maintenance plan (LMP) to meet the CAA section 175A requirements by demonstrating that the area’s design value<sup>2</sup> is well below the NAAQS and that the historical stability of the area’s air quality levels shows that the area is unlikely to violate the NAAQS in the future. EPA evaluated DEP’s March 10, 2020 submittal for consistency with all applicable EPA guidance and CAA requirements. EPA found that the submittal met CAA section 175A and all CAA requirements, and proposed approval of the LMP for the Franklin County Area as a revision to the Pennsylvania SIP. The effect of this action makes certain commitments related to the maintenance of the 1997 ozone NAAQS Federally enforceable as part of the Pennsylvania SIP.

Other specific requirements of DEP’s March 10, 2020 submittal and the rationale for EPA’s proposed action are explained in the NPRM and will not be restated here. No public comments were received on the NPRM.

##### III. Final Action

EPA is approving the 1997 8-hour ozone NAAQS limited maintenance plan for the Franklin County as a revision to the Pennsylvania SIP.

##### IV. Statutory and Executive Order Reviews

###### A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission

<sup>1</sup> “Procedures for Processing Requests to Redesignate Areas to Attainment,” Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni Memo).

<sup>2</sup> The ozone design value for a monitoring site is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations. The design value for an ozone nonattainment area is the highest design value of any monitoring site in the area.