

(1) EPA APPROVED NORTH CAROLINA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
Rule .2603	Testing Protocol	11/1/2019	10/7/2022, [Insert citation of publication].	
Rule .2604	Number of Test Points	11/1/2019	10/7/2022, [Insert citation of publication].	
Rule .2605	Velocity and Volume Flow Rate.	11/1/2019	10/7/2022, [Insert citation of publication].	
Rule .2606	Molecular Weight	11/1/2019	10/7/2022, [Insert citation of publication].	
Rule .2607	Determination of Moisture Content.	11/1/2019	10/7/2022, [Insert citation of publication].	
Rule .2608	Number of Runs and Compliance Determination.	11/1/2019	10/7/2022, [Insert citation of publication].	
Rule .2610	Opacity	11/1/2019	10/7/2022, [Insert citation of publication].	
Rule .2612	Nitrogen Oxide Testing Methods.	11/1/2019	10/7/2022, [Insert citation of publication].	
Rule .2613	Volatile Organic Compound Testing Methods.	11/1/2019	10/7/2022, [Insert citation of publication].	
Rule .2614	Determination of VOC Emission Control System Efficiency.	11/1/2019	10/7/2022, [Insert citation of publication].	

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 [FR Doc. 2022-21647 Filed 10-6-22; 8:45 am]
 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-HQ-OAR-2021-0742; FRL-8425-02-OAR]

Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Areas Classified as Marginal for the 2015 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is finalizing three types of actions the Clean Air Act (CAA or Act) related to 28 areas classified as “Marginal” for the 2015 ozone National Ambient Air Quality Standards (NAAQS). First, the Agency is determining that five Marginal areas attained the standards by the August 3, 2021, applicable attainment date. Second, the Agency is granting a 1-year attainment date extension for the Uinta Basin, Utah (UT), nonattainment area. Third, the Agency is determining that

22 Marginal areas or portions of areas failed to attain the standards by the applicable attainment date. The effect of failing to attain by the applicable attainment date is that these areas or portions of areas will be reclassified by operation of law to “Moderate” nonattainment for the 2015 ozone NAAQS on November 7, 2022, the effective date of this final rule. Accordingly, the responsible state air agencies must submit State Implementation Plan (SIP) revisions and implement controls to satisfy the statutory and regulatory requirements for Moderate areas for the 2015 ozone NAAQS according to the deadlines established in this final rule.

DATES: The effective date of this rule is November 7, 2022.

ADDRESSES: The EPA has established a public docket for these ozone designations at <https://www.regulations.gov> under Docket ID No. EPA-HQ-OAR-2021-0742. Although listed in the docket index, some information is not publicly available, e.g., Confidential Business Information 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.

FOR FURTHER INFORMATION CONTACT: For general questions concerning this

action, contact Emily Millar, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, C539-01 Research Triangle Park, NC 27709; telephone number: 919-541-2619; email address: millar.emily@epa.gov; or Robert Lingard, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, C539-01 Research Triangle Park, NC 27709; by telephone number: 919-541-5272; email address: lingard.robert@epa.gov.

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I. Proposed Actions

A. Proposed Determinations of Attainment by the Attainment Date, Determinations of Failure To Attain by the Attainment Date and Extensions of the Attainment Date

On April 13, 2022, the EPA proposed actions to fulfill its statutory obligation under CAA section 181 to determine whether 31 Marginal ozone nonattainment areas attained the 2015 ozone NAAQS by August 3, 2021, the applicable attainment date for such areas.¹

First, the EPA proposed to find that six areas—Atlanta, Georgia (GA); Manitowoc County, Wisconsin (WI); Southern Wasatch Front, Utah; Amador County, California (CA); San Francisco Bay, California; and Yuma, Arizona (AZ)—attained the 2015 ozone NAAQS by the applicable attainment date based on complete, quality-assured and certified ozone air quality monitoring data for the 2018–2020 calendar years.

Second, the EPA proposed to grant the state of Utah's request for a 1-year extension of the attainment date from August 3, 2021, to August 3, 2022, for the Uinta Basin, UT nonattainment area. The proposed extension was based on a finding that the state met the statutory and regulatory requirements for a 1-year extension of the attainment date. Other

information the EPA analyzed, such as air quality data indicating that the Uinta Basin area would likely qualify for a second extension and could possibly attain the NAAQS by a second extended attainment date, and screening analyses indicating that existing pollution burdens within the Uinta Basin area were not disproportionately high relative to the rest of the United States, were consistent with the EPA's proposal that an extension was appropriate under these circumstances. The EPA therefore proposed that upon the effective date of a final reclassification action, the attainment date for this area would be extended to August 3, 2022.

Third, the EPA proposed to find that 24 areas failed to attain the 2015 ozone NAAQS by the applicable attainment date and did not qualify for a 1-year attainment date extension. The 24 areas were: Allegan County, Michigan (MI); Baltimore, Maryland (MD); Berrien County, Michigan; Chicago, Illinois-Indiana-Wisconsin (IL-IN-WI); Cincinnati, Ohio-Kentucky (OH-KY); Cleveland, Ohio; Dallas-Fort Worth, Texas (TX); Denver Metro/North Front Range, Colorado (CO) (Denver area); Detroit, Michigan; Door County-Revised, Wisconsin; Greater Connecticut, Connecticut (CT); Houston-Galveston-Brazoria, Texas; Louisville, Kentucky-Indiana; Mariposa, California; Milwaukee, Wisconsin; Muskegon County, Michigan; North Wasatch Front, Utah; Pechanga Band of Luiseño Mission Indians; Philadelphia-Wilmington-Atlantic City, Pennsylvania-New Jersey-Maryland-Delaware (PA-NJ-MD-DE); Phoenix-Mesa, Arizona; San Antonio, Texas; Sheboygan County, Wisconsin; St. Louis, Missouri-Illinois (MO-IL); and Washington, District of Columbia-Maryland-Virginia (DC-MD-VA). The proposed determination for each of these areas was based upon complete, quality-assured and certified ozone air quality monitoring data that showed that the 8-hour ozone design value (DV) for the area exceeded 0.070 parts per million (ppm) for the period 2018–2020, *i.e.*, the area's DV as of the attainment date. The EPA proposed that these 24 areas would be reclassified as Moderate nonattainment areas by operation of law on the effective date of a final action finding that these areas failed to attain the 2015 ozone NAAQS by the applicable attainment date for Marginal areas.²

Since the EPA issued its proposal in April, the Agency redesignated the Manitowoc County, WI area to attainment for the 2015 ozone NAAQS, therefore we are not finalizing our proposed determination of attainment for the area as part of this notice.³ Similarly, since April, the EPA has redesignated the Door County-Revised, WI area; the Ohio portion of the Cincinnati area; and, the Indiana portion of Louisville area to attainment for the 2015 ozone NAAQS based on attaining air quality for the period 2019–2021 and, therefore, we are not finalizing our proposed determinations of failure to attain and reclassifications for these areas or portions of redesignated areas.⁴

Separately, ten additional Marginal areas are not included in this action because they are being addressed in separate actions:

1. On July 14, 2022, the EPA proposed to find that the Butte County, Calaveras County, San Luis Obispo (Eastern part), Sutter Buttes, Tuolumne County, and Tuscan Buttes areas in California attained by the attainment date (87 FR 42126).

2. On July 22, 2022, the EPA proposed to find that the Las Vegas, Nevada (NV) nonattainment area failed to attain by the attainment date. If this action is finalized as proposed, the Las Vegas, NV area will be reclassified as Moderate (87 FR 43764).

3. On August 15, 2022, the EPA proposed to find that the Imperial County, CA nonattainment area attained by the attainment date but for emissions emanating from outside the United States (87 FR 50030).

4. The EPA will be acting on the El Paso-Las Cruces, Texas-New Mexico nonattainment area in a separate action.

5. The EPA will be acting on the Detroit, MI nonattainment area in a separate action.

A summary of the actions proposed for the 28 areas covered by this final action is provided in Table 1 of this action.

³ The Manitowoc County area was redesignated to attainment for the 2015 ozone NAAQS effective March 31, 2022 (87 FR 18702, March 31, 2022).

⁴ Final redesignation actions for these areas were effective upon publication in the **Federal Register**: Door County-Revised, WI area (87 FR 25410, April 29, 2022); the Ohio portion of the Cincinnati, OH-KY area (87 FR 35104, June 9, 2022); and the Indiana portion of Louisville, KY-IN area (87 FR 37950, July 5, 2022).

¹ See 87 FR 21842 (April 13, 2022).

² See CAA section 181(b)(2)(A).

TABLE 1—2015 OZONE NAAQS MARGINAL NONATTAINMENT AREA PROPOSED ACTION SUMMARY

2015 NAAQS nonattainment area	2018–2020 design value (DV) (ppm)	2015 NAAQS attained by the Marginal attainment date	2020 4th highest daily maximum 8-hr average (ppm)	Area failed to attain 2015 NAAQS but state requested 1-year attainment date extension based on 2020 4th highest daily maximum 8-hr average ≤0.070 ppm
Allegan County, MI	0.073	Failed to Attain	0.076	No.
Amador County, CA	0.069	Attained	Not applicable	Not applicable.
Atlanta, GA *	0.070	Attained	Not applicable	Not applicable.
Baltimore, MD	0.072	Failed to Attain	0.069	No.
Berrien County, MI	0.072	Failed to Attain	0.078	No.
Chicago, IL-IN-WI	0.077	Failed to Attain	0.079	No.
Cincinnati, OH-KY **	0.074	Failed to Attain	0.071	No.
Cleveland, OH	0.074	Failed to Attain	0.075	No.
Dallas-Fort Worth, TX	0.076	Failed to Attain	0.077	No.
Denver Metro/North Front Range, CO	0.081	Failed to Attain	0.087	No.
Greater Connecticut, CT	0.073	Failed to Attain	0.071	No.
Houston-Galveston-Brazoria, TX	0.079	Failed to Attain	0.075	No.
Louisville, KY-IN ***	0.072	Failed to Attain	0.071	No.
Mariposa County, CA	0.079	Failed to Attain	0.091	No.
Milwaukee, WI	0.071	Failed to Attain	0.077	No.
Muskegon County, MI	0.076	Failed to Attain	0.080	No.
Northern Wasatch Front, UT ****	0.077	Failed to Attain	0.080	No.
Pechanga Band of Luiseño Mission Indians *****	0.078	Failed to Attain	0.084	No.
Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE	0.074	Failed to Attain	0.071	No.
Phoenix-Mesa, AZ	0.079	Failed to Attain	0.087	No.
San Antonio, TX *****	0.072	Failed to Attain	0.074	No.
San Francisco Bay, CA	0.069	Attained	Not applicable	Not applicable.
Sheboygan County, WI	0.075	Failed to Attain	0.076	No.
Southern Wasatch Front, UT	0.069	Attained	Not applicable	Not applicable.
St. Louis, MO-IL	0.071	Failed to Attain	0.074	No.
Uinta Basin, UT	0.076	Failed to Attain	0.066	Yes.
Washington, DC-MD-VA	0.071	Failed to Attain	0.065	No.
Yuma, AZ	0.068	Attained	Not applicable	Not applicable.

* On August 26, 2022, the EPA proposed to redesignate the Atlanta, GA area to attainment for the 2015 ozone NAAQS (87 FR 52487).

** Ohio portion of area redesignated to attainment (87 FR 35104, June 9, 2022).

*** Indiana portion of area redesignated to attainment (87 FR 39750, July 5, 2022).

**** On May 28, 2021, the state of Utah submitted a CAA section 179B demonstration for the Northern Wasatch Front nonattainment area, which EPA found does not meet the criteria for such a demonstration.

***** Concentrations listed are for the Temecula monitor (AQ5 ID 06–065–0016); quality assurance issues with the data from the Pechanga monitor resulted in the 2018 data year not being appropriate for comparison to the NAAQS, and an invalid 2020 DV per DV calculation requirements contained in 40 CFR part 50, Appendix U, section 4(b). Ozone data collected at the Temecula monitoring site was used in previous regulatory actions and deemed representative of ozone conditions on the Pechanga Reservation. *E.g.*, 80 FR 18120, April 3, 2015, at 18121–18122 (final rule redesignating the Pechanga air quality planning area from nonattainment to attainment for the 1997 ozone NAAQS).

***** On July 13, 2020, the state of Texas submitted a CAA section 179B demonstration for the San Antonio nonattainment area that the EPA found does not meet the criteria for such a demonstration.

B. Proposed International Transport and Requirements for CAA Section 179B

In the April 2022 proposal, the EPA proposed to disapprove the CAA section 179B demonstrations submitted by the states of Texas and Utah for the San Antonio, Texas, and Northern Wasatch Front, Utah, nonattainment areas, respectively. The EPA sought comment on its application of the statutory provisions in CAA section 179B to these submissions, consistent with the Agency recommendations in the CAA section 179B Guidance.⁵

⁵ See “Final Guidance on the Preparation of Clean Air Act Section 179B Demonstrations for Nonattainment Areas Affected by International Transport of Emissions” available in the docket for this action.

C. Proposed Moderate Area SIP Submission and Controls Implementation Deadlines

In the April 2022 proposal, the EPA solicited comment on adjusting the due dates, in accordance with CAA section 182(i), for submission and implementation deadlines for all SIP requirements that apply to Moderate areas (*see* CAA sections 172(c)(1) and 182(a) and (b), and 40 CFR 51.1300 *et seq.*). Under CAA section 181(b)(2), Marginal nonattainment areas that fail to attain the 2015 ozone NAAQS by the applicable attainment date will be reclassified as Moderate by operation of law upon the effective date of the final determination. Each responsible state air agency must subsequently submit a

SIP revision that satisfies the air quality planning requirements for a Moderate area under CAA section 182(b).

On August 3, 2018 (September 24, 2018, for the San Antonio area), when final nonattainment designations became effective for the 2015 ozone NAAQS, states responsible for areas initially classified as Moderate were required to prepare and submit SIP revisions by deadlines relative to that effective date. For those areas, the submission deadlines ranged from 2 to 3 years after the effective date of designation, depending on the SIP element required (*e.g.*, 2 years for the reasonably available control technology (RACT) SIP, 3 years for the attainment plan with reasonably available control measures (RACM) and attainment

demonstration, and 3 years for a Basic vehicle inspection and maintenance (I/M) program SIP if required). Areas initially classified as Moderate are also required to implement RACM and RACT as expeditiously as practicable but no later than January 1 of the 5th year after the effective date of designations, *i.e.*, January 1, 2023, with 2023 being the Moderate area attainment year (defined as the last calendar year prior to the applicable attainment date of August 3, 2024). Since those SIP submission dates have passed, the EPA proposed in its April 2022 proposal to apply the Administrator's discretion provided in CAA section 182(i) to adjust the Moderate area SIP due dates as well as certain implementation deadlines for newly reclassified areas. CAA section 182(i) requires that reclassified areas meet the applicable plan submission requirements "according to the schedules prescribed in connection with such requirements, except that the Administrator may adjust any applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions."

1. Submission Deadlines for SIP Revisions

The EPA proposed to align the SIP submission deadlines for RACT and I/M with the proposed January 1, 2023, submission deadline for other Moderate area requirements, given the compressed timeline and the need to achieve consistency among those submissions as discussed previously. The EPA adopted this approach previously for Marginal areas reclassified as Moderate for failure to timely attain the 2008 ozone NAAQS, to achieve consistency among required SIP submissions for areas facing a similarly compressed timeframe between the effective date of reclassification and the Moderate area attainment date.⁶ Similarly, with respect to the SIP submission deadline for I/M for the 2015 ozone NAAQS, we proposed a January 1, 2023, deadline consistent

⁶ "Final Rule—Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Several Areas for the 2008 Ozone National Ambient Air Quality Standards" (81 FR 26697, 26705, May 4, 2016).

with the I/M regulations which provide that an I/M SIP shall be submitted no later than the deadline for submitting the area's attainment SIP.⁷

2. RACM and RACT Implementation Deadline

The EPA's implementing regulations for the 2015 ozone NAAQS require that, for areas initially classified as Moderate or higher, a state shall provide for implementation of RACT as expeditiously as practicable but no later than January 1 of the 5th year after the effective date of designation (*see* 40 CFR 51.1312(a)(3)(i)), which corresponds with the beginning of the attainment year for initially classified Moderate areas (*i.e.*, January 1, 2023). The modeling and attainment demonstration requirements for 2015 ozone NAAQS areas classified Moderate or higher require that a state must provide for implementation of all control measures needed for attainment no later than the beginning of the attainment year ozone season, notwithstanding any alternative deadline established per 40 CFR 51.1312 (*see* 40 CFR 51.1308(d)). For reclassified areas, the EPA's implementing regulations for the 2015 ozone NAAQS require that the state shall provide for implementation of RACT as expeditiously as practicable, but no later than the start of the attainment year ozone season associated with the area's new attainment deadline, or January 1 of the third year after the associated SIP submission deadline, whichever is earlier; or the deadline established by the Administrator in the final action issuing the area reclassification (*see* 40 CFR 51.1312(a)(3)(ii)).

The EPA requested comment on the proposed January 1, 2023, RACM/RACT implemented deadline. This proposed deadline is the same as the single RACT implementation deadline for all areas initially classified Moderate per 40 CFR 51.1312(a)(3) and would require implementation of any identified RACM/RACT as early as possible in the attainment year to influence an area's air quality and 2021–2023 attainment DV. The proposed RACT implementation deadline would also align with the proposed SIP submission

⁷ 40 CFR 51.372(b)(2). *See* the April 2022 proposal for more background information on I/M SIP requirements (87 FR 21852–21855).

deadline of January 1, 2023, and ensure that SIPs requiring control measures needed for attainment, including RACM, would be submitted no later than when those controls are required to be implemented. A single deadline for the Moderate area SIP submissions and RACT implementation would also treat states consistently, in keeping with CAA section 182(i).

3. I/M Implementation Deadline

For states that intend to use emission reductions from Basic I/M programs for the 2015 ozone NAAQS, the EPA proposed an implementation deadline of no later than the beginning of the applicable attainment year, *i.e.*, January 1, 2023. In the case, however, that a state does not intend to rely upon emission reductions from their I/M program in attainment or reasonable further progress (RFP) SIPs, the EPA proposed to allow these I/M programs to be fully implemented no later than 4 years after the effective date of reclassification. The EPA also requested comment on allowing any newly reclassified areas required to implement a Basic I/M program (but not needing I/M for attainment or RFP SIP purposes) to fully implement such a program by no later than the Moderate area attainment date of August 3, 2024 (September 24, 2024, for the San Antonio area) in order to align the I/M implementation deadline with that of the other required Moderate area elements.⁸

II. Responses to Comments and Final Actions

The public comment period for the EPA's April 2022 proposal closed on June 13, 2022, and included a public hearing held on May 9, 2022. The comments received during this period and the public hearing transcript can be found in the docket for this action. A majority of commenters supported the EPA's proposal to determine that certain areas failed to attain the 2015 ozone NAAQS by the applicable attainment date and to reclassify to Moderate the nonattaining areas that do not qualify for an attainment date extension. Our final actions are summarized in Table 2 of this action.

⁸ *See* 87 FR 21842, 21856 (April 13, 2022).

TABLE 2—2015 OZONE MARGINAL NONATTAINMENT AREA FINAL ACTION SUMMARY

2015 NAAQS nonattainment area	Attained by the attainment date	Failed to attain by the attainment date	Extension of the marginal area attainment date to August 3, 2022
Allegan County, MI		X	
Amador County, CA	X		
Atlanta, GA	X		
Baltimore, MD		X	
Berrien County, MI		X	
Chicago, IL-IN-WI		X	
Cincinnati, OH-KY (KY portion)		X	
Cleveland, OH		X	
Dallas-Fort Worth, TX		X	
Denver Metro/North Front Range, CO		X	
Greater Connecticut, CT		X	
Houston-Galveston-Brazoria, TX		X	
Louisville, KY-IN (KY portion)		X	
Mariposa County, CA		X	
Milwaukee, WI		X	
Muskegon County, MI		X	
Northern Wasatch Front, UT		X	
Pechanga Band of Luiseño Mission Indians		X	
Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE		X	
Phoenix-Mesa, AZ		X	
San Antonio, TX		X	
San Francisco Bay, CA	X		
Sheboygan County, WI		X	
Southern Wasatch Front, UT	X		
St. Louis, MO-IL		X	
Uinta Basin, UT			X
Washington, DC-MD-VA		X	
Yuma, AZ	X		

The EPA is responding to certain key comments in this section of the preamble. The remaining comments and EPA’s responses can be found in the Response to Comments document, which is found in the docket for this rulemaking. To access the Response to Comments document, please go to <http://www.regulations.gov>, and search for Docket No. EPA–HQ–OAR–2021–0742, or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

A. Determinations of Attainment by the Attainment Date

Pursuant to section 181(b)(2)(A) of the CAA and 40 CFR 51.1303 and after considering comments received, the EPA is making final determinations that the Atlanta, GA; Southern Wasatch Front, UT; Amador County, CA; San Francisco Bay, CA; and Yuma, AZ Marginal nonattainment areas listed in Table 2 attained the 2015 ozone NAAQS by the applicable attainment date of August 3, 2021. Once effective, this final action satisfies the EPA’s obligation pursuant to CAA section 181(b)(2)(A) to determine, based on an area’s air quality as of the attainment date, whether the area attained the standard by the applicable attainment date. The effect of a final determination of attainment by

an area’s attainment date is to discharge the EPA’s obligation under CAA section 181(b)(2)(A) with respect to that attainment date, and to establish that, in accordance with CAA section 181(b)(2)(A), the area will not be reclassified for failure to attain by the applicable attainment date.

These determinations of attainment do not constitute a redesignation to attainment as provided for under CAA section 107(d)(3). The EPA may redesignate an area if the state meets additional statutory criteria, including the EPA approval of a state plan demonstrating maintenance of the air quality standard for 10 years after redesignation, as required under CAA section 175A. As for all NAAQS, the EPA is committed to working with states that choose to submit redesignation requests for areas that are attaining the 2015 ozone NAAQS.

The EPA received adverse comments on our proposed determination of attainment for the Atlanta area, which are addressed as follows. For a discussion of additional comments received on the proposal and responses to those comments, please see the Response to Comments document in the docket for this action.

Comment: One commenter stated that the EPA is proposing to determine the

Atlanta area as having attained the standard based on its 2019–2021 DV, which the commenter states are exactly at 70 parts per billion (ppb). The commenter claimed that the years of 2020 and 2021 were characterized by the unusual and unique events related to the COVID–19 epidemic (including significant reductions in traffic) which the commenter states could have significantly influenced the ozone levels in the region. The commenter also stated that another factor “potentially skewing the averaging is the likely removal of high ozone days via claims of exceptional events due to the large number of fires in the western states in 2020, which was among the top five years with largest wildfire acreage burned since 1960.” The commenter concluded by asking the EPA to “redesignate the Atlanta metro area as a Moderate NAA [nonattainment area] for the 2015 standard.”

Response: CAA section 181(b)(2)(A) requires that the EPA determine whether an area attained by the attainment date “based on the area’s design value [DV] (as of the attainment date).” The DV, as defined and explained in 40 CFR part 50, Appendix U, refers to the metric that is used to compare ambient ozone concentration data measured at a site in order to

determine compliance with the NAAQS. Per 40 CFR 50.19, the 2015 ozone NAAQS is met when the 3-year DV is less than or equal to 70 ppb (*i.e.*, 0.070 ppm). Per the CAA and EPA's regulations, the Atlanta area's DV for the relevant time period (*i.e.*, the 2018–2020 DV, for an attainment date in 2021) meets the level of the NAAQS, and the area therefore attained by its applicable attainment date.

We also note that even though the recorded DV for the 2018–2020 period is at 0.070 ppm, an area's DV is determined by the monitor with the highest monitored reading. While one monitor in the Atlanta area recorded a 2018–2020 DV of 0.070 ppm, the remaining monitors in the area showed 2018–2020 DVs below 0.070 ppm. More recent data indicate that for the period 2019–2021, the DVs at all of the Atlanta area monitors are below 0.070 ppm; the highest 2019–2021 DV value for the Atlanta Area is 0.068 ppm.⁹ To the extent that events related to the COVID–19 pandemic may have “significantly influenced the ozone levels in the region,” the EPA did not consider such events in this determination of attainment action, which is based solely on an area's monitored air quality as of the applicable attainment date.

Regarding the commenter's statement that another factor “potentially skewing the averaging is the likely removal of high ozone days via claims of exceptional events due to the large number of fires in the western states in 2020,” the EPA has not received an exceptional events request related to ozone data for the Atlanta area. In order for the EPA to exclude particular periods of ozone monitoring data from consideration in calculating DVs, the EPA would have to concur on an exceptional events demonstration from Georgia. The EPA has not excluded any ozone data from monitors in the Atlanta area via claims of exceptional events during the 2018–2020 period.

Finally, the EPA assumes the commenter is asking the EPA to reclassify (not redesignate) the Atlanta area to Moderate. However, based on certified 2018–2020 monitored air quality data, because EPA is determining that the Atlanta area attained the 2015 ozone NAAQS by the required August 3, 2021, attainment date, the EPA does not have the authority under the CAA to reclassify the Atlanta area to Moderate for the 2015 ozone NAAQS, unless the area were to voluntarily request that reclassification under CAA section 181(b)(3).

B. Extension of the Marginal Area Attainment Date

Pursuant to CAA section 181(a)(5) and 40 CFR 51.1307 and after considering comments received, the EPA is finalizing its proposal to grant the Utah Division of Air Quality's (UDAQ) request to extend the attainment date for the Uinta Basin Marginal area by one year from August 3, 2021, to August 3, 2022.¹⁰ In a letter dated May 25, 2021, the Ute Indian Tribe also requested an attainment date extension for the area.¹¹ Section 181(a)(5) of the CAA provides the EPA the discretion (*i.e.*, “the Administrator may”) to extend an area's applicable attainment date by one additional year upon application by any state if the state meets the two criteria under CAA section 181(a)(5) as interpreted by the EPA in 40 CFR 51.1307; specifically, that a state can certify compliance with the applicable SIP and can demonstrate that, for the first attainment date extension, an area's fourth highest daily maximum 8-hour value for the attainment year does not exceed the level of the standard (0.070 ppm). In proposing to grant a first attainment date extension for the Uinta Basin area, we considered additional facts and circumstances, such as air quality trends and the existing pollution burden in the area, and found that the additional information did not weigh against our proposal to grant UDAQ's request.¹²

The EPA received favorable and adverse comments on its proposal to grant the 1-year attainment date extension for the Uinta Basin area, which are addressed as follows. For a discussion of additional comments received on the proposal and responses to those comments, please see the Response to Comments document in the docket for this action.

Comment: One commenter supported the EPA's proposal to grant the 1-year attainment date extension for the Uinta Basin area, stating that the area fully met the statutory criteria for the first one-year extension. The commenter also noted that the area fully meets the statutory criteria for a second one-year extension requested by UDAQ and supported by the Ute Indian Tribe, and

may attain the 2015 ozone NAAQS with its 2020–2022 DV. Further, while they appreciated there may be circumstances where a regulatory decision may include EJ considerations, the commenter emphasized their hope that future decisions on the second attainment date extension and potential redesignation for the Uinta Basin area follow only the “clear” requirements set out in the CAA.

Response: The EPA agrees that UDAQ's request for a first attainment date extension for the Uinta Basin area met the two qualifying criteria under CAA section 181(a)(5) as interpreted by the EPA in 40 CFR 51.1307. The status of, and the EPA's future action on, a UDAQ request for a second extension are outside the scope of this final action; however, we acknowledge that that the fourth highest daily maximum 8-hour value for 2021 would allow it to meet one of the necessary criteria to qualify for a second attainment date extension.¹³ We also agree that the Uinta Basin area could potentially attain the 2015 ozone standard by a second extended attainment date (August 3, 2023) if the fourth highest daily maximum 8-hour average concentration for 2022 remains consistent with the final values for 2020 (0.066 ppm), 0.072 ppm (2021) and, *e.g.*, 0.066 ppm (2022 preliminary) that, when averaged with the 2020 and 2021 values, would result in an attaining 2020–2022 DV of 0.068 ppm.

The EPA disagrees that the Agency's decision to consider relevant information in exercising its discretion under a statutory provision is in any way in contravention of the “clear” requirements set out in the CAA. The requirement at issue in the CAA directs the Administrator to exercise discretion, establishing two minimum criteria that must be met before a request for an attainment date extension *may* be granted. Therefore, the “clear” requirement in the Act is for the Administrator to exercise judgment, and that exercising of judgment must, as always, be reasonable and based on relevant facts and factors. The ultimate goal of Part D of the CAA, which governs planning requirements for nonattainment areas, and the responsibility of states and the EPA

¹⁰ Bird, Bryce, Director, UDAQ. “Request for One-year Extension of the 2015 Ozone National Ambient Air Quality Standard Attainment Date for the Uinta Basin Marginal Nonattainment Area.” March 29, 2021.

¹¹ Chappoose, Shaun, Chairman, Ute Indian Tribe Business Committee. “Request for One Year Extension of the 2015 Ozone National Ambient Air Quality Standard Attainment Date for the Uinta Basin Marginal Nonattainment Area.” May 25, 2021.

¹² See 87 FR 21842, 21848, April 13, 2022.

¹³ The Uinta Basin area's 2021 fourth highest daily maximum 8-hour value was 0.072 ppm, available at <https://www.epa.gov/outdoor-air-quality-data/download-daily-data>. To qualify for a second 1-year extension, an area's fourth highest daily maximum 8-hour value, averaged over both the original attainment year and the first extension year, must be 0.070 ppm or less (40 CFR 51.1307(a)(2)). The fourth highest daily maximum 8-hour value, averaged over 2020 (0.066 ppm) and 2021 (0.072 ppm), is 0.069 ppm.

⁹ See <https://www.epa.gov/aqs>.

under that section of the Act, is to drive progress in nonattainment areas towards attainment of the NAAQS in order to protect public health, and to attain the NAAQS as expeditiously as practicable but by no later than the attainment dates prescribed by the Act.¹⁴ CAA section 181(a)(5) in particular is intended to provide flexibility where an area is close to achieving attainment and can likely do so with a bit more time.

It is therefore reasonable, in exercising discretion under CAA section 181(a)(5), for the EPA to consider facts and circumstances that are directly relevant to this inquiry, including what current air quality data indicate about the likelihood of timely attainment in the area, or likelihood of eligibility for a second extension, and what the existing public health burden is in the area that would be impacted by the EPA's decision. The EPA also took note of the source categories and unique conditions leading to elevated ozone concentrations in the Uinta Basin area, and the anticipated emission reductions that had the potential to have a significant impact on ozone concentrations in the area in the near future. To the extent that the commenter is asserting that the EPA should interpret CAA section 181(a)(5) to mean that the EPA *must* grant a state's request for an extension if the two criteria are met, we do not agree. The Act says "may," and that word has meaning.

Comment: Three commenters opposed the proposed attainment date extension for the Uinta Basin area. Two of the commenters contended that the extension should not be granted because the area would not be able to attain by the extended August 3, 2022, attainment date based on the 2019–2021 DV of 0.078 ppm and a fourth highest daily maximum value of 0.072 ppm in 2021, and that granting the request would delay implementation of needed Moderate area controls. One of the commenters added that the EPA should

not grant the extension request because doing so would not be based on an identifiable trend toward cleaner air, documented reductions in the emissions of ozone precursors, or enforceable controls shown to achieve attainment. Further, they claimed that the Uinta Basin area attaining the 2015 ozone NAAQS by a second extended attainment date (*i.e.*, August 3, 2023) would not demonstrate that ozone concentrations in the area will remain low based on concrete emission reductions or air quality trends that showed consistent progress toward attainment, but rather because the 2020–2022 DV would no longer include the 2019 fourth highest daily maximum value of 0.098 ppm. Finally, a third commenter stated that all 1-year extensions should be denied due to the adverse health impacts of ozone.

Response: The EPA disagrees with the commenters. CAA section 181(a)(5) is intended to provide flexibility where an area is close to achieving attainment and can likely do so with a bit more time. Rather than require an area to attain the NAAQS by a first extended attainment date, the provision expressly allows for a maximum of two 1-year extensions for a single area. Not being able to possibly attain by a second extended attainment date would weigh against the EPA granting a first extension request. That is not the case for the Uinta Basin area, where air quality data indicate that the area can meet the necessary air quality criterion for a second 1-year extension and could potentially attain the 2015 ozone NAAQS by the second extended attainment date of August 3, 2023. Attainment in 2023 would be based on the area's 2020–2022 DV, which would necessarily exclude 2019 air quality data and represent a 3-year air quality trend preceding the extended attainment date. In our proposal to grant UDAQ's extension request, we also considered the proposed Federal Implementation Plan (FIP) for Managing Emissions from Oil and Natural Gas Sources on Indian Country Lands within the Uintah and Ouray (U&O) Indian Reservation in Utah (U&O FIP), which the EPA is working to finalize.¹⁵ We anticipate that the new control requirements in the final U&O FIP could make a meaningful improvement in air quality and address periodic winter ozone exceedances on the reservation,

and in the nonattainment area and larger Uinta Basin region.

The types of considerations raised by the commenters—documented reductions in emissions of ozone precursors and demonstrations that enforceable controls achieved attainment—are relevant inquiries for states that are seeking redesignations to attainment. *See* CAA section 107(d)(3)(E)(iii). By contrast, the CAA mandates that the EPA determine whether an area attained the NAAQS solely on the basis of the area's DV as of the attainment date, CAA section 181(b)(2)(A), and does not permit the EPA to consider in making that determination how the area attained or whether the area will continue to attain in making that determination. Therefore, we decline to consider these factors in determining whether to grant Utah's request for an attainment date extension for the Uinta Basin area.

C. Determinations of Failure To Attain and Reclassification

Pursuant to CAA section 181(b)(2) and after considering comments received, the EPA is finalizing the proposed determinations for 22 Marginal nonattainment areas or portions of areas listed in Table 2 that failed to attain the 2015 ozone NAAQS by the applicable attainment date of August 3, 2021. Therefore, upon the effective date of this final action, these 22 areas or portions of areas will be reclassified, by operation of law, to Moderate for the 2015 ozone NAAQS. Once reclassified as Moderate, these areas will be required to attain the standard "as expeditiously as practicable" but no later than 6 years after the initial designation as nonattainment, which in this case would be no later than August 3, 2024. If any of these areas attains the 2015 ozone NAAQS prior to the Moderate area attainment date, the relevant state may request redesignation to attainment, provided the state can demonstrate at a minimum that the other criteria under CAA section 107(d)(3)(E) are met.¹⁶

The EPA received adverse comments on its proposal to determine that certain areas failed to attain by the applicable attainment date and to reclassify those areas as Moderate, which are addressed as follows. For a discussion of additional comments received on the proposal and responses to those comments, please see the Response to

¹⁴ *See, e.g.* CAA section 171(1) (defining reasonable further progress as annual incremental reductions in emissions of the relevant air pollutant . . . for the purpose of ensuring attainment of the applicable [NAAQS] by the applicable date"); CAA section 172(a)(2)(A) (establishing attainment dates for the primary NAAQS as "the date by which attainment can be achieved as expeditiously as practicable, but no later than 5 years from the date such area was designated nonattainment under [107(d)] of this title . . ."); CAA section 172(c)(1) (requiring implementation of all reasonably available control measures as expeditiously as practicable and that plans provide for attainment of the NAAQS); CAA section 172(c)(6) (requiring state plans to include enforceable emission limitations, and such other control measures, means or techniques, as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for attainment of the NAAQS by the applicable attainment date).

¹⁵ "Proposed Rule: Federal Implementation Plan for Managing Emissions From Oil and Natural Gas Sources on Indian Country Lands Within the Uintah and Ouray Indian Reservation in Utah" (85 FR 3492, January 21, 2020), as discussed at 87 FR 21842, 21848 (April 13, 2022).

¹⁶ More information about redesignation is available at <https://www.epa.gov/ground-level-ozone-pollution/redesignation-and-clean-data-policy-cdp>.

Comments document in the docket for this action.

Comment: One commenter opposed the proposed reclassification of the Denver Metro/North Front Range, CO area to Moderate, citing extensive existing state regulations, prior emissions reductions, adverse effects of the reclassification (permitting burdens, economic impacts, costs that outweigh benefits), and the role of wildfires/ exceptional events and international transport.

Response: The EPA disagrees with the assertion that the Denver area should not be reclassified as Moderate. The EPA has a mandatory duty under CAA section 181(b)(2)(A) to determine whether the Denver area attained by its August 3, 2021, attainment date, based on the area's design value as of the attainment date. The CAA does not allow the EPA to consider permitting, economic, or cost impacts in assessing whether an area has attained the NAAQS by the applicable date. Instead, CAA section 181(b)(2) requires the EPA to make the determination of attainment based solely on the area's DV, which is derived entirely from monitored air quality data.

Comment: One commenter opposed the EPA's proposal to reclassify the Wisconsin nonattainment areas from Marginal to Moderate. The commenter noted that Wisconsin's lakeshore air quality is heavily impacted by ozone precursors originating from upwind states and asserted that further actions taken by Wisconsin to address Moderate area planning requirements are unlikely to significantly improve air quality in Kenosha County (part of the Chicago area), Sheboygan County, or Milwaukee areas.

Response: CAA section 181(b)(2) requires the EPA to determine, based on an area's ozone design value as of the area's attainment deadline, whether the area has attained the ozone standard by that date. The CAA also requires that any area that the EPA finds has not attained the standard by the attainment deadline shall be reclassified by operation of law to the higher of the next "highest" classification (*e.g.*, Marginal to Moderate, Moderate to Serious, etc.) or the classification applicable to the area's DV. Further, the Agency's mandatory duty to make determinations of attainment or failure to attain the NAAQS exists regardless of the nature or effect of transported ozone on monitored air quality in a given nonattainment area. *Cf. Sierra Club v. EPA*, 294 F.3d 155 (D.C. Cir. 2002) (rejecting the EPA's decision not to reclassify a downwind nonattainment area that failed to timely attain due to

transported pollution from upwind states).

Under EPA regulations at 40 CFR part 50, appendix U, the 2015 ozone NAAQS is attained at a monitoring site when the three-year average of the annual fourth-highest daily maximum eight-hour average ozone concentration (*i.e.*, the DV) is less than or equal to 0.070 ppm. When the DV is less than or equal to 0.070 ppm at each ambient air quality monitoring site within the area, the area is deemed to be meeting the NAAQS. If the DV is greater than 0.070 ppm at any site in the area, the area is deemed to be violating the NAAQS. Because monitoring sites in the Chicago, Sheboygan County and Milwaukee areas have DVs of 0.079 ppm, 0.077 ppm, and 0.076 ppm, respectively, for the 2018–2020 period, the EPA must determine that the areas failed to attain the standard by the August 3, 2021, Marginal attainment deadline and reclassify the areas as Moderate as required by section 181(b)(2) of the CAA.

D. International Transport and Requirements for CAA Section 179B

The EPA is finalizing the proposed disapprovals of the CAA section 179B demonstrations submitted by the states of Texas and Utah for the San Antonio, Texas, and Northern Wasatch Front, Utah, nonattainment areas, respectively. The EPA interprets CAA section 179B to provide the EPA with authority to consider impacts from international emissions in two contexts: (1) A "prospective" state demonstration submitted as part of an attainment plan, which the EPA considers when determining whether the SIP submission adequately demonstrates that a nonattainment area will attain the NAAQS by its future attainment date (*see* CAA section 179B(a)), but for emissions emanating from outside of the United States (*i.e.*, international transport); or (2) a "retrospective" state demonstration, which the EPA considers when determining after the attainment date whether a nonattainment area attained the NAAQS by the attainment date or would have attained but for international transport (*see* CAA section 179B(b)–(d)). Any State that establishes to the satisfaction of the Administrator that an area *would have attained* the national ambient air quality standard by the applicable attainment date but for emissions emanating from outside of the United States shall not be subject to reclassification to a higher classification category. The EPA interprets the statute to require states to meet all nonattainment area requirements

applicable for the relevant NAAQS and area classification, regardless of any CAA section 179B submission. The EPA provides examples and describes the kinds of information and analyses that are relevant to this issue to assist air agencies better understand how to satisfy the requirements of CAA section 179B in the "Guidance on the Preparation of Clean Air Act Section 179B Demonstrations for Nonattainment Areas Affected by International Transport of Emissions" (CAA Section 179B Guidance).¹⁷ The guidance also describes the weight of evidence approach that the EPA uses when evaluating CAA section 179B demonstrations.

The EPA received adverse comments on our proposed disapprovals of the CAA section 179B demonstrations from Texas and Utah, which are addressed as follows. For a discussion of additional comments received on the proposal and responses to those comments, please see the Response to Comments document in the docket for this action.

Comment: One commenter disagreed with EPA's authority to consider impacts from international emissions in two contexts, prospective or retrospective. The commenter disagreed that the state should have considered a "retrospective" demonstration under CAA section 179B(b) to address reclassification. The commenter asserted that CAA section 179B(a) was written to cover any NAAQS, and that CAA sections 179B(b-d) were written to clarify that any CAA section 179B demonstration would also provide relief to reclassifications that only apply to ozone, carbon monoxide and particulate matter (PM₁₀). In essence, the commenter argued that a state can seek to avoid reclassification for failure to attain the NAAQS by the attainment date under CAA section 179B(b) at any time, and EPA need not wait for the facts and analysis to evaluate the impacts of international transport until the attainment date actually occurs.

Response: The EPA disagrees with the commenter's interpretation that a single demonstration would be adequate to obtain the specific and differing regulatory relief described in CAA section 179B(a) (relief from the attainment demonstration requirement) and CAA sections 179B(b-d) (relief from

¹⁷ "Guidance on the Preparation of Clean Air Act Section 179B Demonstrations for Nonattainment Areas Affected by International Transport of Emissions" issued on December 18, 2020; available at https://www.epa.gov/sites/default/files/2020-12/documents/final_caa_179b_guidance_december_2020_with_disclaimer_ogc.pdf. The EPA also issued a related notice of availability in the **Federal Register** on January 7, 2021 (86 FR 1107).

the reclassification requirement). The EPA submitted comments to the Texas Commission on Environmental Quality on the Bexar County (San Antonio), Texas CAA section 179B proposal, echoing the CAA section 179B language and the interpretations expressed in EPA's December 2019 draft guidance, describing how the State's proposed "prospective" demonstration (addressing the standard laid out in CAA section 179B(a) and focusing on data available to the State in 2019) would not provide the San Antonio area relief from failing to meet its attainment deadline. The EPA indicated that the State should develop a "retrospective" demonstration under CAA section 179B(b) if seeking relief from the reclassification requirement.

As stated in the April 2022 proposal and EPA's final CAA Section 179B Guidance, both the distinct language in CAA sections 179B(a) and 179B(b) and the different regulatory relief those two sections grant support EPA's interpretation that different types of demonstrations are needed for areas seeking the different forms of relief. For a state that is required to submit an attainment plan demonstrating that a nonattainment area will attain by the applicable attainment date, CAA section 179B(a) allows the state to submit, and the Administrator to assess, a demonstration that such a plan "would be adequate to attain" the NAAQS by the attainment date, but for international transport. For a nonattainment area that has not attained the NAAQS by the attainment date, and thus is facing reclassification to a higher classification level, CAA section 179B(b) allows the state to submit, and the Administrator to assess, a demonstration that the area "would have attained" the NAAQS by the attainment date, but for international transport. For a state to gain this latter type of relief, the EPA believes it is reasonable to require that the state include in its demonstration emissions and air quality data from the 3 years preceding the attainment date, along with analyses of the amount and nature of impacts attributed to international transport that actually occurred during that same relevant period of time.

Comment: A few commenters asserted that the term "but for" under CAA section 179B is not defined and disagreed with the EPA's interpretation of that term and requirements for CAA section 179B. A commenter asserted that its CAA section 179B demonstration should not have to show that international anthropogenic emissions solely or primarily cause exceedances. A few commenters

indicated that any impact of international emissions should be enough for an approvable demonstration. One commenter claimed that the EPA has imposed arbitrary hurdles on the Northern Wasatch Front nonattainment area to achieve a successful CAA section 179B demonstration. The commenter alleged that the EPA's requirements are not supported by the statute and are outside of Congress's intent. Furthermore, the commenter stated that the EPA's argument for disapproving Utah's demonstration is inappropriate in finding that ozone exceedance days "are predominantly due to local contributions." In addition, they stated that the EPA should find that a 10–15 percent contribution from international sources to local ozone in the Northern Wasatch Front meets the CAA "but for" criteria. The commenter disagreed that only sources causing peak ozone concentrations should matter in the CAA section 179B evaluation. The commenter also stated that although the CAA establishes the "but for" test, the statute makes no differentiation between base contributions or peak contributions. The commenter claimed that by the EPA considering whether international contributions are greater on exceedance days than on non-exceedance days, the EPA suggests that the influence of international emissions on Northern Wasatch Front ozone must be event-based rather than continuous and the commenter states that this line of reasoning is inconsistent with the scientific literature cited by the EPA. The commenter also asserted that the EPA is inappropriately requiring a large international contribution relative to the domestic contribution for a valid CAA section 179B demonstration and referenced the EPA's response to comment for the CAA Section 179B Guidance to support the argument that the EPA did not intend this to be a requirement at the time of the issuance of the Guidance.¹⁸

Response: The EPA disagrees with the commenters concerning the appropriate application of CAA section 179B, and in particular the appropriate interpretation of the term "but for" in this specific context. As acknowledged by the commenters, CAA section 179B is

¹⁸ "Review Of Draft CAA Section 179B Guidance On International Emissions," CAA Section 179B Guidance Briefing for OMB, September 16, 2020; p. 2; attachment to email dated November 18, 2020, from Gobeail McKinley to Elke L. Hodson Marten transmitting responses to interagency comments on the CAA Section 179B Guidance Document; located in Docket Number EPA-HQ-OAR-2019-0668 at [regulations.gov](https://www.regulations.gov) (accessed on June 9, 2022) ("Response to Comment").

notably silent on the definition of "but for." Specifically, the statute does not define "but for," nor does it define what criteria the EPA should use to evaluate whether a state has demonstrated the relevant statutory criteria to the "satisfaction of the Administrator." Given the ambiguous statutory text, the EPA has authority to interpret the term "but for" in the way most consistent with the purpose of CAA section 179B. Given the statute's explicit inclusion of the phrase "to the satisfaction of the Administrator," the EPA concludes that this can entail what the Agency considers relevant for this type of demonstration. For example, the EPA reasonably interprets the language in CAA section 179B to authorize it to differentiate between base and peak contributions in exercising its technical judgment in assessing CAA section 179B demonstrations made by states. This distinction is very relevant when determining the degree to which international transport affects ambient pollutant levels during periods that are relevant to determining attainment. The commenter intimated that when ambient concentrations minus modeled international contributions are less than the level of the NAAQS, the state should automatically receive CAA section 179B relief. The EPA does not agree with this "simple subtraction" interpretation of "but for," which would ignore the complex nature of ozone sources and transport, as well as the multitude of analysis methods and tools which states and the EPA may use to evaluate and characterize sources impacting ozone concentrations at violating monitors. In addition, this simplistic interpretation of "but for" would in effect functionally raise the level of the NAAQS in all areas of the country for which states claim that there is international transport, regardless of what any other facts or analyses would indicate about the nature and impacts of such transport.¹⁹ Given the statutory directive to the EPA to promulgate NAAQS that are adequately protective of public health with an ample margin of safety, the EPA does not consider a "simple subtraction" approach to be appropriate.²⁰ Rather, the EPA has

¹⁹ Given that international emissions contribute some amount to background ozone across all locations in the US and that this fact was understood when the 179B provision of the CAA was written, a "simple subtraction" interpretation would be akin to adding the ozone increment associated with the typical international contribution to the level of the NAAQS.

²⁰ The EPA considers background ozone when setting the NAAQS. (80 FR 65291, October 26, 2015) The EPA is aware that international emissions contribute partially to background ozone

provided the CAA section 179B Guidance to give recommendations for a more comprehensive weight of evidence approach, which states and EPA should use to evaluate international emissions contributions at violating ozone monitors.

As we stated in the proposal, “[g]iven the extensive number of technical factors and meteorological conditions that can affect international transport of air pollution, EPA relies on the weight of evidence of all information and analyses provided by the air agency. The appropriate level of supporting documentation will vary on a case-by-case basis, depending on the nature and severity of international influence. EPA considers and qualitatively weighs all evidence based on its relevance to CAA section 179B and the nature of international contributions as described in the demonstration’s conceptual model. Every demonstration should include fact-specific analyses tailored to the nonattainment area in question. When a CAA section 179B demonstration shows that international contributions are larger than domestic contributions, the weight of evidence will be more compelling than if the demonstration shows domestic contributions exceeding international contributions.”²¹

Furthermore, as explained in the proposal, there are four characteristics that the EPA thinks indicate that an area needs a more involved weight of evidence showing: (1) Affected monitors not located near an international border; (2) Specific international sources and/or their contributing emissions are not identified or are difficult to identify; (3) Exceedances on internationally influenced days are in the range of typical exceedances attributable to local sources; and (4) Exceedances occurred in association with other processes and sources of pollutants, or on days where meteorological conditions were conducive to local pollutant formation (e.g., for ozone, clear skies and elevated temperatures). The San Antonio and Northern Wasatch Front nonattainment areas meet all four of these characteristics suggesting the need for a comprehensive weight of evidence showing, including multiple lines of evidence to support a CAA section 179B demonstration in these areas. The EPA recognizes that no single analysis is

across the United States. It is clear from the legislative history that Congress intended for CAA section 179B to be limited in scope for situations where international transport is a particular problem and not applicable to situations where international emissions are merely part of the normal background level.

²¹ See 87 FR 21842, 21852 (April 13, 2022).

sufficient to support or refute a CAA section 179B demonstration definitively. Therefore, the Agency utilized multiple lines of evidence in the proposed disapproval of the submitted CAA section 179B demonstrations, which, taken together, provided a consistent and coherent conceptual model that did not support a “but for” finding for these areas. The EPA disagrees that the analyses the Agency recommended in the CAA section 179B Guidance and the Agency relied upon in evaluation are arbitrary or not supported by the statute.

Further, the EPA’s 179B Guidance indicated that a demonstration will be stronger when international contributions are shown to be greater on NAAQS exceedance days than on non-exceedance days. Inclusion of this information will make it easier to differentiate locally versus internationally driven exceedances. However, the above interpretation from the Section 179B Guidance should not be considered as requiring that international contributions be restricted to contributions from specific international transport events. Rather, the CAA section 179B Guidance and the April 2022 proposal point to the need for a more detailed demonstration in cases where international contributions are difficult to distinguish from US contributions, including when “[e]xceedances on internationally influenced days are in the range of typical exceedances attributable to local sources.” In addition, as part of a thorough evaluation of the impacts of international transport, the EPA considers it appropriate to focus on analyzing the contributions on the days that contribute to an area’s NAAQS violation.

Comment: A commenter claimed that the EPA used one criterion (i.e., whether feasible measures have been implemented) in the Northern Wasatch Front determination that the EPA had already rejected in a prior rulemaking²² as not being part of a CAA section 179B demonstration.

Response: The EPA disagrees with this comment. The comment seems to conflate the requirement in CAA section 182(b)(2) that areas classified as Moderate and higher must show that they have implemented RACM/RACT with the EPA’s statements in the proposal that Utah’s demonstration would have been strengthened through a showing that the state had attempted to implement feasible controls. The EPA explained that the proposed disapproval of the CAA section 179B demonstration

²² See 83 FR 62998 (December 6, 2018).

for the Wasatch area relied on multiple lines of evidence. As noted in the technical support document (TSD) for the proposed disapproval of this CAA section 179B demonstration, the state did not make a compelling demonstration that it has implemented controls to mitigate local emissions contributing to ozone levels on exceedance days. Because each nonattainment area is unique, the types of analyses that would be appropriate for any particular area depend on area-specific factors. The EPA considers the weight of available evidence in assessing a state’s CAA section 179B demonstration. The EPA considered the fact that the state has not attempted to implement reasonable local controls along with information indicating whether ozone exceedances had occurred predominantly as a result of emissions from local sources versus international sources. Imposition of local control measures is not a prerequisite or requirement to a Marginal area’s CAA section 179B(b) demonstration. However, consideration of whether feasible controls have been implemented in an area could be a significant factor relative to information characterizing the nature of contributions on exceedance days. Such control measure information is therefore helpful in considering to what extent local versus international emissions contributed to ozone exceedances in the Northern Wasatch Front.

Comment: A commenter stated that states would benefit from further clarification of the CAA Section 179B Guidance and a concerted effort from the EPA to codify its CAA section 179B(b) interpretation through rulemaking.

Response: This action is to fulfill our statutory obligation under CAA section 181 by determining whether 28 Marginal ozone nonattainment areas attained the 2015 ozone NAAQS by August 3, 2021, the applicable attainment date for such areas. As part of the final disapproval for the San Antonio and Northern Wasatch Front CAA section 179B demonstrations, this rulemaking action is intended to clarify EPA’s interpretations of CAA section 179B and apply them to certain areas of the country through regulatory action. The EPA does not intend to initiate a public notice-and-comment rulemaking to codify the provisions of CAA section 179B at this time.

E. Moderate Area SIP Submission and Controls Implementation Deadlines

Pursuant to CAA section 182(i) and after considering comments received, the EPA is finalizing its proposed

deadlines for Moderate area SIP revisions, and implementation of RACM/RACT and Basic I/M programs for the 2015 ozone NAAQS. SIP revisions required for the newly reclassified Moderate areas must be submitted no later than January 1, 2023, and RACM/RACT for these areas must be implemented as expeditiously as practicable, but no later than the same date. We acknowledge that for some states with reclassified Moderate areas, meeting a January 1, 2023, SIP submission and RACM/RACT implementation deadline will be challenging. However, the options for establishing deadlines within the CAA framework of attainment timeframes and RACT implementation requirements are constrained. We also recognize there are ways to anticipate and manage the tight timeframes for SIP development and submission, such as advance planning based on preliminary area DVs. Also, a state may at any time request—and the EPA must grant—a voluntary reclassification under CAA section 181(b)(3). The EPA remains committed to working closely with affected states to help them prepare their SIP revisions in a timely manner.

For required Basic I/M programs, the EPA is finalizing an implementation deadline of no later than 4 years after the effective date of reclassification for states that do not intend to rely upon emission reductions from their Basic I/M program in attainment or RFP SIPs. As discussed in the April 2022 proposal, the EPA realizes that implementing a brand new or revised I/M program on an accelerated timeline may be difficult to achieve in practice, especially for states with no I/M programs elsewhere within their jurisdiction.

The EPA received adverse comments on our proposed deadlines, which are addressed as follows. For a discussion of additional comments received on the proposal and responses to those comments, please see the Response to Comments document in the docket for this action.

Comment: Regarding the proposed January 1, 2023, SIP submission deadline for reclassified Moderate areas, the EPA received comments stating that the deadline was unreasonable, and/or the resulting compressed timeframe provided insufficient time for SIP development, with some commenters also noting that the EPA's delayed rulemaking in this action has contributed to the planning burden on states. Two commenters observed that the proposed deadline would be less than 12 months from final area reclassifications, with one commenter

contending the EPA has long held that one year from final reclassification is an appropriate SIP submission deadline, and both commenters referencing the previous determination and reclassification action for Moderate areas under the 2008 ozone NAAQS as an example. One other commenter requested a SIP submission deadline of May 1, 2023, and two other commenters requested that the EPA provide the same planning timeframes allowed for initially designated areas (e.g., 2 years for RACT SIPs, 3 years for RFP and attainment demonstration SIPs). Two additional commenters did not request a specific deadline but were concerned that the proposed submission deadline was unachievable given the timing and time demands of state legislative processes, e.g., the Colorado General Assembly does not convene until mid-January each year, and the Connecticut regulatory adoption process generally takes 10–12 months and requires the approval of a legislative committee.

Response: The EPA acknowledges the short planning timeframe available to states with newly reclassified Moderate areas, and that delays in this rulemaking have reduced the time between the effective date of final area reclassifications and the proposed January 1, 2023, deadlines for SIP submissions for these areas. We further acknowledge that the available timeframe here will present significant challenges for many states. But we believe that our approaches for establishing SIP submission deadlines in prior determination and reclassification actions were case-specific and, while informative, are not determinative of our final action here. Of potential alternatives, we maintain that the deadline established in this final action best provides for consistent treatment of states in submitting SIP revisions within the constraints of attainment timeframes and RACT requirements under the Act. Further, to the extent that commenters suggested that states are confined to initiating SIP development activities only after the EPA finalizes its attainment determinations and area reclassifications, we disagree, as there are proactive and voluntary pathways by which states can anticipate and manage the tight timeframes to develop required SIP revisions for reclassified nonattainment areas. The EPA addresses specific aspects of commenters' concerns as follows.

Responding to comments that the January 1, 2023, deadline for SIP submissions for reclassified Moderate areas is unreasonable and/or provides insufficient time for state planning

activities, we look to the statutory framework and context underlying our legal and policy basis. Areas initially classified as Moderate under the 2015 ozone NAAQS were required to prepare and submit SIP revisions by deadlines relative to the effective date of the nonattainment designation (i.e., August 3, 2018), which ranged from 2 to 3 years after the effective date of designation (e.g., 2 years for the RACT SIP, and 3 years for the attainment plan with RACM and attainment demonstration). These SIP submission deadlines preceded the RACT implementation deadline (i.e., as expeditiously as practicable but no later than January 1 of the 5th year after the effective date of designations) and have the practical effect of ensuring that SIPs requiring control measures needed for attainment, including RACM, would be submitted prior to when those controls are required to be implemented—in this case, no later than the beginning of the Moderate area attainment year. i.e., January 1, 2023.

Section 181(b)(2)(A) of the CAA requires that within 6 months following the applicable attainment date, the EPA shall determine whether an ozone nonattainment area attained the ozone standard, and those areas that failed to attain and were not granted a 1-year attainment date extension are reclassified by operation of law. Although Congress did not articulate specific SIP submission deadlines for reclassified areas in the Act, it provided the EPA with authority under CAA section 182(i) to adjust any related deadlines for requirements under CAA sections 182(b) through (d) “. . . to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions.” Explicitly excluded from CAA section 182(i) is authority to adjust attainment dates, i.e., “. . . the Administrator may adjust any applicable deadlines (other than attainment dates) . . .”.

The area classifications and attainment date framework established in Table 1 of CAA section 181(a)(1) and interpreted by 40 CFR 51.1303 inherently constrains the planning and implementation timeframe for reclassified areas, particularly at lower area classifications. The time increments between the Marginal and Moderate, and the Moderate and Serious area statutory attainment dates are only three years. These short timeframes are further constrained by the RACT implementation deadline for reclassified areas. Consistent with the RACT requirements of 40 CFR 51.1312(a)(3)(ii), the EPA proposed a RACT implementation deadline for

reclassified Moderate areas corresponding with the beginning of the Moderate area attainment year (*i.e.*, January 1, 2023). Aligning the RACT implementation and SIP submission deadline for reclassified areas ensures that SIPs requiring control measures needed for attainment, including RACM, are submitted no later than when those controls are required to be implemented.²³ The combination of constraints dictated by the statutory and regulatory requirements for reclassified ozone areas, particularly at the lower classifications, are a primary cause of the compressed timeframe for SIP development and implementation. Even if the EPA had published this final determination and reclassification action by the statutory due date (*i.e.*, February 3, 2022) with an effective date 30 days after (*i.e.*, approximately March 7, 2022) there still would be less than a year between the effective date and the SIP submission deadline of January 1, 2023. We recognize that many areas may face difficulty in meeting the submission and implementation deadlines in the final rule, but this approach is consistent with the CAA and our regulations, and given the competing considerations, is a reasonable exercise of the EPA's discretion under CAA section 182(i).

Two commenters observed that the proposed deadline would be less than 12 months from final area reclassifications, with one commenter asserting that the EPA has long held that an appropriate deadline for states with reclassified areas to submit required SIP revisions is one year from final reclassification. Both commenters referenced the EPA's August 2019 final determination action that reclassified certain areas from Moderate to Serious for the 2008 ozone NAAQS and established a SIP submission deadline in August 2020. While we acknowledge that the short timeframe for SIP submittal here will present significant challenges for many states, we disagree with the commenter's general assertion that establishing a one-year SIP submission timeframe is a "long held" approach for the EPA. To this end, we wish to note multiple instances of the EPA establishing a SIP submission deadline of less than one year from the effective date of the final determination and reclassification action, *e.g.*, for four reclassified Moderate areas under the 1997 8-hour ozone NAAQS. Final actions for the four reclassified Moderate areas—Imperial County, California; Atlanta, Georgia; Beaumont-Port Arthur, Texas; and Baton Rouge,

Louisiana—established a SIP submission deadline corresponding with the beginning of the Moderate area attainment year (*i.e.*, December 31, 2008, or January 1, 2009) and approximately eight months from the final action effective date.²⁴ SIP revisions for reclassified Moderate and Serious areas under the 2008 ozone NAAQS were due approximately seven and ten months from the final action effective dates, respectively.²⁵

The EPA acknowledges that the referenced determination and reclassification action for Moderate areas under the 2008 ozone NAAQS established a SIP submission deadline for reclassified Serious areas of approximately one year from the final action. In that instance, the SIP submission deadline (August 3, 2020) was approximately 11 months from the final action effective date (September 23, 2019). However, we consider the final action for reclassified Serious areas under the 2008 ozone NAAQS distinguishable from this current action because the EPA proposed a SIP submission deadline of 12 months from the final action effective date, but was persuaded by comments received to finalize an aligned deadline of August 3, 2020, which corresponded with the RACT SIP submission deadline for areas initially classified Moderate and higher for the 2015 ozone NAAQS. The EPA's rationale, pursuant to the authority of CAA section 182(i), was to provide for "consistency among submissions" due from a nonattainment area for more than one NAAQS, which could also allow states to save limited resources by consolidating two SIP submissions into a single submission.²⁶ That situation does not exist for this current action and, while previous determination and reclassification actions may be informative, the EPA considers them to be case-specific and not necessarily determinative of our final rule approach for reclassified Moderate areas under the 2015 ozone NAAQS. The timeframes for the prior actions discussed here, as for the present action, were informed by the attainment date, and the different submission deadlines necessarily considered the time between the establishing action and the applicable attainment date. This timeframe varies

²⁴ See final determination and reclassification actions for the 1997 8-hour ozone NAAQS for Imperial County, CA (73 FR 8209, February 13, 2008); Atlanta, GA (73 FR 12013, March 6, 2008); Beaumont-Port Arthur, TX (73 FR 14391, March 18, 2008); and Baton Rouge, LA (73 FR 15087, March 21, 2008).

²⁵ See 81 FR 26697, 26704 (May 4, 2016) and 84 FR 44238, 44245 (August 23, 2019).

²⁶ See 84 FR 44238, 44246 (August 23, 2019).

across actions, and we cannot here apply a longer timeframe from a previous action if it would not be allowed by the applicable attainment date for this action.

Several commenters requested that EPA establish a later SIP submission deadline for reclassified Moderate areas, with one commenter requesting a specific date of May 1, 2023, and two commenters requesting deadlines that would provide the same planning timeframes allowed for initially designated areas. Two additional commenters did not request a specific deadline but were concerned that the proposed submission deadline was unachievable given the timing and time demands of state legislative processes. As discussed previously, Congress did not articulate specific SIP submission deadlines for reclassified areas in the Act, and it required that states submit all SIP revisions for initially designated Moderate areas (including RACT and the attainment plan with RACM and attainment demonstration) before their RACT implementation deadline, which is as expeditiously as practicable but no later than January 1, 2023. Further, as discussed in the proposed action, the EPA does not find it appropriate to provide deadlines of 2 and 3 years from the effective date of a final action on this determination, as those deadlines would fall after the Moderate area attainment date of August 3, 2024.²⁷ The January 1, 2023, submission deadline for reclassified Moderate areas may not be compatible with some state legislative processes, but nowhere in Subpart 2 did Congress indicate that state legislative processes or calendars should dictate, or even factor into, deadlines for CAA NAAQS implementation. The EPA maintains that establishing the selected SIP submission deadline ensures consistent treatment of states, consistency among SIP submissions, and balances the other considerations relevant to ozone attainment planning such as attainment dates and existing regulatory requirements.

We acknowledge again that meeting this SIP submission deadline will be challenging for many states, and that delays in this rulemaking have reduced the time between the effective date of this final action and the deadline for submission and implementation. However, to the extent that commenters suggested that states can only initiate SIP development activities only after the EPA finalizes its attainment determinations and area reclassifications, we disagree. There are

²⁷ See 87 FR 21842, 21855 (April 13, 2022).

²³ See 87 FR 21842, 21856 (April 13, 2022).

proactive and voluntary pathways by which states can anticipate and manage the tight timeframes to develop required SIP revisions for reclassified nonattainment areas, including early planning and voluntary reclassification. The EPA is aware that many states with areas affected by this current action may be constrained in finalizing rulemakings that require additional emissions controls unless the state air agency can demonstrate such controls were mandated by an underlying federal requirement (e.g., required pursuant to a mandatory area reclassification). However, to our knowledge most states with affected areas are not prohibited from starting their SIP development activities before the EPA finalizes this current action. As we noted in our 2019 attainment determination and reclassification action for the 2008 ozone NAAQS, states with Moderate areas that were proposed for reclassification as Serious had known with a reasonable amount of certainty that revised SIPs would be due in the near future to provide for expeditious attainment of the 2008 ozone NAAQS, and had the opportunity to make progress on plan development activities before issuance of the final action.²⁸ That remains true for this current action, where states with affected Marginal areas have been aware of preliminary 2018–2020 DVs since at least December 2020 and could have reasonably anticipated that SIP revisions for reclassified Moderate areas would again be due in the near future, consistent with previous EPA determination and reclassification actions. Nonetheless, the EPA recognizes the challenges posed by the aligned SIP submission and RACT implementation deadline of January 1, 2023, and is committed to working closely with states to help them as they prepare SIP revisions in a timely manner.

The EPA also notes that voluntary reclassification provides another way for states to anticipate and manage the tight timeframes for SIP development for nonattainment areas. An air agency can request—and the EPA *must* grant—a voluntary reclassification under CAA section 181(b)(3), which resets the area's attainment date into the future, and would therefore likely provide more time and flexibility for developing and submitting required SIP revisions. Of particular benefit for states is the longer timeframe to prepare RACT analyses and adopt SIP revisions for voluntarily reclassified areas, which could result in states determining that additional

controls are reasonable and in turn help expedite air quality improvements in these areas.

Comment: Regarding the proposed January 1, 2023, RACT implementation deadline for reclassified Moderate areas, the EPA received comments stating that the deadline was unreasonable, and/or the resulting compressed timeframe provided insufficient time for RACT SIP development and implementation by affected sources. One commenter generally agreed with the EPA that measures necessary to advance attainment should be implemented by the beginning of ozone season in the attainment year but, along with other commenters, contended it would be difficult for sources to timely procure needed materials and/or install new controls. Some commenters also noted that RACT implementation could be hindered by current supply chain issues stemming from, e.g., the COVID–19 pandemic. Two commenters supported RACT implementation deadlines corresponding with the start of the Moderate area attainment year ozone season for their respective areas (March 1, 2023, and May 1, 2023), and one commenter requested that states be afforded the RACT implementation timeframe for initially designated areas, i.e., as expeditiously as practicable but no later than January 1 of the fifth year after the effective date of designations. Another commenter contended that the January 1, 2023, deadline would limit RACT and RACM to only those measures that are already on the books or well into the adoption process. The same commenter further characterized the RACT requirement for their reclassified Moderate area as administrative and without environmental benefit because the proposed RACT timeline would limit them to merely certifying the adequacy of their recent 2008 ozone NAAQS RACT evaluation for purposes of the 2015 ozone NAAQS.

Response: As discussed in the preceding response to comments regarding submission deadlines, the EPA considers the compressed planning and RACT implementation timeframe for reclassified Moderate areas to dictated, to some degree, by the area classifications and attainment date framework established in the CAA. The regulatory RACT implementation deadline for reclassified areas, which is no later than the start of the area's attainment year ozone season, creates further constraints. In consideration of CAA section 182(i)'s direction that the EPA consider “consistency among the required submissions” and the EPA's interpretation that that provision may

refer in part to similarly situated Marginal areas across the country subject to reclassification, the EPA did not propose, and is not finalizing an approach that would establish different RACT/RACM implementation deadlines corresponding to an area's defined ozone season starting month. We instead proposed, and are finalizing, a consistent, nationally applicable RACT/RACM implementation deadline for all newly reclassified Moderate areas corresponding with the beginning of the applicable attainment year, i.e., January 1, 2023, which is also the same as the single RACT implementation deadline for all areas initially classified Moderate under the 2015 ozone NAAQS. The EPA maintains that this single deadline would provide for implementation of any identified RACT/RACM as early as possible in the attainment year to influence an area's air quality and 2021–2023 attainment DV and also treat states consistently, in keeping with CAA section 182(i). We do not think a RACT implementation deadline of as expeditiously as practicable but no later than January 1 of the fifth year after the effective date of this final action, as one commenter requested, is appropriate or reasonable, because that deadline would not only fall after the Moderate area attainment date of August 3, 2024, but also after the Serious area attainment date of August 3, 2027. Such a deadline would not serve the CAA's goal of expeditious attainment of the NAAQS by no later than the attainment date.

The EPA recognizes that measures that states identify as “reasonably available” and that affected sources must implement are directly tied to the amount of time provided by the EPA in establishing a due date within the statutory and regulatory constraints discussed previously. Therefore, as one commenter described, the January 1, 2023, submission and implementation deadline could limit RACT and RACM to measures that are already on the books or well into the state's adoption process, and might not generate additional emission reductions. However, delaying the implementation deadline for RACT will not make it more likely that the area will attain by its attainment date. The deadline the EPA is finalizing is already the beginning of the last year in which any emission reductions could influence an area's DV as of their next attainment date. So, to the extent that commenters do not think it will be possible to implement any controls beyond what is already on the books or well into the adoption process, but recognizes that additional controls are necessary for

²⁸ See 84 FR 44238, 44246 (August 23, 2019).

that area to reach attainment, those states, as discussed previously, may exercise their option to request a voluntary reclassification, which the EPA must approve. The EPA cannot, under the CAA, reclassify areas that it knows will not attain or are unlikely to attain by the attainment date; but states are fully within their rights to recognize this and put themselves in a better position for longer planning and implementation timeframes.

Importantly, as the commenter noted, RACT for reclassified Moderate areas could include adopted and in-progress measures that were initiated independent of the EPA's current determination and reclassification action for 2015 ozone Marginal areas. This highlights an important principle underlying the CAA, namely that of "cooperative federalism" where, in partnership with the EPA, states and local governments have the primary responsibility for the control of air pollution at its source (see CAA section 101(a)(3)). Marginal areas do not have a statutory obligation to determine and implement RACM/RACT, as required for areas classified as Moderate or higher; however, the CAA does not prevent states with Marginal areas from adopting "SIP strengthening" measures that improve air quality but do not address a specific CAA requirement and may potentially be determined as RACT pursuant to a mandatory area reclassification. As discussed in the preceding response to comments, we are aware that states with reclassified Moderate areas may be constrained in finalizing rulemakings that require additional emissions controls unless the state air agency can demonstrate an underlying federal requirement but, for many areas, states have had significant lead time to initiate SIP development based on their knowledge of preliminary 2018–2020 DVs and reasonable anticipation that SIP revisions would be due in the near future.

Comment: The EPA received two comments on the 4-year timeframe to implement new or revised I/M programs not tied to attainment. One commenter supported allowing up to four years to implement new I/M programs. The second commenter noted that a 4-year implementation timeline for I/M may be ambitious given the considerable community outreach and public education efforts that are necessary to start up a program that potentially impacts so many individuals. The commenter urged the EPA to give states

more than four years to fully implement an I/M program.

Response: The EPA acknowledges the unique nature of I/M programs and that there are many challenges, tasks, and milestones when establishing and implementing a new or revised I/M program. For the reasons described in the April 2022 proposal, the EPA continues to maintain that a deadline of up to four years is reasonable and is using our authority under CAA section 182(i) to grant this flexibility to those areas required to implement I/M under this final rule but are not intending to rely on the I/M program for attainment or RFP reductions.

Comment: One commenter noted the EPA should clarify what technical assistance will be provided for I/M programs and when it will be provided.

Response: As stated in the NPRM, the EPA intends to provide technical assistance and guidance for I/M programs in affected ozone nonattainment areas. The EPA encourages states to contact their EPA Regional Office early in the I/M SIP development process. In addition, the EPA's Office of Transportation and Air Quality continues to provide I/M guidance; see the EPA's I/M website at www.epa.gov/state-and-local-transportation/vehicle-emissions-inspection-and-maintenance-im.

III. Environmental Justice (EJ) Impacts

As discussed in Section II.B of this notice, the EPA is finalizing its proposal to grant a request for a 1-year attainment date extension for the Uinta Basin, Utah, nonattainment area and extend the August 3, 2021, Marginal area attainment date to August 3, 2022, based on our finding that the state meets the two criteria under CAA section 181(a)(5) as interpreted by the EPA in 40 CFR 51.1307 and additional considerations do not weigh against our decision to grant UDAQ's request. For example, the EPA conducted an EJSCREEN analysis for the area to evaluate whether communities in the Uinta Basin area may be exposed to disproportionate pollution burdens. The results of our screening analysis did not indicate disproportionate exposure or burdens with respect to the non-ozone environmental indicators assessed in EJSCREEN.

As discussed in Section II.E of this notice and the April 2022 proposal, a Basic vehicle I/M SIP is required for urbanized Moderate areas under the 2015 ozone NAAQS, including for areas

with and without an existing I/M program that may have been implemented to meet the CAA requirements for a previous ozone NAAQS. I/M programs ensure that vehicles are operating according to the EPA's vehicle emissions standards and adequately protecting public health. However, any Basic I/M program for the 2015 ozone NAAQS may present potential economic hardship and other concerns for low-income individuals of newly reclassified Moderate ozone nonattainment areas, and we encourage states that are not already providing vehicle repair or replacement assistance programs to work with interested parties in their nonattainment areas to address such concerns.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is exempt from review by the Office of Management and Budget (OMB) because it responds to the CAA requirement to determine whether areas designated nonattainment for an ozone NAAQS attained the standard by the applicable attainment date, and to take certain steps for areas that failed to attain.

B. Paperwork Reduction Act (PRA)

This rule does not impose any new information collection burden under the PRA not already approved by the Office of Management and Budget. This action does not contain any information collection activities and serves only to make final: (1) determinations that certain Marginal nonattainment areas listed in Table 2 attained the 2015 ozone standards by the August 3, 2021 attainment date; (2) approval to grant a certain Marginal nonattainment area listed in Table 2 a 1-year attainment date extension from the August 3, 2021, attainment date to August 3, 2022; (3) determinations that certain Marginal nonattainment areas listed in Table 2 failed to attain the 2015 ozone standards by the August 3, 2021, attainment date (September 24, 2021, for San Antonio, Texas) where such areas will be reclassified as Moderate nonattainment for the 2015 ozone standards by operation of law upon the effective date of the final reclassification action; and (4) adjust any applicable implementation deadlines.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. The determinations of attainment and failure to attain the 2015 ozone standards (and resulting reclassifications), and the final approval to grant 1-year attainment date extensions do not in and of themselves create any new requirements beyond what is mandated by the CAA. Instead, this rulemaking only makes factual determinations, and does not directly regulate any entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538 and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The division of responsibility between the federal government and the states for purposes of implementing the NAAQS is established under the CAA.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action has tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law.

The EPA has identified tribal areas within the nonattainment areas covered by this rulemaking, that would be potentially affected by this final action. Specifically, eight of the nonattainment areas addressed in this final action have tribes located within their boundaries: Amador, California (Jackson Rancheria of Me-Wuk Indians), Berrien County, Michigan (Pokagon Band of Potawatomi Indians), Greater Connecticut, Connecticut (Mashantucket Pequot Tribal Nation and Mohegan Indian Tribe), Northern Wasatch Front, Utah

(Skull Valley Band of Goshute Indians), Phoenix-Mesa, Arizona (Fort McDowell Yavapai Nation, Gila River Indian Community of the Gila River Indian Reservation, Salt River Pima-Maricopa Indian Community of the Salt River Reservation, and Tohono O'odham Nation), San Francisco, California (Lytton Rancheria), Uinta Basin, Utah (Ute Indian Tribe of the Uintah & Ouray Reservation), and Yuma, Arizona (Cocopah Tribe and Quechan Tribe of the Fort Yuma Indian Reservation). One of the nonattainment areas addressed in this document is a separate tribal nonattainment area (Pechanga Band of Luiseño Mission Indians of the Pechanga Reservation).

The EPA has concluded that the final rule may have tribal implications for these tribes for the purposes of Executive Order 13175 but would not impose substantial direct costs upon the tribes, nor would it preempt tribal law. As noted in our proposed rule, a tribe that is part of an area that is reclassified from Marginal to Moderate nonattainment is not required to submit a tribal implementation plan revision to address new Moderate area requirements.²⁹ However, the NNSR major source threshold and offset requirements will change for stationary sources seeking preconstruction permits in any nonattainment areas newly reclassified as Moderate (Section II.D.1 of this notice), including on tribal lands within these nonattainment areas. Areas that are already classified Moderate for a previous ozone NAAQS are already subject to these higher offset ratios and lower thresholds, so a reclassification to Moderate for the 2015 ozone NAAQS would have no effect on NNSR permitting requirements for tribal lands in those areas.

The EPA has communicated or intends to communicate with the potentially affected tribes located within the boundaries of the nonattainment areas addressed in this final action, including offering government-to-government consultation, as appropriate.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying to those regulatory actions that concern environmental health or safety risks that the EPA has

reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does 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). The documentation for this determination is contained in Section III of this preamble, “Environmental Justice (EJ) Impacts.”

K. Congressional Review Act (CRA)

This rule is exempt from the CRA because it is a rule of particular applicability. The rule makes factual determinations for specific entities and does not directly regulate any entities. The determinations of attainment and failure to attain the 2015 ozone NAAQS (and resulting reclassifications), and the approval to grant 1-year attainment date extensions do not in themselves create any new requirements beyond what is mandated by the CAA.

L. Judicial Review

Section 307(b)(1) of the CAA governs judicial review of final actions by the EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit: (i) when the agency action consists of “nationally applicable regulations promulgated, or final actions taken, by the Administrator,” or (ii) when such action is locally or regionally

²⁹ See 87 FR 21842, 21846 (April 13, 2022).

applicable, but “such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.” For locally or regionally applicable final actions, the CAA reserves to the EPA complete discretion whether to invoke the exception in (ii).

This final action is “nationally applicable” within the meaning of CAA section 307(b)(1). In this final action, the EPA is applying a uniform process and standard to areas across the country to make determinations regarding attainment of the 2015 ozone NAAQS for the majority of areas that are designated and classified as Marginal nonattainment for these NAAQS. All listed areas that have failed to attain by the Marginal area attainment date³⁰ are reclassified to Moderate upon the effective date of this final action and are subject to the same deadlines established pursuant to CAA section 182(i) for revising state implementation plans and implementing control requirements associated with the Moderate area classification. The nonattainment areas subject to this final rulemaking are located in 19 states and the District of Columbia, nine of the ten EPA regions, and the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th and D.C. Circuits. Given that on its face this action addresses areas in states located across a wide geographic area, and uses common, nationwide analytical methods the EPA consistently applies when making determinations regarding attainment, acting on attainment date extension requests, acting on international transport demonstrations submitted to relieve states of otherwise-applicable reclassification requirements, and adjusting deadlines for all newly reclassified areas, this is a “nationally applicable” action within the meaning of CAA section 307(b)(1).

In the alternative, to the extent a court finds this final action to be locally or regionally applicable, the Administrator

is exercising the complete discretion afforded to him under the CAA to make and publish a finding that this action is based on a determination of “nationwide scope or effect” within the meaning of CAA section 307(b)(1).³¹ In deciding to invoke this exception, the Administrator has taken into account a number of policy considerations, including his judgment regarding the benefit of obtaining the D.C. Circuit’s authoritative centralized review, rather than allowing development of the issue in other contexts, in order to ensure consistency in the Agency’s approach to implementation of the 2015 ozone NAAQS in the majority of the nonattainment areas nationwide that are classified Marginal for the 2015 ozone NAAQS. This final action treats all of the identified Marginal nonattainment areas consistently, in making determinations of whether areas attained by the attainment date, in acting on requests for extensions, in evaluating demonstrations under CAA section 179B, and in reclassifying areas as Moderate and establishing consistent deadlines for all of these areas to submit and implement control measures and other plan elements required for Moderate areas. The Administrator finds that this is a matter on which national uniformity is desirable to take advantage of the D.C. Circuit’s administrative law expertise and facilitate the orderly development of the basic law under the Act. The Administrator also finds that consolidated review of this action in the D.C. Circuit will avoid piecemeal litigation in the regional circuits, further judicial economy, and eliminate the risk of inconsistent results for different states. The Administrator also finds that a nationally consistent approach to the CAA’s mandate concerning reclassification of areas that fail to attain the 2015 ozone NAAQS constitutes the best use of agency resources. The

³¹ In the report on the 1977 Amendments that revised CAA section 307(b)(1), Congress noted that the Administrator’s determination that the “nationwide scope or effect” exception applies would be appropriate for any action that has a scope or effect beyond a single judicial circuit. See H.R. Rep. No. 95–294 at 323–24, reprinted in 1977 U.S.C.C.A.N. 1402–03.

Administrator is publishing his finding that this action is based on a determination of nationwide scope or effect in the **Federal Register** as part of this final rule.

For these reasons, this final action is nationally applicable or, alternatively, the Administrator is exercising the complete discretion afforded to him by the CAA and finds that this final action is based on a determination of nationwide scope or effect for purposes of CAA section 307(b)(1) and is publishing that finding in the **Federal Register**. Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit by December 6, 2022.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, and Volatile organic compounds.

Michael S. Regan,
Administrator.

For the reasons stated in the preamble, parts 52 and 81, title 40, chapter 1 of the Code of Federal Regulations are 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.*

³⁰ These areas include the Northern Wasatch Front, UT area and the San Antonio, TX area because the EPA is disapproving the CAA section 179B demonstrations from those two states, consistent with its CAA section 179B Guidance.

Subpart D—Arizona

■ 2. Section 52.153 is amended by adding paragraph (b) and reserving paragraph (c) to read as follows:

§ 52.153 Control strategy and regulations: Ozone.

* * * * *

(b) *Determination of attainment by the attainment date.* Effective November 7, 2022 the EPA has determined that the Yuma County Marginal nonattainment area in Arizona attained the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS) by the applicable attainment date of August 3, 2021, based upon complete quality-assured and certified data for the calendar years 2018–2020.

(c) [Reserved]

Subpart F—California

■ 3. Section 52.282 is amended by adding paragraph (m) to read as follows:

§ 52.282 Control strategy and regulations: Ozone.

* * * * *

(m) *Determinations of attainment by the attainment date.* Effective November 7, 2022. The EPA has determined that the Amador County and San Francisco Bay Marginal nonattainment areas in California attained the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS) by the applicable attainment date of August 3, 2021, based upon complete quality-assured and

certified data for the calendar years 2018–2020.

Subpart L— Georgia

■ 4. Section 52.577 is amended by adding paragraph (e) to read as follows:

§ 52.577 Determination of attainment.

* * * * *

(e) Based upon EPA’s review of the air quality data for the 3-year period 2018–2020, EPA determined that the Atlanta, Georgia, 2015 8-hour ozone nonattainment area attained the 2015 8-hour ozone NAAQS by the applicable attainment date of August 3, 2021. Therefore, EPA has met the requirement pursuant to CAA section 181(b)(2) to determine, based on the Area’s air quality as of the attainment date, whether the Area attained the standard. EPA also determined that the Atlanta, Georgia, 2015 8-hour ozone nonattainment area is not subject to the consequences of failing to attain pursuant to section 181(b)(2).

Subpart TT— Utah

■ 5. Section 52.2332 is revised to read as follows:

§ 52.2332 Control strategy: Ozone.

(a) *Determinations.* EPA is determining that, as of July 18, 1995, the Salt Lake and Davis Counties ozone nonattainment area has attained the ozone standard based on air quality monitoring data from 1992, 1993, and 1994, and that the reasonable further progress and attainment demonstration

requirements of section 182(b)(1) and related requirements of section 172(c)(9) of the Clean Air Act do not apply to the area for so long as the area does not monitor any violations of the ozone standard. If a violation of the ozone NAAQS is monitored in the Salt Lake and Davis Counties ozone nonattainment area, these determinations shall no longer apply.

(b) *Determination.* Effective November 7, 2022, EPA is determining that the Southern Wasatch Front, Utah Marginal nonattainment area attained the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS) by the applicable attainment date of August 3, 2021, based upon complete quality-assured and certified data for the calendar years 2018–2020.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 7. The authority citation for part 81 continues to read as follows:

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

Subpart C—Section 107 Attainment Status Designations

■ 8. Section 81.303 is amended in the table for “Arizona-2015 8-Hour Ozone NAAQS [Primary and Secondary]” by revising the entry for “Phoenix-Mesa, AZ” to read as follows:

§ 81.303 Arizona.

ARIZONA—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Phoenix-Mesa, AZ Gila County (part): T2N, R12E (except that portion in Maricopa County); T3N, R12E (except that portion in Maricopa County); T4N, R12E (Sections 25 through 29 (except those portions in Maricopa County) and 33 through 36 (except those portions in Maricopa County)). Mariposa County (part):	Nonattainment	November 7, 2022	Moderate.

ARIZONA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
T1N, R1E (except that portion in Indian Country); T1N, R2E; T1N, R3E; T1N, R4E (except that portion in Indian Country); T1N, R5E (except that portion in Indian Country); T1N, R6E; T1N, R7E; T1N, R1W; T1N, R2W; T1N, R3W; T1N, R4W; T1N, R5W; T1N, R6W; T1N, R7W; T1N, R8W; T2N, R1E; T2N, R2E; T2N, R3E; T2N, R4E; T2N, R6E (except that portion in Indian Country); T2N, R7E (except that portion in Indian Country); T2N, R8E; T2N, R9E; T2N, R10E; T2N, R11E; T2N, R12E (except that portion in Gila County); T2N, R13E (except that portion in Gila County); T2N, R1W; T2N, R2W; T2N, R3W; T2N, R4W; T2N, R5W; T2N, R6W; T2N, R7W; T2N, R8W; T3N, R1E; T3N, R2E; T3N, R3E; T3N, R4E; T3N, R5E (except that portion in Indian Country); T3N, R6E (except that portion in Indian Country); T3N, R7E (except that portion in Indian Country); T3N, R8E; T3N, R9E; T3N, R10E (except that portion in Gila County); T3N, R11E (except that portion in Gila County); T3N, R12E (except that portion in Gila County); T3N, R1W; T3N, R2W; T3N, R3W; T3N, R4W; T3N, R5W; T3N, R6W; T4N, R1E; T4N, R2E; T4N, R3E; T4N, R4E; T4N, R5E; T4N, R6E (except that portion in Indian Country); T4N, R7E (except that portion in Indian Country); T4N, R8E; T4N, R9E; T4N, R10E (except that portion in Gila County); T4N, R11E (except that portion in Gila County); T4N, R12E (except that portion in Gila County); T4N, R1W; T4N, R2W; T4N, R3W; T4N, R4W; T4N, R5W; T4N, R6W; T5N, R1E; T5N, R2E; T5N, R3E; T5N, R4E; T5N, R5E; T5N, R6E; T5N, R7E; T5N, R8E; T5N, R9E (except that portion in Gila County); T5N, R10E (except that portion in Gila County); T5N, R1W; T5N, R2W; T5N, R3W; T5N, R4W; T5N, R5W; T6N, R1E (except that portion in Yavapai County); T6N, R2E; T6N, R3E; T6N, R4E; T6N, R5E; T6N, R6E; T6N, R7E; T6N, R8E; T6N, R9E (except that portion in Gila County); T6N, R10E (except that portion in Gila County); T6N, R1W (except that portion in Yavapai County); T6N, R2W; T6N, R3W; T6N, R4W; T6N, R5W; T7N, R1E (except that portion in Yavapai County); T7N, R2E (except that portion in Yavapai County); T7N, R3E; T7N, R4E; T7N, R5E; T7N, R6E; T7N, R7E; T7N, R8E; T7N, R9E (except that portion in Gila County); T7N, R1W (except that portion in Yavapai County); T7N, R2W (except that portion in Yavapai County); T8N, R2E (except that portion in Yavapai County); T8N, R3E (except that portion in Yavapai County); T8N, R4E (except that portion in Yavapai County); T8N, R5E (except that portion in Yavapai County); T8N, R6E (except that portion in Yavapai County); T8N, R7E (except that portion in Yavapai County); T8N, R8E (except that portion in Yavapai and Gila Counties); T8N, R9E (except that portion in Yavapai and Gila Counties); T1S, R1E (except that portion in Indian Country); T1S, R2E (except that portion in Pinal County and in Indian Country);				

ARIZONA—2015 8-HOUR OZONE NAAQS—Continued
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
T1S, R3E; T1S, R4E; T1S, R5E; T1S, R6E; T1S, R7E; T1S, R1W; T1S, R2W; T1S, R3W; T1S, R4W; T1S, R5W; T1S, R6W; T2S, R1E (except that portion in Indian Country); T2S, R5E; T2S, R6E; T2S, R7E; T2S, R1W; T2S, R2W; T2S, R3W; T2S, R4W; T2S, R5W; T3S, R1E; T3S, R1W; T3S, R2W; T3S, R3W; T3S, R4W; T3S, R5W; T4S, R1E; T4S, R1W; T4S, R2W; T4S, R3W; T4S, R4W; T4S, R5W; T5S, R4W (Sections 1 through 22 and 27 through 34). Pinal County (part): T1N, R8E; T1N, R9E; T1N, R10E; T1S, R8E; T1S, R9E; T1S, R10E; T2S, R8E (Sections 1 through 10, 15 through 22, and 27 through 34); T2S, R9E (Sections 1 through 6); T2S, R10E (Sections 1 through 6); T3S, R7E (Sections 1 through 6, 11 through 14, 23 through 26, and 35 through 36); T3S, R8E (Sections 3 through 10, 15 through 22, and 27 through 34). Fort McDowell Yavapai Nation. Gila River Indian Community of the Gila River Indian Reservation, Arizona. Includes only non-contiguous areas of Indian country known as “parcels M & N”. ³ Tohono O’odham Nation of Arizona. Salt River Pima-Maricopa Indian Community of the Salt River Reservation.	*	*	*	*

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

³ See Section 3.0 of the EPA’s technical support document for Arizona, titled “Arizona Final Area Designations for the 2015 Ozone National Ambient Air Quality Standards Technical Support Document (TSD),” for more information and a map showing the locations of “parcels M & N” (available in Docket ID: EPA-HQ-OAR-2017-0548).

* * * * *

■ 9. Section 81.305 is amended in the table for “California-2015 8-Hour Ozone NAAQS [Primary and Secondary]” by

revising the entries for “Mariposa County, CA” and “Pechanga Band of Luiseño Mission Indians of the

Pechanga Reservation” to read as follows:

§ 81.305 California.

* * * * *

CALIFORNIA—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
* * * * * Mariposa County, CA Mariposa County.	*	Nonattainment	November 7, 2022	Moderate.
* * * * * Pechanga Band of Luiseño Mission Indians of the Pechanga Reservation: Includes the main body of the contiguous Pechanga Band Reservation and the noncontiguous area known as Pu’eska Mountain, excluding non-contiguous tribal lands in the Los Angeles-South Coast Air Basin, CA (Meadowbrook parcel). ³	*	Nonattainment	November 7, 2022	Moderate.

CALIFORNIA—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
*	*	*	*	*

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

³ See Section 23.0 of the EPA's technical support document for California, titled "California Final Area Designations for the 2015 Ozone National Ambient Air Quality Standards Technical Support Document (TSD)," for more information and maps showing the locations of the main body of the reservation and the non-contiguous Pu'eska Mountain and Meadowbrook lands (available in Docket ID: EPA-HQ-OAR-2017-0548).

* * * * *

■ 10. Section 81.306 is amended in the table for "Colorado—2015 8-Hour

Ozone NAAQS [Primary and Secondary]" by revising the entry for "Denver Metro/North Front Range, CO" to read as follows:
§ 81.306 Colorado.
 * * * * *

COLORADO—2015 8-HOUR OZONE NAAQS
 [Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Denver Metro/North Front Range, CO Adams County. Arapahoe County. Boulder County. Broomfield County. Denver County. Douglas County. Jefferson County. Larimer County (part). Including the portion of Rocky Mountain National Park therein and that portion of the county that lies south of a line described as follows: Beginning at a point on Larimer County's eastern boundary and Weld County's western boundary intersected by 40 degrees, 42 minutes, and 47.1 seconds north latitude, proceed west to a point defined by the intersection of 40 degrees, 42 minutes, 47.1 seconds north latitude and 105 degrees, 29 minutes, and 40.0 seconds west longitude, thence proceed south on 105 degrees, 29 minutes, 40.0 seconds west longitude to the intersection with 40 degrees, 33 minutes and 17.4 seconds north latitude, thence proceed west on 40 degrees, 33 minutes, 17.4 seconds north latitude until this line intersects Larimer County's western boundary and Grand County's eastern boundary.	Nonattainment	November 7, 2022	Moderate.	
Weld County	12/30/2021 ³ .			
*	*	*	*	

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

³ EPA revised the nonattainment boundary in response to a court decision, which did not vacate any designations for the 2015 ozone NAAQS, but which remanded the designation for the identified county. Because this additional area is part of a previously designated nonattainment area, the implementation dates for the overall nonattainment area (e.g., the August 3, 2021 attainment date) remain unchanged regardless of this later designation date.

* * * * *

■ 11. Section 81.307 is amended in the table for “Connecticut—2015 8-Hour Ozone NAAQS [Primary and Secondary]” by revising the entry for “Greater Connecticut, CT” to read as follows:

§ 81.307 Connecticut.
* * * * *

CONNECTICUT—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Greater Connecticut, CT Hartford County. Litchfield County. New London County. Tolland County. Windham County.	November 7, 2022	Nonattainment	November 7, 2022	Moderate.

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.
² This date is August 3, 2018, unless otherwise noted.

* * * * *

■ 12. Section 81.308 is amended in the table for “Delaware—2015 8-Hour Ozone NAAQS [Primary and Secondary]” by revising the entry for “Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE” to read as follows:

§ 81.308 Delaware.
* * * * *

DELAWARE—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE. New Castle County.	November 7, 2022	Nonattainment	November 7, 2022	Moderate.

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.
² This date is August 3, 2018, unless otherwise noted.

* * * * *

■ 13. Section 81.309 is amended in the table for “District of Columbia—2015 8-Hour Ozone NAAQS [Primary and Secondary]” by revising the entry for “Washington, DC-MD-VA” to read as follows:

§ 81.309 District of Columbia.
* * * * *

DISTRICT OF COLUMBIA—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Washington, DC-MD-VA District of Columbia.	November 7, 2022	Nonattainment	November 7, 2022	Moderate.

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.
² This date is August 3, 2018, unless otherwise noted.

* * * * *

■ 14. Section 81.314 is amended in the table for “Illinois—2015 8-Hour Ozone NAAQS [Primary and Secondary]” by revising the entries for “Chicago, IL-IN-

WI” and “St. Louis, MO-IL” to read as follows:

§ 81.314 Illinois.
* * * * *

ILLINOIS—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Table with 5 columns: Designated area 1, Date 2, Type, Date 2, Type. Rows include Chicago, IL-IN-WI (Cook, DuPage, Grundy counties, Aux Sable Township, Kane, Kendall counties) and St. Louis, MO-IL (Madison, Monroe, St. Clair counties).

1 Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area.

2 This date is August 3, 2018, unless otherwise noted.

3 EPA revised the nonattainment boundary in response to a court decision, which did not vacate any designations for the 2015 ozone NAAQS, but which remanded the designation for the identified county.

* * * * *

15. Section 81.315 is amended in the table for “Indiana—2015 8-Hour Ozone

NAAQS [Primary and Secondary]” by revising the entry for “Chicago, IL-IN-WI” to read as follows:

§ 81.315 Indiana.
* * * * *

INDIANA—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Table with 5 columns: Designated area 1, Date 2, Type, Date 2, Type. Rows include Chicago, IL-IN-WI (Lake County) and Porter County (part).

1 Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area.

2 This date is August 3, 2018, unless otherwise noted.

3 EPA revised the nonattainment boundary in response to a court decision, which did not vacate any designations for the 2015 ozone NAAQS, but which remanded the designation for the identified county.

* * * * *

16. Section 81.318 is amended in the table for “Kentucky—2015 8-Hour

Ozone NAAQS [Primary and Secondary]” by revising the entries for

“Cincinnati, OH-KY” and “Louisville, KY-IN” to read as follows:

§ 81.318 Kentucky.

* * * * *

KENTUCKY—2015 8-HOUR OZONE NAAQS
(Primary and secondary)

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Cincinnati, OH-KY	Nonattainment	November 7, 2022	Moderate.
Boone County (part): The entire county except for 2010 US Census Tracts 706.01 and 706.04.				
Campbell County (part): The entire county except for 2010 US Census Tracts 520.01 and 520.02.				
Kenton County (part): The entire county except for 2010 US Census Tracts 637.01 and 637.02.				
Louisville, KY-IN	Nonattainment	November 7, 2022	Moderate.
Bullitt County. Jefferson County. Oldham County.				
* * * * *				

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

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■ 17. Section 81.321 is amended in the table for “Maryland—2015 8-Hour Ozone NAAQS [Primary and

Secondary]” by revising the entries for “Baltimore, MD”, “Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-

DE” and “Washington, DC-MD-VA” to read as follows:

§ 81.321 Maryland.

* * * * *

MARYLAND—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Baltimore, MD	Nonattainment	November 7, 2022	Moderate.
Anne Arundel County. Baltimore County. Carroll County. Harford County. Howard County. City of Baltimore.				
Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE. Cecil County.	Nonattainment	November 7, 2022	Moderate.
Washington, DC-MD-VA	Nonattainment	November 7, 2022	Moderate.
Calvert County. Charles County. Fredrick County. Montgomery County. Prince George’s County.				
* * * * *				

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

* * * * *

■ 18. Section 81.323 is amended in the table for “Michigan—2015 8-Hour

Ozone NAAQS [Primary and Secondary]” by revising the entries for

“Allegan County, MI”, “Berrien County, MI” and “Muskegon County, MI” to read as follows: **§ 81.323 Michigan.**
* * * * *

MICHIGAN—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Allegan County, MI Allegan County (part): Casco Township, Cheshire Township, City of Douglas, City of Holland, City of Saugatuck, Clyde Township, Fillmore Township, Ganges Township, Heath Township, Laketown Township, Lee Township, Manilus Township, Overisel Township, Saugatuck Township, and Valley Township.	Nonattainment	November 7, 2022	Moderate.
Berrien County, MI Berrien County.	Nonattainment	November 7, 2022	Moderate.
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Muskegon County, MI Muskegon County (part): Blue Lake Township, City of Montague, City of Muskegon, City of Muskegon Heights, City of North Muskegon, City of Roosevelt Park, City of Whitehall, Dalton Township, (incl. Village of Lakewood Club), Fruitland Township, Fruitport Township, (incl. Village of Fruitport) Laketon Township, Montague Township, Muskegon Township, Norton Shores Township, White River Township, and Whitehall Township.	Nonattainment	November 7, 2022	Moderate.
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.
² This date is August 3, 2018, unless otherwise noted.

* * * * * NAAQS [Primary and Secondary]” by **§ 81.326 Missouri.**
revising the entry for “St. Louis, MO-IL” * * * * *
■ 19. Section 81.326 is amended in the table for “Missouri—2015 8-Hour Ozone to read as follows:

MISSOURI—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
St. Louis, MO-IL: Franklin County (part).	.....	Nonattainment	November 7, 2022	Moderate.
Boles Township: Jefferson County St. Charles County. St. Louis County. City of St. Louis.	July 14, 2021 ³ .			
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.
² This date is August 3, 2018, unless otherwise noted.

³EPA revised the nonattainment boundary in response to a court decision, which did not vacate any designations for the 2015 ozone NAAQS, but which remanded the designation for the identified county. Because this additional area is part of a previously designated nonattainment area, the implementation dates for the overall nonattainment area (e.g., the August 3, 2021 attainment date) remain unchanged regardless of this later designation date.

* * * * *

■ 20. Section 81.331 is amended in the table for “New Jersey—2015 8-Hour Ozone NAAQS [Primary and Secondary]” by revising the entry for “Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE” to read as follows:

NEW JERSEY—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
* * * * * Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE. Atlantic County. Burlington County. Camden County. Cape May County. Cumberland County. Gloucester County. Mercer County. Ocean County. Salem County.	* * * * *	Nonattainment	November 7, 2022	Moderate.

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.
² This date is August 3, 2018, unless otherwise noted.

* * * * *

■ 21. Section 81.336 is amended in the table for “Ohio—2015 8-Hour Ozone NAAQS [Primary and Secondary]” by revising the entries for “Cleveland, OH” to read as follows:

OHIO—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
* * * * * Cleveland, OH Cuyahoga County. Geauga County. Lake County. Lorain County. Medina County. Portage County. Summit County.	* * * * *	Nonattainment	November 7, 2022	Moderate.

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.
² This date is August 3, 2018, unless otherwise noted.

* * * * *

■ 22. Section 81.339 is amended in the table for “Pennsylvania—2015 8-Hour Ozone NAAQS [Primary and Secondary]” by revising the entry for “Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE” to read as follows:

§ 81.339 Pennsylvania.

PENNSYLVANIA—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE. Bucks County. Chester County. Delaware County. Montgomery County. Philadelphia County.	Nonattainment	November 7, 2022	Moderate.
* * * * *	*	*	*	*

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

* * * * *
 ■ 23. Section 81.344 is amended in the table for “Texas—2015 8-Hour Ozone NAAQS [Primary and Secondary]” by

revising the entries for “Dallas-Fort Worth, TX”, “Houston-Galveston-Brazoria, TX” and “San Antonio, TX” to read as follows:

§ 81.344 Texas.

* * * * *

TEXAS—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Dallas-Fort Worth, TX Collin County. Dallas County. Denton County. Ellis County. Johnson County. Kaufman County. Parker County. Tarrant County. Wise County.	.....	Nonattainment	November 7, 2022	Moderate.
* * * * *	*	*	*	*
Houston-Galveston-Brazoria, TX Brazoria County. Chambers County. Fort Bend County. Galveston County. Harris County. Montgomery County.	.....	Nonattainment	November 7, 2022	Moderate.
* * * * *	*	*	*	*
San Antonio, TX Bexar County.	9/24/2018	Nonattainment	November 7, 2022	Moderate.
* * * * *	*	*	*	*

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

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 ■ 24. Section 81.345 is amended in the table for “Utah—2015 8-Hour Ozone

NAAQS [Primary and Secondary]” by revising the entries for “Northern Wasatch Front, UT” and “Uinta Basin, UT” to read as follows:

§ 81.345 Utah.

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UTAH—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Northern Wasatch Front, UT .....	.....	Nonattainment	November 7, 2022	Moderate.
Weber County (part):				
All portions of Weber County west of and including Townships 5, 6, and that portion of 7 North Range 1 West that are west of the ridgeline that traces the Wasatch Mountains from the southeast corner of the township to the easternmost extension of the county boundary within the township.				
Tooele County (part):				
In Tooele County, the following Townships or portions thereof as noted (including Tooele City):				
Township 1 South Range 3 West.				
Township 2 South Range 3 West.				
Township 3 South Range 3 West				
Township 3 South Range 4 West.				
Township 2 South Range 4 West.				
Township 2 South Range 5 West.				
Township 3 South Range 5 West.				
Township 3 South Range 6 West.				
Township 2 South Range 6 West.				
Township 1 South Range 6 West.				
Township 1 South Range 5 West.				
Township 1 South Range 4 West.				
Township 1 South Range 7 West.				
Township 2 South Range 7 West.				
Township 3 South Range 7 West.				
All Sections within Township 4 South Range 7 West except for Sections 29, 30, 31 and 32.				
Township 4 South Range 6 West.				
Township 4 South Range 5 West.				
Township 4 South Range 4 West.				
Township 4 South Range 3 West.				
Salt Lake County.				
Davis County.				
*	*	*	*	*
Uinta Basin, UT ³⁴	8/03/22	Nonattainment	November 7, 2022	Marginal.
Duchesne County (part):				
All land in Duchesne County below a contiguous external perimeter of 6,250 ft. in elevation. All areas within that contiguous external perimeter are included in the nonattainment area—including mesas and buttes which may have an elevation greater than 6,250 ft., but which are surrounded on all sides by land lower than 6,250 ft. Additionally, areas that fall outside the 6,250 ft. contiguous external perimeter that have elevations less than 6,250 ft. are excluded from the nonattainment area. The boundary is defined by the 6,250 ft. contour line created from the 2013 USGS 10-meter seamless Digital Elevation Model (USGS NED n41w110 ¹ / ₃ arc-second 2013 1 × 1 degree IMG).				
Uintah County (part):				

UTAH—2015 8-HOUR OZONE NAAQS—Continued
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
All land in Uintah County below a contiguous external perimeter of 6,250 ft. in elevation. All areas within that contiguous external perimeter are included in the nonattainment area—including mesas and buttes which may have an elevation greater than 6,250 ft., but which are surrounded on all sides by land lower than 6,250 ft. Additionally, areas that fall outside the 6,250 ft. contiguous external perimeter that have elevations less than 6,250 ft. are excluded from the nonattainment area. The boundary is defined by the 6,250 ft. contour line created from the 2013 USGS 10-meter seamless Digital Elevation Model (USGS NED n41w110 1/3 arc-second 2013 1 × 1 degree IMG).				
*	*	*	*	*

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² This date is August 3, 2018, unless otherwise noted.

³ The EPA is designating portions of the Uinta Basin as “nonattainment,” including both Tribal and State lands. The Ute Indian Tribe has air quality planning jurisdiction in the areas of Indian country included in the Uinta Basin nonattainment area, while the State of Utah has air quality planning jurisdiction in the areas of State land included in the Uinta Basin nonattainment area.

⁴ Attainment date is extended to August 3, 2022 for the Uinta Basin, UT, nonattainment area.

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■ 25. Section 81.347 is amended in the table for “Virginia—2015 8-Hour Ozone

NAAQS [Primary and Secondary]” by revising the entry for “Washington, DC-MD-VA” to read as follows:

§ 81.347 Virginia.

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VIRGINIA—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Washington, DC-MD-VA Arlington County. Fairfax County. Loudoun County. Prince William County. Alexandria City. Fairfax City. Falls Church City. Manassas City. Manassas Park City.		Nonattainment	November 7, 2022	Moderate.
*	*	*	*	*

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

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■ 26. Section 81.350 is amended in the table for “Wisconsin—2015 8-Hour Ozone NAAQS [Primary and Secondary]” by revising the entries for

“Chicago, IL-IN-WI”, “Milwaukee, WI” and “Sheboygan County, WI” to read as follows:

§ 81.350 Wisconsin.

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WISCONSIN—2015 8-HOUR OZONE NAAQS
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Chicago, IL-IN-WI .....	.....	Nonattainment	November 7, 2022	Moderate.
Kenosha County (part)	July 14, 2021 ⁵ .			
The portion of Kenosha County bounded by the Lake Michigan shoreline on the East, the Kenosha County boundary on the North, the Kenosha County boundary on the South, and the I-94 corridor (including the entire corridor) on the West.				
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Milwaukee, WI .....	.....	Nonattainment	November 7, 2022	Moderate.
Milwaukee County	July 14, 2021 ⁵ .			
Ozaukee County	July 14, 2021 ⁵ .			
Racine County (part)	July 14, 2021 ⁵ .			
Inclusive and east of the following roadways going from the northern county boundary to the southern county boundary: Highway 45 to Washington Ave. to South Beaumont Ave.				
Washington County (part)	July 14, 2021 ⁵ .			
Inclusive and east of the following roadways going from the northern county boundary to the southern county boundary: Highway 45 to Washington Ave. to South Beaumont Ave.				
Waukesha County (part)	July 14, 2021 ⁵ .			
Going from the western county boundary to the southern county boundary: Inclusive and north of I-94 and inclusive and east of Highway 67.				
Sheboygan County, WI	July 14, 2021 ⁵	Nonattainment	November 7, 2022	Moderate.
Sheboygan County (part):				
Inclusive and east of the following roadways with the boundary starting from north to south: Union Road which turns into County Road Y which turns into Highland Drive, to Lower Road which turns into Monroe Street, to Broadway/Main Street to Highway 32 which turns into Giddings Avenue to County Road W to County Road KW.				
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

⁵ EPA revised the nonattainment boundary in response to a court decision, which did not vacate any designations for the 2015 ozone NAAQS, but which remanded the designation for the identified county. Because this additional area is part of a previously designated nonattainment area, the associated implementation dates for the overall nonattainment area (e.g., the August 3, 2021 attainment date) remain unchanged regardless of this later designation date.