

The EPA Administrator, Gina McCarthy, signed the following notice on 4/11/2016, and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this Internet version of the rule, it is not the official version of the rule for purposes of compliance. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's FDSys website (<http://gpo.gov/fdsys/search/home.action>) and on Regulations.gov (<http://www.regulations.gov>) in Docket No. EPA-HQ-OAR-2015-0468. Once the official version of this document is published in the FR, this version will be removed from the Internet and replaced with a link to the official version.

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52 and 81

[EPA-HQ-OAR-2015-0468; FRL-_____]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action on three separate and independent types of determinations for each of the 36 areas that are currently classified as “Marginal” for the 2008 ozone National Ambient Air Quality Standards (NAAQS). First, the EPA is determining that 17 areas attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2015, based on complete, quality-assured and certified ozone monitoring data for 2012-2014. Second, the EPA is granting 1-year attainment date extensions for eight areas on the basis that the requirements for such extensions under the Clean Air Act (CAA) and the EPA’s implementing regulations have been met. Third, the EPA is determining that 11 areas failed to attain the 2008 ozone NAAQS by the applicable attainment date of July 20, 2015, and thus are reclassified by operation of law as “Moderate” for the 2008 ozone NAAQS. States containing any or any portion of these new Moderate areas must submit State Implementation Plan (SIP) revisions that meet the statutory and regulatory requirements that apply to 2008 ozone nonattainment areas classified as Moderate by January 1, 2017.

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: The EPA has established docket number EPA-HQ-OAR-2015-0468 for this action. All documents in the docket are listed on <http://www.regulation.gov> Web site. Although listed in the 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. Publicly available docket materials are available electronically through <http://www.regulations.gov>.

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I. Proposed Actions

On August 27, 2015, the EPA proposed to find that 17 Marginal areas attained the 2008 NAAQS by the applicable attainment date of July 20, 2015, based on complete, quality-assured and certified ozone monitoring data for 2012-2014. *See* 80 FR 51992. The EPA also proposed to find that eight areas met the criteria, as provided in CAA section 181(a)(5) and 40 Code of Federal Regulations (CFR) 51.1107, to qualify for a 1-year attainment date extension for the 2008 ozone NAAQS even though they did not attain the NAAQS by the applicable deadline. Finally, the EPA proposed to find that 11 areas failed to attain the 2008 ozone NAAQS by the

applicable Marginal attainment date and that they did not qualify for a 1-year attainment date extension. Under CAA section 181(b)(2)(A), if the EPA determines that an area failed to attain a given NAAQS by the applicable attainment date, the area shall be reclassified to a higher classification. In the EPA's August 2015 proposal, the EPA specified those 11 areas would be reclassified to Moderate. The reclassified areas must attain the standard as expeditiously as practicable, but in any event no later than July 20, 2018.

The EPA proposed two options for establishing a deadline for states to submit the SIP revisions required for Moderate areas once their areas are reclassified from Marginal. The first option would have required state air agencies to submit the required SIP revisions as expeditiously as practicable, but no later than the beginning of the ozone season in 2017 for each respective area. The second option would have required state air agencies to submit the required SIP revisions as expeditiously as practicable, but no later than January 1, 2017. After consideration of the comments received on these proposed options, the EPA is finalizing a due date of no later than January 1, 2017, for all Moderate area SIP requirements that apply to newly reclassified areas.

A. *Determinations of Attainment*

In the proposal, the EPA evaluated data from air quality monitors in the 36 areas classified as Marginal for the 2008 ozone NAAQS in order to determine each area's attainment status as of the applicable attainment date of July 20, 2015. Seventeen of the 36 nonattainment

areas' monitoring sites with valid data had a design value¹ equal to or less than 0.075 parts per million (ppm) based on 2012-2014 monitoring period.² Thus, the EPA proposed to determine, in accordance with section 181(b)(2)(A) of the CAA and the EPA's implementing regulations at 40 CFR 51.1103, that the 17 areas listed in Table 1 below attained the standard by the applicable attainment date for Marginal areas for the 2008 ozone NAAQS.

Table 1: Marginal Nonattainment Areas that Attained the 2008 Ozone NAAQS by the July 20, 2015, Attainment Date

2008 Ozone NAAQS Nonattainment Area	2012-2014 Design Value (ppm)
Allentown-Bethlehem-Easton, PA	0.070
Baton Rouge, LA	0.072
Calaveras County, CA	0.071
Charlotte-Rock Hill, NC-SC	0.073
Chico (Butte County), CA	0.074
Cincinnati, OH-KY-IN	0.075
Columbus, OH	0.075
Dukes County, MA	0.068
Jamestown, NY	0.071
Knoxville, TN	0.067
Lancaster, PA	0.071
Memphis, TN-MS-AR	0.073
Reading, PA	0.071
San Francisco Bay Area, CA	0.072
Seaford, DE	0.074
Tuscan Buttes, CA	0.075
Upper Green River Basin Area, WY	0.064

¹ Design value is a statistic that describes the air quality status of a given location relative to the level of the NAAQS. Design values for a site are the 3-year average annual fourth-highest daily maximum 8-hour average ozone concentrations.

² These determinations were based upon 3 years of complete, quality-assured and certified 2012-2014 data, in accordance with 40 CFR part 58 and recorded in EPA's Air Quality Statistics (AQS) database. Some areas attained the standard earlier with 2011, 2012 and 2013 data and maintained the standard in 2014, i.e., Knoxville, TX attained the standard with 2011-2013 ozone data and continued to attain with 2012-2014 data.

B. Extensions of Marginal Area Attainment Dates

Of the 36 Marginal nonattainment areas for the 2008 ozone NAAQS, there are eight areas for which the EPA proposed to grant a 1-year attainment date extension based on determinations that these areas met the requirements for an extension under CAA section 181(a)(5), including compliance with all commitments and requirements in the applicable implementation plan and “clean” data in the year preceding the attainment year. In addition, for each of these areas, at least one state with jurisdiction over all or part of the area requested such an extension.

The EPA proposed that eight Marginal nonattainment areas for the 2008 ozone NAAQS failed to attain the NAAQS by July 20, 2015, but met the attainment date extension criteria of CAA section 181(a)(5), as interpreted in 40 CFR 51.1107. The EPA proposed to find that all implicated states were meeting the obligations and commitments of their applicable implementation plans, in accordance with CAA section 181(a)(5)(A), and that, per CAA section 181(a)(5)(B) and the implementing regulations, the 4th highest daily maximum 8-hour average concentrations for all monitors in each area were not greater than 0.075 ppm for 2014, the year preceding the attainment year (*see* 40 CFR 51.1107). The EPA, therefore, proposed to grant a 1-year extension of the applicable Marginal area attainment date from July 20, 2015, to July 20, 2016, for the nonattainment areas listed in Table 2.

Table 2: Marginal Nonattainment Areas that Qualify for a 1-Year Attainment Date Extension for the 2008 Ozone NAAQS

2008 Ozone NAAQS Nonattainment Area	2012-2014 Design Value (ppm)	2014 4th Highest Daily Maximum 8-hr Average (ppm)
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Cleveland-Akron-Lorain, OH	0.078	0.075
Houston-Galveston-Brazoria, TX	0.080	0.072
Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE	0.077	0.074
Pittsburgh-Beaver Valley, PA	0.077	0.071
San Luis Obispo (Eastern San Luis Obispo), CA	0.076	0.073
Sheboygan County, WI	0.081	0.072
St. Louis-St. Charles-Farmington, MO-IL	0.078	0.072
Washington, DC-MD-VA	0.076	0.069

C. Determinations of Failure to Attain and Reclassification

Lastly, the EPA proposed to determine that 11 areas (listed in Table 3) failed to attain the 2008 ozone NAAQS by the applicable attainment date of July 20, 2015 and were not eligible for a 1-year attainment date extension. For each of these areas, the 4th highest daily maximum 8-hour average for at least one monitor in each area was greater than 0.075 ppm for 2014. CAA section 181(b)(2)(A) provides that a Marginal nonattainment area shall be reclassified by operation of law upon a determination by the EPA that such area failed to attain the relevant NAAQS by the applicable attainment date. The new classification proposed for each of these 11 areas would be the next higher classification of “Moderate” under the CAA statutory scheme.³

Table 3: Marginal Nonattainment Areas to Be Reclassified as Moderate Because They Did Not Attain the 2008 Ozone NAAQS by the July 20, 2015, Attainment Date

2008 Ozone NAAQS Nonattainment Area	2012-2014 Design Value (ppm)	2014 4th Highest Daily Maximum 8-hr Average (ppm)
Atlanta, GA	0.077	0.079
Chicago-Naperville, IL-IN-WI	0.081	0.076
Denver-Boulder-Greeley-Ft. Collins-Loveland, CO	0.082	0.077
Greater Connecticut, CT	0.080	0.077
Imperial County, CA	0.080	0.078

³ The 2012-2014 design values for the 11 areas did not exceed 0.100 ppm, which is the threshold for reclassifying an area to Serious per CAA section 181(b)(2)(A)(ii) and 40 CFR 51.1103.

Kern County (Eastern Kern), CA	0.084	0.089
Mariposa County, CA	0.078	0.077
Nevada County (Western part), CA	0.079	0.082
New York-N. New Jersey-Long Island, NY-NJ-CT	0.085	0.081
Phoenix-Mesa, AZ	0.080	0.080
San Diego County, CA	0.079	0.079

D. Moderate Area SIP Revision Submission Deadline

The EPA also proposed to apply the Administrator’s discretion, per CAA section 182(i), to adjust the statutory deadlines for submitting required SIP revisions for reclassified Moderate ozone nonattainment 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.” Under the Moderate area plan requirements of CAA section 182(b)(1) and 40 CFR 51.1108, states with ozone nonattainment areas classified as Moderate are provided 3 years (or 36 months) from the date of designation to submit a SIP revision complying with the Moderate ozone nonattainment plan requirements. For areas designated nonattainment for the 2008 ozone NAAQS and originally classified as Moderate, that deadline was July 20, 2015, a date that has already passed. The EPA, therefore, interpreted CAA section 182(i) as providing the authority to adjust the applicable deadlines “as necessary or appropriate to assure consistency among the required submissions” for the 11 reclassified 2008 Marginal ozone nonattainment areas. The CAA neither provides authority for the EPA to adjust the deadline to provide the full 3 years from the date of reclassification nor provides that the

EPA may adjust the attainment date. In determining an appropriate deadline for the states with jurisdiction for these 11 reclassified nonattainment areas to submit their Moderate area SIP revisions, the EPA proposed two options for deadlines. The first proposed option would require that states submit the required SIP revisions as expeditiously as practicable, but no later than the beginning of the ozone season in 2017 for each state. We believed that this option would provide states additional time that may be needed to accomplish planning, administrative and SIP revision processes. Of the 11 areas proposed for reclassification to Moderate, four areas have ozone seasons that begin later than January 1 (based on ozone monitoring season changes finalized with the 2015 ozone NAAQS)⁴ and this option would provide 2 additional months past January 2017 for those four areas. The second proposed option would require states submit the SIP revisions as expeditiously as practicable, but no later than January 1, 2017. We believed that setting a single specific submittal date would establish a consistent deadline for all 11 nonattainment areas, similar to the single uniform SIP submission deadline that would have applied to all areas if they had been initially classified as Moderate. This option would provide states with approximately 9 months after these reclassifications are finalized to develop complete SIP submissions and it is the latest SIP submittal date that would be compatible with the date by when Moderate area reasonably available control measures (RACM) and reasonably available control technology (RACT) must be in place (i.e., begin no later than January 1 of the 5th year after the effective date of designation for the 2008 ozone NAAQS, which is, in this case,

⁴ See Table D-3 of Appendix D to 40 CFR 58.

January 1, 2017).

E. Rescission of Clean Data Determination and Proposed SIP Call for the 1997 8-Hour Ozone NAAQS for New York-N. New Jersey-Long Island (NY-NJ-CT) Nonattainment Area

On June 18, 2012, the EPA issued a clean data determination (CDD) for the NY-NJ-CT nonattainment area, suspending the three states' obligations to submit attainment-related planning requirements, including the obligation to submit attainment demonstrations, RACM and reasonable further progress (RFP) plans, and contingency measures, with respect to the 1997 8-hour ozone standard. On May 15, 2014 (79 FR 27830), the EPA proposed to rescind the CDD for the area based on the fact that the area was no longer attaining the 1997 8-hour ozone standard, and the EPA proposed a SIP Call for submittal of a new ozone attainment demonstration for the NY-NJ-CT area for the 1997 ozone NAAQS. As an alternative to submitting a new attainment demonstration for the 1997 ozone NAAQS, the EPA proposed to permit the relevant states to respond to the SIP Call by voluntarily requesting to be reclassified to Moderate for the 2008 ozone standard (*see* CAA section 181(b)(3)) and to prepare SIP revisions demonstrating how they would attain the more stringent 2008 standard as expeditiously as practicable, but no later than the Moderate area attainment date in 2018. The EPA explained in the May 2014 proposal that, because the 2008 standard is more stringent than the 1997 standard, the area would necessarily attain the 1997 standard once the area adopted a control strategy designed to achieve the tighter standard. Moreover, where state planning resources were constrained, those resources were better used focused on attaining the more stringent standard.

In the agency's August 27, 2015, proposal regarding determinations of attainment of the 2008 Marginal ozone areas, the EPA discussed how its proposed actions affected the May 2014 proposed options for responding to a SIP Call for the 1997 8-hour ozone NAAQS. Specifically, the proposed option to permit the relevant states to respond to the final SIP Call by requesting reclassification to Moderate for the 2008 ozone standard [*see* CAA section 181(b)(3)] would consequently require that the states submit SIPs demonstrating how they would attain the more stringent 2008 standard as expeditiously as practicable. We explicitly noted in the August 2015 proposal that, if we were to finalize the determination that the NY-NJ-CT area failed to attain the 2008 ozone NAAQS by the Marginal area attainment date, the area would be reclassified by operation of law, and thus effectively eliminating the need for the three states to voluntarily request reclassification. The area would then be subject to Moderate nonattainment area planning requirements, and the subsequent submission of Moderate area attainment plans for the 2008 ozone standard would necessarily satisfy a final SIP Call for the NY-NJ-CT area on the 1997 ozone standard, because an approvable plan would demonstrate attainment of a more stringent NAAQS. We also noted that either of the proposed 2008 ozone attainment plan due dates would meet the statutory timeframe for the SIP revision due subsequent to a SIP Call for the 1997 ozone NAAQS for the area.

II. Final Actions

The publication of the EPA’s proposed rule on August 27, 2015, (80 FR 51992) started a public comment period that ended on September 28, 2015.⁵ The comments received during this period may be found in the electronic docket for this action. A majority of commenters supported the EPA’s actions as proposed to determine that certain areas attained the 2008 ozone NAAQS by the applicable attainment date, to provide 1-year attainment date extensions to the identified areas, and to reclassify to Moderate the non-attaining areas that do not qualify for an attainment date extension. Additional significant comments pertinent to each proposed action are addressed in appropriate sections below. Included in the docket for this action is a full summary of significant comments received on the EPA’s proposal and our responses to those comments. To access comments and the Response to Comment document, please go to <http://www.regulations.gov> and search for Docket No. EPA-HQ-OAR-2015-0468, or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Table 4 provides a summary of the EPA’s final actions for these 36 areas.

Table 4: 2008 Ozone Marginal Nonattainment Area Final Action Summary

Nonattainment Area	Determination of Attainment by the Attainment Date	Determination of Failure to Attain by the Attainment Date	Extension of the Marginal Area Attainment Date to July 20, 2016
Allentown-Bethlehem-Easton, PA	X		
Atlanta, GA		X	
Baton Rouge, LA	X		
Calaveras County, CA	X		
Charlotte-Rock Hill, NC-SC ^a	X		

⁵ The EPA offered to hold a public hearing on the proposed actions, but no one requested such a hearing.

Chicago-Naperville, IL-IN-WI		X	
Chico (Butte County), CA	X		
Cincinnati, OH-KY-IN	X		
Cleveland-Akron-Lorain, OH			X
Columbus, OH	X		
Denver-Boulder-Greeley-Ft. Collins-Loveland, CO		X	
Dukes County, MA	X		
Greater Connecticut, CT		X	
Houston-Galveston-Brazoria, TX			X
Imperial County, CA		X	
Jamestown, NY	X		
Kern County (Eastern Kern), CA		X	
Knoxville, TN ^b	X		
Lancaster, PA	X		
Mariposa County, CA		X	
Memphis, TN-MS-AR ^c	X		
Nevada County (Western part), CA		X	
New York, N. New Jersey-Long Island, NY-NJ-CT		X	
Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE			X
Phoenix-Mesa, AZ		X	
Pittsburgh-Beaver Valley, PA			X
Reading, PA	X		
San Diego County, CA		X	
San Francisco Bay Area, CA	X		
San Luis Obispo (Eastern San Luis Obispo), CA			X

Seaford, DE	X		
Sheboygan County, WI			X
St. Louis-St. Charles-Farmington, MO-IL			X
Tuscan Buttes, CA	X		
Upper Green River Basin Area, WY	X		
Washington, DC-MD-VA			X

^a On July 28, 2015, the EPA redesignated to attainment the North Carolina portion of the Charlotte-Rock Hill, NC–SC, nonattainment area for the 2008 8-hour ozone NAAQS, effective August 27, 2015. *See* 80 FR 44873. On December 11, 2015, the EPA redesignated to attainment the South Carolina portion of the Charlotte-Rock Hill, NC-SC, nonattainment area for the 2008 8-hour ozone NAAQS, effective January 11, 2016. *See* 80 FR 76865. The EPA is herein determining that this area attained the 2008 ozone NAAQS by the applicable attainment date in order to satisfy the agency’s obligation under CAA section 181(b)(2)(A).

^b On July 13, 2015, the EPA redesignated to attainment the Knoxville, TN, nonattainment area for the 2008 8-hour ozone NAAQS, effective August 12, 2015. *See* 80 FR 39970. Given that this area was still designated nonattainment as of July 20, 2015, the EPA is herein determining that this area attained the 2008 ozone NAAQS by the applicable attainment date in order to satisfy the agency’s obligation under CAA section 181(b)(2)(A).

^c On February 10, 2016, the EPA proposed to redesignate to attainment the Arkansas portion of the Memphis, TN-MS-AR, nonattainment area for the 2008 8-hour ozone NAAQS. *See* 81 FR 7046. On February 11, 2016, the EPA proposed to redesignate to attainment the Mississippi portion of the Memphis, TN-MS-AR, nonattainment area for the 2008 8-hour ozone NAAQS. *See* 81 FR 7269.

A. Determinations of Attainment

Pursuant to section 181(b)(2)(A) of the CAA and 40 CFR 51.1103, the EPA is making a final determination that the 17 Marginal nonattainment areas listed in Table 1 attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2105. We received no adverse comments on this proposal.

Once effective, this 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 that date. The effect of a final determination of attainment by the area's attainment date is to discharge the EPA's obligation under CAA section 181(b)(2)(A), and to establish that, in accordance with CAA section 181(b)(2)(A), the areas will not be reclassified for failure to attain by the applicable attainment date. These determinations of attainment do not constitute a redesignation to attainment. Redesignations require states to meet a number of additional statutory criteria, including the EPA approval of a state plan demonstrating maintenance of the air quality standard for 10 years after redesignation. As for all NAAQS, the EPA is committed to working with states that choose to submit redesignation requests for the 2008 ozone NAAQS.

B. Extensions of Marginal Area Attainment Dates

Pursuant to CAA section 181(a)(5), the EPA is making a final determination to grant 1-year attainment date extensions of the applicable attainment date from July 20, 2015, to July 20, 2016, for the 8 Marginal nonattainment areas listed in Table 2. The EPA received a number of comments on its proposal to extend the Marginal area attainment dates for the areas listed in Table 2. We summarize and respond to some of the key comments below. The docket for this action contains a more detailed Response to Comment document.

Comment: One commenter claimed that the EPA's proposed 1-year extension of the attainment date for the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE area is unlawful and arbitrary because the state of Delaware did not request an extension of the attainment date.

The commenter argued that granting an attainment date extension to a multi-state area when all states have not requested the extension is inconsistent with the EPA's failure to grant the state of New York's most recent voluntary reclassification request with regard to the 1997 8-hour ozone NAAQS.⁶ The commenter stated that there, the EPA refused to grant New York's request because the agency's position was that voluntarily reclassifying the area required all states with jurisdiction over the multi-state area to request the reclassification. The commenter noted that in that case the EPA interpreted CAA section 182(j)(1) "to require coordination and unanimity among the affected states," and the commenter stated that the provision "seemingly has equal bearing" on a request to extend the attainment date.

Response: The EPA disagrees with the commenter that a request for voluntary reclassification under CAA section 181(b)(3) and a request for an extension of the attainment date under CAA section 181(a)(5) both require "unanimity" among the affected states. The EPA also does not agree that granting an extension of the attainment date to all states with jurisdiction over the Philadelphia multi-state nonattainment area is inconsistent with its prior reading of CAA section 182(j)(1).

The statutory provisions governing voluntary reclassifications and requests for 1-year attainment date extensions differ in key respects regarding the question of whether all states in a nonattainment area need to request the action before the EPA may grant such requests. CAA section 181(b)(3), which governs voluntary reclassifications, states that "the Administrator shall

⁶ Letter from Joseph J. Martens, Commissioner, New York Department of Environmental Conservation, addressed to the EPA Administrator Lisa Jackson. June 20, 2012.

grant the request of any State to reclassify a nonattainment area *in that State* [in accordance with the area’s design value] to a higher classification” (emphasis added). The EPA reads that provision, and specifically the words “in that state,” to mean that although any state may request a reclassification, it can only do so on behalf of its own state. The same limiting phrase does not appear in the statutory provision governing 1-year attainment date extensions. That provision, CAA section 181(a)(5), states, “Upon application by any State, the Administrator may extend for 1 additional year” the attainment date, provided that the state has complied with all requirements and commitments pertaining to the area in its applicable implementation plan and the area meets certain air quality criteria. Because the statute grants the EPA the discretion to extend an attainment date “upon application by any State” and establishes limiting conditions that can be demonstrated as satisfied by either a state or by the EPA, CAA section 181(a)(5) by its terms does not require the consent of every state within a multi-state nonattainment area. The EPA does, however, interpret that provision as requiring all states with jurisdiction over the nonattainment area to substantively meet the two statutory conditions, although we note that the provision does not specify who must make the demonstration that the conditions have been met.

Interpreting these two provisions to permit differing thresholds of state “unanimity” is particularly reasonable given the consequence of the EPA’s action in each case. In extending an attainment date, the EPA imposes no additional obligation upon any state, but rather grants areas that are close to achieving the air quality standard 1 additional year to come into compliance, provided that the states governing that area meet certain criteria. A voluntary reclassification, on the other hand, can impose significant new attainment planning and emission reduction

obligations. Had Congress intended to allow one state to request a reclassification on behalf of another state, and, therefore, to impose upon another state, without that state's consent, all of the resource-intensive consequences potentially associated with that action, it could have clearly stated so.

The EPA further disagrees with the commenter that its prior interpretation of CAA section 182(j)(1) -- requiring all states in a multi-state ozone nonattainment area to agree to a voluntary reclassification -- is inconsistent with *not* requiring such consensus in the case of an attainment date extension. CAA section 182(j)(1)(A) directs states to “take all reasonable steps to coordinate, substantively and procedurally, the revisions and implementation of [SIPs] applicable to the nonattainment area concerned.” This provision on its face does not apply to an attainment date extension under CAA section 181(a)(5). Extending the attainment date by 1 year does not change an area's SIP submission requirements. Therefore, CAA section 182(j)(1)(A)'s directive to states governing a multi-state area to coordinate SIP submissions plainly does not have bearing on a provision that does not alter or affect SIP submissions. By contrast, as the EPA has stated, the coordination required by CAA section 182(j)(1)(A) is relevant to a voluntary reclassification, which establishes upon the states with jurisdiction over the nonattainment area new obligations to prepare and submit revisions to SIPs.

Comment: One commenter stated that the states of Delaware and New Jersey did not make any claim or demonstration that they have complied with all requirements and commitments in the SIP, and, therefore, granting an extension to the multi-state area is not warranted. The commenter alleged that the EPA implied that an analysis of Delaware's

compliance with the CAA section 181(a)(5)(A) criteria was conducted but that the EPA failed to provide any evidence or showing that Delaware did in fact comply with all requirements and commitments in the applicable implementation plan pertaining to the Philadelphia nonattainment area.

Response: Given the state and federal partnership in implementing the CAA, it is not unreasonable for the EPA to interpret CAA section 181(a)(5)(A), in the absence of a state submitting a certification of compliance, for the EPA to exercise discretion and conduct an independent review of the applicable SIP in order to, in this case, determine whether Delaware and New Jersey are in compliance with the requirements and commitments of the federally-approved SIP. CAA section 302(q) defines “applicable implementation plan” as the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under CAA section 110, or promulgated under CAA section 110(c), or promulgated or approved pursuant to regulations promulgated under CAA section 201(d) and which implements the relevant requirements of the CAA. The Act does not specify what type of review is required in order for the states or the EPA to demonstrate that the condition under CAA section 181(a)(5)(A) has been met; therefore, the EPA reasonably interprets the condition to require a review of the relevant, applicable approved implementation plan provisions, and an application of its own knowledge and expertise with regard to whether the state is meeting those obligations, including a review of whether the agency or outside parties has identified state noncompliance with the obligations. Therefore, in proposing to grant a 1-year extension of the attainment date for the Philadelphia area, and in conjunction with EPA Headquarters, the EPA Regional Offices, which

have particular expertise and knowledge of the contents and implementation of SIPs, conducted reviews of whether Delaware and New Jersey are in compliance with their applicable implementation plans.

The EPA reviewed New Jersey's applicable ozone implementation plan found at 40 CFR 52.1570 and the most recent actions related to New Jersey's applicable ozone implementation plan, which include the following EPA approvals: 74 FR 22837 – "Approval and Promulgation of Implementation plans, New Jersey Reasonable Further Progress Plans, Reasonable Available Control Technology, Reasonably Available Control Measures and Conformity Budgets"; 75 FR 45483 – "Approval and Promulgation of Implementation Plans; Implementation Plan Revision; State of New Jersey"; and 75 FR 80340 – "Approval and Promulgation of Implementation Plans; New Jersey; 8-hour Ozone Control Measure." Since the adoption of these measures, New Jersey has also amended its SIP to adopt and implement additional emission reductions as part of its SIPs to reduce regional haze and to meet the NAAQS for fine particles. The EPA has reviewed the contents of New Jersey's applicable SIPs and notes that there are no pending enforcement actions by the EPA or outside parties alleging that New Jersey has failed to implement its applicable plan.

Similarly, the EPA reviewed Delaware's applicable ozone implementation plan found at 40 CFR 52.420. In our August 2015 proposal, we noted a recent proposal to disapprove a revision to Delaware's New Source Review (NSR) preconstruction permitting program regulation, *see* 80 FR 30015 (May 26, 2015). Despite this proposed disapproval of a SIP revision, we did not believe this proposal to disapprove a SIP revision was a bar to the EPA

granting a 1-year attainment date extension for the Philadelphia area because there is an underlying approved nonattainment NSR SIP. The EPA has examined its own internal database of the notices required under 40 CFR 51.161(a), (b) and (d) (relating to a notice providing for public and the EPA comment on permit applications) and information posted by the state of Delaware. For the period after September 11, 2013 (the date on which Delaware's newly expanded offset area provisions under state law were effective), the EPA has identified no permits which triggered the requirement for lowest achievable emission rate (LAER) and offsets under Delaware's Regulation 1125 relating to ozone precursors of volatile organic compounds and nitrogen oxides (NO_x). The EPA found that Delaware had undertaken a number of permitting actions since September 11, 2013, but none of these were subject to sections 2.5.5 and 2.5.6 of Delaware's Regulation 1125. The EPA also did not find any incidences of enforcement actions by the agency or outside parties alleging that Delaware is not meeting its SIP obligations.

Moreover, the commenter has not presented any evidence or made any demonstration that suggests either New Jersey or Delaware is not in compliance with their applicable SIP and is, thus, unqualified to receive an attainment date extension. Based on its review of the states' applicable implementation plans and its knowledge and expertise of state actions with regard to those plans, the EPA is making a final determination that both New Jersey and Delaware are meeting the conditional requirement of CAA section 181(a)(5)(A).

Comment: One commenter requested that the EPA deny Wisconsin's request for a 1-year extension to their attainment year for the Sheboygan County Marginal ozone nonattainment area. The commenter argued that 2015 preliminary air quality monitoring data for the Sheboygan area

indicates that the area will not attain the standard in 2016, and, moreover, that the data also will not support a second 1-year extension of the attainment date for the Sheboygan area. The commenter maintained that even if a state meets the two conditions provided in CAA section 181(a)(5), the EPA retains the discretion to deny a request for a 1-year extension, and the commenter urged that the EPA should exercise its discretion in this case. In support, the commenter provided a citation to a 1994 EPA memo (Berry Memorandum)⁷ that cautions states to consider whether an attainment date extension will ultimately be helpful if the area is not likely to attain the NAAQS by the extended attainment date. The commenter further pointed out that Wisconsin has an “inflexible and lengthy process for rulemaking,” which could further hinder the state’s ability to meet the attainment date in the future, if the state delays planning and implementing additional control measures now. The commenter also pointed out that the Sheboygan area has not made considerable progress towards attaining the standard, and that the area backslid into nonattainment for the 1997 8-hour ozone NAAQS in 2012 and 2013. The commenter suggested that, rather than granting a 1-year extension of the attainment date, the EPA should determine that the Sheboygan area failed to meet its Marginal area attainment date of July 20, 2015, and, therefore, the EPA should reclassify the area to Moderate, which will allow the state of Wisconsin adequate time to achieve emissions reductions to meet the new attainment date for a Moderate area.

⁷ See memorandum signed by D. Kent Berry, Acting Director, Air Quality Management Division, “Procedures for Processing Bump Ups and Extension Requests for Marginal Ozone Nonattainment Areas.” U.S. EPA, February 3, 1994.

Response: CAA section 181(a)(5) of the CAA, as interpreted by the EPA in 40 CFR 51.1107, authorizes the EPA to grant a 1-year attainment date extension upon application by a state if: (1) the state has complied with all requirements and commitments in the applicable SIP, and (2) all monitors in the area have a fourth highest daily maximum 8-hour average of 0.075 ppm or less for the last full year of air quality data prior to the attainment date (i.e., 2014 for an attainment date of July 20, 2015). Here, Wisconsin has clearly met both of the conditions for the Sheboygan area. Wisconsin submitted a request to the EPA for a 1-year extension of the attainment date for the Sheboygan area, certifying that Wisconsin had complied with all requirements and commitments pertaining to the area in the applicable implementation plan and that all monitors in the area have a fourth highest daily maximum 8-hour average of 0.075 ppm or less for 2014, the most recent complete year of quality-assured and certified data preceding the July 20, 2015, attainment date.⁸ The EPA has also evaluated the quality-assured and certified air quality monitoring data for 2014 and determined that Sheboygan met the air quality requirements of CAA section 181(a)(5)(B) and 40 CFR 51.1107. Although the EPA agrees with the commenter that the Administrator retains the discretion to deny a state's request for an attainment date extension even if the state has met both criteria in CAA section 181(a)(5), the agency is declining to exercise that discretion here. The commenter relies primarily upon

⁸ See letter signed by Bart Sponseller, Deputy Division Administrator, Air, Waste and Remediation & Redevelopment Division, Wisconsin Department of Natural Resources addressed to Ms. Susan Hedman, Regional Administrator, U.S. EPA Region 5. RE: Request for 1-year extension to the attainment date for the Sheboygan, WI nonattainment area, May 12, 2015. Docket EPA-HQ-OAR-2015-0468-0022 at <http://www.regulations.gov>.

preliminary air quality data for 2015 that has not been quality assured and certified to contend that the Administrator should deny Wisconsin's request here.⁹ Given that the state meets the extension criteria, the Administrator is disinclined to deny the state's request based on preliminary data. Moreover, the citation from the Berry Memorandum that the commenter relies upon is directed at cautioning states, in deciding whether *to request* an extension, to consider whether a 1-year attainment date extension will be helpful in achieving the NAAQS and is not directed at the Administrator's decision to grant or deny such request. The EPA does, however, agree with the commenter that, given the air quality trends and data presented by the commenter, it would be prudent for the state to begin preparing for the possibility that the area may not attain by the July 20, 2016, attainment date, and also may fail to meet the requirements to get an additional 1-year attainment date extension. However, the agency does not believe that those possibilities are reason enough to deny the state's request for this first 1-year attainment date extension, given that Wisconsin has met the two statutory criteria. Therefore, the EPA declines to grant the commenter's request to find that the area failed to attain by July 20, 2015, and to subsequently reclassify the area accordingly. The Sheboygan nonattainment area will remain classified as Marginal for the 2008 ozone NAAQS until the EPA (1) determines, based on quality assured and certified air quality data for 2013-2015, that the area did not attain the 2008

⁹ These data are subject to the EPA's data certification requirements of 40 CFR 58.15, which require a state to submit its annual data certification letter by May 1.

ozone NAAQS by July 20, 2016, and does not qualify for an additional 1-year extension¹⁰ and (2) reclassifies the area based on this determination. We expect Wisconsin to be taking the necessary steps to achieve timely attainment and will continue to work with the state toward that end.

Comment: One commenter maintained that, in evaluating whether a state is in compliance with all requirements and commitments pertaining to an area pursuant to CAA section 181(a)(5)(A), the EPA may not rely on a letter from the state certifying that the state is meeting this requirement. The commenter argued that there must be a factual and rational basis for the agency to grant 1-year extensions and that assertions by the states that they are in compliance with all requirements and commitments does not provide a factual or rational basis when there is no evidence that the assertion was based on a systematic review of compliance or noncompliance.

Response: The EPA disagrees with the commenter's assertion. CAA section 181(a)(5) does not specify who must make the demonstration as to whether a state is complying with all requirements and commitments to the area in the applicable implementation plan. Nothing in the provision explicitly prohibits the EPA from relying on certified statements from state officials that the requirement of CAA section 181(a)(5)(A) has been met, and nothing in the provision supports the commenter's suggestion that the EPA is independently required to perform a

¹⁰ The area will qualify for a second 1-year extension if, and only if, the average of annual fourth-high daily maximum 8-hour ozone concentrations for 2014 and 2015 is at or below 0.075 ppm at all monitors in Sheboygan County.

“systematic review of compliance or noncompliance” of the state’s SIP regardless of whether a state official has made a certified statement to that effect in order to grant an attainment date extension. Given the state and federal partnership in implementing the CAA, it is not unreasonable for the EPA to interpret CAA section 181(a)(5)(A) as permitting the agency to rely upon the certified statements of its state counterparts, and the EPA has long interpreted the provision to be satisfied by such statements.¹¹ In practice, in conjunction with a request for an extension, a state air agency’s Executive Officer, or other senior individual with equivalent responsibilities, signs and affirms that their state is complying with their applicable federally-approved SIP. The commenter argues that the certifications lack rational or factual bases, but has not presented any evidence or made any demonstration that suggests any of the states receiving an attainment date extension are not in compliance with their SIPs. Absent such a showing, the EPA is disinclined to invalidate the certifications made by the states.

C. Determinations of Failure to Attain and Reclassification

Pursuant to CAA section 181(b)(2), the EPA is finalizing its proposed determinations that the 11 Marginal nonattainment areas listed in Table 3 have failed to attain the 2008 ozone NAAQS by the applicable attainment date of July 20, 2015. Therefore, upon the effective date of this rule, these 11 Marginal 2008 ozone nonattainment areas will be reclassified by operation of law to Moderate for the 2008 ozone standard. The EPA received a number of adverse comments on its proposal to find that certain Marginal nonattainment areas failed to attain and to reclassify

¹¹ See Berry Memorandum.

those areas. We summarize and respond to some of the key comments below. The docket for this action contains a more detailed Response to Comments document.

Comment: A number of commenters, while conceding that air quality monitoring data factually required the EPA to determine that an area failed to attain by its attainment date, alleged that certain nonattainment areas' failure to attain by the Marginal area attainment date was due in large part to the influence of transported emissions from upwind states. These commenters alleged that the EPA has not done enough to enforce CAA section 110(a)(2)(D), which requires states to eliminate emissions that significantly contribute to, or interfere with maintenance of the NAAQS in other states. One commenter further noted that the EPA's current strategy with regard to ozone transport addresses only the revoked 85 parts per billion (ppb) standard, and that the EPA has no strategy to reduce transport after 2017.

Response: 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 emissions on monitored air quality data in a given nonattainment area.¹² Nonetheless, the EPA readily acknowledges the role interstate transport of precursors to ozone pollution plays in the efforts of downwind areas to attain and maintain the NAAQS. To that end, as commenters have alluded to, the agency has taken a number of steps to fulfill its statutory obligation to enforce CAA section 110(a)(2)(D), or the "good neighbor" provision, including the NO_x SIP Call, the Clean Air

¹² See *Sierra Club v. EPA*, 294 F.3d 155, 160-62 (D.C. Cir. 2002) (holding that the EPA is not permitted to relax mandatory statutory requirements for downwind areas on the basis of interstate transport).

Interstate Rule, and the Cross-State Air Pollution Rule (CSAPR). most recently, the EPA has proposed to update CSAPR specifically to address the 2008 ozone NAAQS with tightened NOx budgets designed to achieve emission reductions in upwind states before the Moderate area attainment date of July 2018.

D. Moderate Area SIP Revision Submission Deadline

The EPA received a number of comments on its two proposed options for establishing the Moderate area SIP due date that would apply to areas newly reclassified under this final action. After full consideration of those comments and pursuant to CAA section 182(i), the EPA is finalizing that SIP revisions required for the newly reclassified Moderate areas must be submitted as expeditiously as practicable, but no later than January 1, 2017. The EPA acknowledges that for some states with Moderate nonattainment areas reclassified from Marginal, meeting this SIP submittal deadline may be challenging. The EPA is committed to working closely with these states to help them prepare their SIP revisions in a timely manner.

We summarize and provide responses to the most significant comments on this issue below; however, all comments received on the proposed options and the EPA's responses are available in the Response to Comment document located in the docket for this final rule.

Comment: One commenter contended that the EPA failed to provide a legal basis for extending the SIP submittal deadlines for Moderate nonattainment areas. The commenter believed that the EPA made no claim that the 2017 SIP submittal deadlines are necessary or appropriate to assure consistency among the required submissions. The commenter also believed that the EPA's proposed extension would interfere with the attainment date and contravene CAA

section 110(l). The commenter pointed out that if the EPA finalized the SIP submission deadline to coincide with the area's beginning of the ozone monitoring season, the consequence would be that the EPA would have less than 18 months to take action on state SIP submittals, as late as July 2018, which is very near the attainment date. The commenter believed that would be far too late for the EPA to require timely corrections of SIPs that fail to satisfy the requirements and fail to assure timely attainment.

Response: The EPA disagrees with the commenter on all aspects of these comments. First, we believe that CAA section 182(i) clearly provides the Administrator the discretion to adjust any applicable deadline for reclassified areas (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions.

The EPA disagrees with the implication of the comment that the default assumption upon reclassification is that the EPA would not adjust the Moderate area SIP submission deadlines. The fact that Congress included CAA section 182(i) in the statute indicates that it envisioned that upon reclassification, deadlines would be adjusted by the Administrator in a reasonable fashion. This is a particularly reasonable interpretation under the facts at issue here: the attainment date for Marginal areas under the statute and regulations was July 20, 2015, and the Moderate area SIP submission date for areas initially classified as Moderate for the 2008 ozone NAAQS was also July 20, 2015. Under CAA section 181(b)(2)(A), the EPA must make determinations of attainment and necessary reclassifications within 6 months of the statutory attainment date. Therefore, under the commenter's interpretation of the CAA, upon reclassification 6 months after July 20, 2015, states would immediately be found to be in default of the obligation to

submit a Moderate area plan, a deadline that had passed 6 months prior, even though that obligation did not apply until the moment of reclassification. We do not agree that Congress would have intended the draconian and absurd result of providing states initial notice of an obligation and in the same action finding them at fault for already failing to have met that obligation. Therefore, the EPA believes that it is reasonable to read CAA section 182(i) in the context of the 11 reclassified 2008 Marginal ozone areas to provide the Administrator the authority to adjust the applicable deadline for Moderate area attainment plans “as necessary or appropriate to assure consistency among the required submissions.”

Moreover, failing to establish new Moderate area SIP submission deadlines for the 11 areas that we are reclassifying in this notice would lead to potential inconsistency in required submissions among those areas. Under the commenter’s interpretation, these areas would all have missed their deadline to submit a Moderate area plan on July 20, 2015. The commenter would, therefore, have the EPA begin issuing findings of failure to submit under CAA section 110(k), which are required by statute 6 months following the statutory deadline to submit a SIP, simultaneously with this action, that is, the EPA’s determination that the areas failed to attain and reclassification of those areas. Following the EPA’s issuance of findings of failure to submit for the 11 areas, there would be no defined statutory or regulatory deadline by which to remedy the states’ failures to make submittals, except the outside limit of 2 years, the deadline for EPA’s obligation to implement a Federal Implementation Plan (FIP). Additionally, if the EPA had not affirmatively determined that a state had made a complete SIP submittal for an area within 18

months from the issuance of a finding of failure to submit, the offset sanction identified in CAA section 179(b)(2) would apply to the affected nonattainment area.

The EPA also disagrees with the commenter that establishing a new SIP submittal deadline for the reclassified areas is in contravention of CAA section 110(l). CAA section 110(l) requires that plan revisions must go through notice and public hearing at the state level before submission to the EPA, and that “the Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress . . . or any other applicable requirement of this chapter.” In order for the EPA’s proposed SIP submittal date to be in contravention of CAA section 110(l), one has to assume that the states will submit deficient SIPs and that the EPA will not take any kind of corrective action on those SIPs until after the maximum possible time period permitted under the statute to take action on such submittals (18 months) has passed. Only then could a SIP submittal date of more than 18 months prior to the attainment date be interpreted as interfering with the attainment of the NAAQS. The EPA does not believe this is a reasonable reading of CAA section 110(l) or the circumstances of these reclassifications and SIP deadline adjustments. While the EPA acknowledges that the timeline for preparation and submittal of SIPs must be compressed in order for measures to be in place to ensure areas attain by their new Moderate area attainment date, in establishing the new SIP submittal deadlines for these reclassified areas, the agency is also taking into account the time required for states to identify measures, complete the public notice and hearing process at the state level, and prepare SIP submissions.

Comment: Several commenters supported the EPA's proposed option to align the deadline for SIP revisions with the start of the respective nonattainment area's 2017 ozone season. They cited a number of reasons this option was preferred, including that more time would be provided to states to accomplish planning, administrative and SIP revisions processes in order to meet the deadline. They also cited that this option would be consistent among states in that they would need to submit their SIP revisions by their respective ozone seasons. However, another commenter pointed out that finalizing this option would result in SIP submittal dates that would be varied among the states and, therefore, inconsistent. The same commenter also stated that setting the SIP deadline for the beginning of each area's ozone season would not be compatible with ensuring implementation of RACT by January 1, 2017, which is the deadline established in 40 CFR 51.1112(a)(3).

Response: As noted earlier, of the 11 areas being reclassified to Moderate, there are only four areas located in states with ozone seasons that begin later than January 1 that could potentially benefit from an extra 2 months to submit their SIP revisions. While the EPA recognizes the value of additional time (beyond January 1, 2017) to these states to develop an attainment demonstration, an RFP plan, and contingency measures, the EPA also recognizes the value in establishing a single due date for Moderate area SIP submissions – including RACT – that does not extend beyond the deadline for implementing such controls. Thus, the EPA is finalizing its second proposed option, which requires that states submit the required Moderate area SIP revisions as expeditiously as practicable, but no later than January 1, 2017. This approach aligns the SIP submittal deadline with the January 1, 2017, deadline for implementing

RACT pursuant to 40 C.F.R. 51.1112(a)(3), for each area, and would also ensure that SIPs requiring control measures needed for attainment, including RACM, would be submitted prior to when those controls are required to be implemented. This option also treats states consistently, in keeping with CAA section 182(i). The EPA recognizes the challenges posed by these very short deadlines and is committed to working closely with all states to help them prepare their SIP revisions, including parallel processing, in a timely manner.

E. Rescission of Clean Data Determination and Final SIP Call for the 1997 8-Hour Ozone NAAQS for the New York-N. New Jersey – Long Island (NY-NJ-CT) Nonattainment Area

This action finalizes the EPA's determination that the NY-NJ-CT nonattainment area failed to attain the 2008 standard by the Marginal area attainment date of July 20, 2015, and must be reclassified to Moderate by operation of law in accordance with CAA section 181(b)(2)(A). In addition, the EPA is also finalizing in this notice the proposed rescission of its prior CDD for the NY-NJ-CT nonattainment area with regard to the 1997 8-hour ozone NAAQS, as well as the accompanying SIP Call proposed with that rescission. As noted above, in the May 2014 notice, the EPA proposed that one way the affected states could respond to the SIP Call would be to voluntarily request a reclassification under the 2008 ozone NAAQS and to submit a SIP that meets the Moderate area requirements for that standard.

By reclassifying the area by operation of law, this final action effectively eliminates the need for the three affected states to request reclassification under this option. However, as explained in the agency's August 27, 2015, proposal and reiterated below, the EPA believes it is appropriate for the three states involved to be able to meet their obligations under the SIP Call

for the 1997 ozone NAAQS with their Moderate area SIP submittal for the 2008 ozone standard. This final action also supersedes the 18 months, which is the maximum period allowed under CAA section 110(k)(5), that EPA proposed to provide the states of New York, New Jersey and Connecticut from the effective date of a final SIP Call to develop and submit to the EPA the relevant SIPs for the 1997 or 2008 ozone NAAQS. As discussed above, the EPA is finalizing that the required SIP revisions for these areas shall be submitted as expeditiously as practicable, but no later than January 1, 2017. We also note that this deadline meets the statutory timeframe for a SIP revision under CAA section 110(k)(5).

The EPA did not receive adverse comments on its August 27, 2015, proposal to reclassify the NY-NJ-CT nonattainment area to Moderate, nor did the EPA receive comments about its statement that submitting an attainment plan for the 2008 ozone standard would satisfy a final SIP Call on the 1997 ozone standard. We received a number of comments on the May 15, 2014, proposal (79 FR 27830) to rescind the CDD for the NY-NJ-CT 1997 8-hour ozone nonattainment area and the accompanying SIP Call for attainment plans. We summarize below some of the significant comments submitted in response to the May 15, 2014, proposal and our responses. Additionally, we have made available a more detailed summary of comments and responses in a document titled, *“Response to Comments: Proposed Rule: Rescission of Determination of Attainment and Call for Attainment Plans for New York, New Jersey and Connecticut for the 1997 8-Hour Ozone National Ambient Air Quality Standards for the NY-NJ-CT 1997 Ozone Nonattainment Area,”* which is available in the docket associated with this rulemaking.

Comment: One commenter believed that CAA section 110(k)(5) either compels or provides the EPA the authority necessary to expand the proposed SIP Call to include any state that is shown to significantly contribute to the failure of the NY-NJ-CT area to attain because these states have failed to meet their obligations under CAA section 110(a)(2)(D)(i)(I).¹³ The commenter further believed that CAA section 110(k)(5) allows the EPA to issue a SIP Call to address states' SIPs that are inadequate in mitigating transport as described in CAA sections 176A and 184. The commenter believed that the U.S. Supreme Court decision in *EPA v. EME Homer City* (134 S. Ct. 1584 (2014)), compels the EPA to immediately issue FIPs for upwind states that have failed to take all necessary steps to make it feasible for any nonattainment area significantly impacted by interstate air pollution to attain and maintain both the 1997 and 2008 8-hour ozone NAAQS. Finally, the commenter noted that the "CSAPR modeling shows that Connecticut receives no more than a 0.2 ppb total benefit from the CSAPR remedy, which is entirely inadequate given the overwhelming scope of transport."

Response: CAA section 110(a)(2)(D)(i)(I) requires states to prohibit emissions that contribute significantly to nonattainment in, or interfere with maintenance by any other state with respect to primary and secondary NAAQS. In the CSAPR promulgated on August 8, 2011 (76 FR 48207), the EPA found that emissions of sulfur dioxide and NO_x in 27 eastern, midwestern,

¹³ The commenter refers to states' interstate transport obligations under CAA section 110(a)(2)(D)(ii), but the EPA understands these citations to in fact refer to the good neighbor provision, which is CAA section 110(a)(2)(D)(i)(I).

and southern states contribute significantly to nonattainment or interfere with maintenance in one or more downwind states with respect to one or more of three air quality standards—the annual PM_{2.5} NAAQS promulgated in 1997, the 24-hour PM_{2.5} NAAQS promulgated in 2006, and, as relevant here, the ozone NAAQS promulgated in 1997.

For the 1997 ozone NAAQS specifically, twenty states are required under CSAPR to reduce NO_x emissions during the ozone season (May through September) because they contribute to downwind states' ozone pollution. The emission reductions under CSAPR in these upwind states will improve ozone air quality in downwind states and help them attain and maintain the 1997 8-hour ozone standard.

The timing of CSAPR's implementation was initially affected by litigation over the rule. On December 30, 2011, the D.C. Circuit stayed the effectiveness of CSAPR pending resolution of judicial review. On August 21, 2012, the D.C. Circuit vacated CSAPR,¹⁴ but on April 29, 2014, the U.S. Supreme Court issued an opinion reversing the D.C. Circuit's 2012 decision and remanded the case to the D.C. Circuit.¹⁵ Following the remand, on October 23, 2014, the D.C. Circuit granted the EPA's motion to lift the CSAPR stay and toll the CSAPR compliance deadlines by 3 years. Accordingly, CSAPR Phase 1 implementation began on January 1, 2015, with Phase 2 beginning in 2017. *See* CSAPR interim final rule at 81 FR 13275 (March 14, 2016). Subsequently, the D.C. Circuit issued its final ruling as to CSAPR, affirming it in most respects

¹⁴ *EME Homer City Generation, L.P. v. EPA*, 696 F.3d 7, 38 (D.C. Cir. 2012).

¹⁵ *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014).

but invalidating without vacating several of the rule's state-specific budgets, including some of the rule's Phase 2 ozone-season NOx budgets.¹⁶ The EPA has since proposed a rulemaking to update to the CSAPR ozone-season NOx budgets in order to address the more stringent 2008 ozone NAAQS and to respond to the D.C. Circuit's remand of the Phase 2 ozone-season NOx budgets.¹⁷ As proposed, the CSAPR Update ozone-season NOx budgets would be effective starting in 2017, effectively replacing CSAPR Phase 2.

The EPA disagrees with the commenter that the Supreme Court's decision in *EPA v. EME Homer City* compels the agency to issue new FIPs or to expand the scope of the proposed SIP Call to address the 1997 and 2008 8-hour ozone NAAQS. The Supreme Court did, however, confirm that the EPA properly issued the CSAPR FIPs in response to disapprovals of SIPs or findings of failure to submit SIPs implementing states' 110(a)(2)(D)(i)(I) obligations with regard to the 1997 ozone NAAQS. Those FIPs took effect and began implementation on January 1, 2015 pursuant to the D.C. Circuit's grant of the EPA's motion requesting lifting of the stay, so we note that at the time the NY-NJ-CT area fell back into nonattainment of the 1997 standard, it did not have the benefit of CSAPR reductions. While the commenter points out that modeling conducted for the CSAPR rulemaking projected that the remedy would provide "no more than a 0.2 ppb total benefit," the same modeling also predicted that those reductions, once implemented, would fully resolve nonattainment and maintenance problems for the 1997 ozone NAAQS in the receptors identified in the NY-NJ-CT nonattainment area. For upwind states that

¹⁶ *EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118 (D.C. Cir. 2015).

¹⁷ 80 FR 75706 (December 3, 2015).

were linked only to receptors where downwind nonattainment and maintenance problems were fully resolved under the remedy, the EPA found that CSAPR quantified the full reduction responsibility for the 1997 ozone NAAQS under CAA section 110(a)(2)(D)(i)(I).¹⁸ Therefore, the EPA could not expand the scope of the SIP Call being issued on the basis that upwind states had not fulfilled their 110(a)(2)(D)(i)(I) obligations as to the 1997 ozone NAAQS when the EPA has already issued a FIP that fully resolves the obligations of those states with respect to that standard.

The EPA also does not agree that it would be appropriate in this action to more broadly apply its 110(k)(5) authority to include additional states in this SIP Call to address interstate pollutant transport as described in sections 176A and 184 of the CAA. The EPA acknowledges that a number of states, including Connecticut and New York, submitted a petition under CAA section 176A requesting that the EPA add additional states to the Ozone Transport Region (OTR) that was established under section 184 of the CAA. The EPA is reviewing that petition separately and is not acting on that petition in this action. In addition, the EPA's authority to require SIP revisions under 110(k)(5) as they relate to additional control measures required by CAA section 184 applies to only states that are currently part of the OTR.

III. Environmental Justice Considerations

The CAA requires that states with areas designated as nonattainment submit to the Administrator the appropriate SIP revisions and implement specified control measures by certain

¹⁸ See 76 FR 48210, Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals (August 8, 2011).

dates applicable to the area's classification. By requiring additional planning and implementation requirements for the 11 nonattainment areas that we determined failed to attain the 2008 ozone NAAQS standard, the part of this action reclassifying those 11 areas from Marginal to Moderate will protect all those residing, working, attending school, or otherwise present in those areas regardless of minority or economic status.

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 makes determinations if designated 2008 ozone nonattainment areas are either attaining or failing to attain the 2008 ozone NAAQS by the attainment date along with resulting reclassifications or determination to grant 1-year attainment date extensions.

B. Paperwork Reduction Act (PRA)

This rule does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060-0695. This action to find that the Marginal ozone nonattainment areas listed in Table 3 failed to attain the 2008 NAAQS by the applicable attainment date, to reclassify those areas as Moderate ozone nonattainment areas, and to adjust any applicable deadlines, does not establish any new information collection burden that has not already been identified in the existing 2008 ozone NAAQS Information Collection Request number 2347.01.

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. Determinations of nonattainment and the resulting reclassification of nonattainment areas by operation of law under section 181(b)(2) of the CAA do not in and of themselves create any new requirements. Instead, this rulemaking only makes a factual determination, and does not directly regulate any entities. This action also establishes the deadline by which states will need to submit revisions to their SIPs to address the new Moderate area requirements, and that deadline, if based on the statute, would otherwise be more stringent. In this final action, the EPA is exercising discretion under CAA section 182(i) which allows the Administrator to provide state air agencies additional time to comply with those requirements.

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. This 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.

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

This action does not have tribal implications as specified in Executive Order 13175. No tribal areas are implicated in the 11 areas that we are finding to have failed to meet their attainment date. The CAA and the Tribal Authority Rule establish the relationship of the federal government and tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only 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 this action determines that 11 areas, identified in Table 3, did not attain the 2008 ozone standard by their applicable attainment date and to reclassify these areas as Moderate ozone nonattainment areas and to adjust applicable deadlines.

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

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 the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. The results of this evaluation are contained in the section of the preamble titled “Environmental Justice Considerations.”

K. Congressional Review Act (CRA)

This rule is exempt from the CRA because it is a rule of particular applicability that names specific entities where this rule makes factual determinations and does directly regulate any entities. The determinations of attainment and failure to attain the 2008 ozone NAAQS (and resulting reclassifications), and the determination 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

Under section 307(b)(1) of the CAA, petitions for judicial review of final actions that are locally and regionally applicable may be filed only in the United States Court of Appeals for the appropriate circuit. However, the statute also provides that notwithstanding that general rule, “a petition for review of any action . . . may be filed only in the United States Court of Appeals for the District of Columbia if 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.” 42 U.S.C. 7607(b)(1). *See also Dalton Trucking v. EPA*, 808 F.3d 875 (D.C. Cir. 2015). Because this final action makes findings with regard to nonattainment areas across the country, interprets the CAA and applies such interpretations to states and nonattainment areas across the country, and establishes SIP deadlines for newly reclassified areas in different states in a consistent fashion, the Administrator finds that this action has nationwide scope and effect. Therefore, in accordance with CAA section 307(b)(1), petitions for review of this final action may be filed only in the United States Court of Appeals for the District of Columbia Circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Note, under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings for enforcement.

Page 41 of 79 - 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

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, Volatile organic compounds.

40 CFR Part 81

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

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

Dated:

Gina McCarthy,
Administrator.

For the reasons stated in the preamble, Parts 52 and 81, Title 40, Chapter I of the Code of Federal

Regulations is amended as follows:

PART 52 [AMENDED]

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

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

Subpart E—Arkansas

2. Subpart E is amended by adding sections 52.174 through 52.180 to read as follows:

§52.174 Control strategy and regulations: Ozone.

(a) The EPA has determined that the Crittenden County Marginal 2008 ozone NAAQS nonattainment area attained the NAAQS by the applicable attainment date of July 20, 2015.

§§52.175-52.180 [Reserved]

* * * * *

Subpart F—California

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

§ 52.282 Control strategy and regulations: Ozone.

* * * * *

(e) *Determinations of Attainment:*

Effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].

(1) *Approval of applications for extensions of applicable attainment dates.* Under section 181(a)(5) of the Clean Air Act, the EPA is approving the applications submitted by the California Air Resources Board dated June 1, 2015, referencing the District's letter of May 19, 2015, for extensions of the applicable attainment date for the San Luis Obispo (Eastern San Luis Obispo), CA 2008 8-hour ozone nonattainment areas from July 20, 2015 to July 20, 2016.

(2) *Determinations of attainment.* The EPA has determined that the Calaveras County, Chico (Butte County), San Francisco Bay Area and Tuscan Buttes 2008 8-hour ozone nonattainment areas in California have attained the 2008 8-hour ozone standard by the July 20, 2015 applicable attainment date, based upon complete quality-assured data for 2012– 2014. Therefore, the EPA has met its obligation pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality data as of the attainment date, whether the area attained the standard. As a result of these determinations, the Calaveras County, Chico (Butte County), San Francisco Bay Area and Tuscan Buttes 2008 8-hour ozone nonattainment areas in California will not be reclassified for failure to attain by their July 20, 2015, applicable attainment date under section 181(b)(2)(A).

* * * * *

Subpart H – Connecticut

4. Section 52.377 is amended by adding paragraph (p) to read as follows:

§ 52.377 Control strategy: Ozone.

* * * * *

(p) *Rescission of Clean Data Determination for the 1997 Eight-Hour Ozone Standard.* Effective **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**, the

EPA is determining that complete quality-assured and certified ozone monitoring data for 2012-2014 show the NY-NJ-CT 1997 eight-hour ozone nonattainment area did not meet 1997 eight-hour ozone standard. Therefore, the EPA is rescinding the clean data determination for the 1997 eight-hour ozone standard only. The prior determination (*see* paragraph k) is in accordance with 40 CFR 51.918. The prior determination suspended the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 1997 annual eight-hour ozone NAAQS. This rescission of the clean data determination will result in a SIP Call for a new ozone attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard, for this area only. If the revised plan is approved by the EPA as demonstrating reasonable further progress and attainment for the more stringent 2008 NAAQS by the Moderate area attainment date, and is approved by the EPA as containing adequate contingency measures for the 2008 NAAQS, then the plan would be deemed to have also satisfied requirements of the SIP Call associated with violations for the 1997 NAAQS.

* * * * *

Subpart I—Delaware

4. Section 52.425 is amended by adding paragraph (c) to read as follows:

§ 52.425 Determinations of attainment

* * * * *

(c) The EPA has determined, as of **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**, that based on 2012 to 2014 ambient air quality data, the Seaford, DE 2008 ozone Marginal nonattainment area has attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2015. Therefore, the EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality data as of the attainment date, whether the area attained the standard. The EPA also determined that the Seaford nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 181(b)(2)(A).

* * * * *

Subpart P—Indiana

5. Section 52.777 is amended by adding paragraph (tt) to read as follows:

§ 52.777 Control strategy: photochemical oxidants (hydrocarbons)

* * * * *

(tt) *Determination of Attainment:* As required by section 181(b)(2)(A) of the Clean Air Act, the EPA has determined that the Cincinnati, OH-KY-IN Marginal 2008 ozone nonattainment area has attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2015.

* * * * *

Subpart S—Kentucky

6. Section 52.930 is amended by adding paragraph (m) to read as follows:

§ 52.930 Control strategy: Ozone

* * * * *

(m) *Determination of Attainment*: The EPA has determined, as of **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**, that based on 2012 to 2014 ambient air quality data, the Cincinnati, OH-KY-IN 2008 ozone Marginal nonattainment area has attained the 2008 ozone NAAQS. Therefore, the EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality data as of the attainment date, whether the area attained the standard. The EPA also determined that the Cincinnati, OH-KY-IN nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 181(b)(2)(A).

* * * * *

Subpart T—Louisiana

7. Section 52.977 is amended by adding paragraph (f) to read as follows:

§ 52.977 Control strategy and regulations: Ozone

* * * * *

(f) The EPA has determined that the Baton Rouge Marginal 2008 ozone NAAQS nonattainment area attained the NAAQS by the applicable attainment date of July 20, 2015.

* * * * *

Subpart W—Massachusetts

8. Section 52.1129 is amended by adding paragraph (k) to read as follows:

§ 52.1129 Control strategy: Ozone.

* * * * *

(k) *Determination of Attainment: Determination of Attainment for the Eight-Hour Ozone Standard.* Effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, the EPA is determining that complete quality-assured and certified ozone monitoring data for 2012-2014 show the Dukes County, Massachusetts eight-hour ozone nonattainment area attained the 2008 eight-hour ozone standard by its July 20, 2015 attainment deadline. Therefore, the EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality data as of the attainment date, whether the area attained the standard. The EPA also determined that the Dukes County nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 181(b)(2)(A).

* * * * *

Subpart Z—Mississippi

9. Section 52.1273 is amended by adding paragraph (a) to read as follows:

§ 52.1273 Control strategy: Ozone

(a) *Determination of Attainment:* The EPA has determined, as of **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**, that based on 2012 to 2014 ambient air quality data, the Memphis, TN-MS-AR 2008 ozone Marginal nonattainment area has attained the 2008 ozone NAAQS. Therefore, the EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality data as of the attainment date, whether the area attained the standard. The EPA also determined that the Memphis, TN-MS-AR nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 181(b)(2)(A).

* * * * *

Subpart FF—New Jersey

10. In Section 52.1576, remove paragraph (d).

11. Section 52.1582 is amended by adding paragraph (p) to read as follows:

§ 52.1582 Control strategy and regulations: Ozone.

* * * * *

(p) *Rescission of Clean Data Determination for the 1997 Eight-Hour Ozone Standard.* Effective **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**, the EPA is determining that complete quality-assured and certified ozone monitoring data for 2012-2014 show the New York-Northern New Jersey-Long Island, NY-NJ-CT 1997 eight-hour ozone nonattainment area did not meet 1997 eight-hour ozone standard. Therefore, the EPA is rescinding the clean data determination for the 1997 eight-hour ozone standard only. The prior determination (*see* paragraph (n)(2)) is in accordance with 40 CFR 51.918. The prior determination suspended the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 1997 annual eight-hour ozone NAAQS. This rescission of the clean data determination will result in a SIP Call for a new ozone attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard, for this area only. If the revised plan is approved by the EPA as demonstrating reasonable further progress

and attainment for the more stringent 2008 NAAQS by the Moderate area attainment date, and is approved by the EPA as containing adequate contingency measures for the 2008 NAAQS, then the plan would be deemed to have also satisfied requirements of the SIP Call associated with violations for the 1997 NAAQS.

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Subpart HH—New York

12. Section 52.1679 is amended by revising paragraph (b) to read as follows:

§ 52.1679 Determination of attainment.

* * * * *

(b) *Determination of Attainment:* The EPA has determined, as of **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**, that based on 2012 to 2014 ambient air quality data, the Jamestown, NY 2008 ozone Marginal nonattainment area has attained the 2008 ozone NAAQS. Therefore, the EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area’s air quality data as of the attainment date, whether the area attained the standard. The EPA also determined that the Jamestown, NY nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 181(b)(2)(A).

* * * * *

13. Section 52.1683 is amended by revising paragraph (f)(2)(v) and adding paragraph (n) to read as follows:

§ 52.1683 Control strategy: Ozone.

* * * * *

(f) * * *

(2) * * *

(v) Jamestown (consisting of Chautauqua County) as of **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**.

* * * * *

(n) *Rescission of Clean Data Determination for the 1997 Eight-Hour Ozone Standard*. Effective **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**, the EPA is determining that complete quality-assured and certified ozone monitoring data for 2012-2014 show the New York-Northern New Jersey-Long Island, NY-NJ-CT 1997 eight-hour ozone nonattainment area did not meet the 1997 eight-hour ozone standard. Therefore, the EPA is rescinding the clean data determination for the 1997 eight-hour ozone standard only. The prior determination (*see* paragraph (f)(2)(viii)) is in accordance with 40 CFR 51.918. The prior determination suspended the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 1997 annual eight-hour ozone NAAQS. This rescission of the clean data determination will result in a SIP Call for a new ozone attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard, for this area

only. If the revised plan is approved by the EPA as demonstrating reasonable further progress and attainment for the more stringent 2008 NAAQS by the Moderate area attainment date, and is approved by the EPA as containing adequate contingency measures for the 2008 NAAQS, then the plan would be deemed to have also satisfied requirements of the SIP Call associated with violations for the 1997 NAAQS.

* * * * *

Subpart II—North Carolina

14. Section 52.1779 is amended by adding paragraph (c) to read as follows:

§ 52.1779 Control strategy: Ozone

* * * * *

(c) *Determination of Attainment*: The EPA has determined, as of **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**, that based on 2012 to 2014 ambient air quality data, the Charlotte-Rock Hill, NC-SC 2008 ozone Marginal nonattainment area has attained the 2008 ozone NAAQS. Therefore, the EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality data as of the attainment date, whether the area attained the standard. The EPA also determined that the Charlotte-Rock Hill, NC-SC nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 181(b)(2)(A).

* * * * *

Subpart KK—Ohio

15. Section 52.1885 is amended by adding paragraph (nn) to read as follows:

§ 52.1885 Control strategy: Ozone

* * * * *

(nn) *Determination of Attainment:* As required by section 181(b)(2)(A) of the Clean Air Act, the EPA has determined that the Cincinnati, OH-KY-IN and Columbus, OH Marginal 2008 ozone nonattainment areas have attained the NAAQS by the applicable attainment date of July 20, 2015.

* * * * *

Subpart NN—Pennsylvania

16. Section 52.2056 is amended by adding paragraphs (k), (l) and (m) to read as follows:

§ 52.2056 Determinations of attainment.

* * * * *

(k) The EPA has determined, as of **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**, that based on 2012 to 2014 ambient air quality data, the Allentown-Bethlehem-Easton, PA 2008 ozone Marginal nonattainment area has attained the 2008 8-hour ozone NAAQS by the applicable attainment date of July 20, 2015. Therefore, the EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the 2008 8-hour ozone NAAQS. The EPA also determined that the Allentown-Bethlehem-Easton, PA marginal nonattainment area will not be reclassified for failure to attain by its applicable attainment date pursuant to section 181(b)(2)(A).

(l) The EPA has determined, as of **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**, that based on 2012 to 2014 ambient air quality data, the Lancaster, PA 2008 ozone Marginal nonattainment area has attained the 2008 8-hour ozone NAAQS by the applicable attainment date of July 20, 2015. Therefore, the EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the 2008 8-hour ozone NAAQS. The EPA also determined that the Lancaster, PA Marginal nonattainment area will not be reclassified for failure to attain by its applicable attainment date pursuant to section 181(b)(2)(A).

(m) The EPA has determined, as of **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**, that based on 2012 to 2014 ambient air quality data, the Reading, PA 2008 ozone Marginal nonattainment area has attained the 2008 8-hour ozone NAAQS by the applicable attainment date of July 20, 2015. Therefore, the EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the 2008 8-hour ozone NAAQS. The EPA also determined that the Reading, PA Marginal nonattainment area will not be reclassified for failure to attain by its applicable attainment date pursuant to section 181(b)(2)(A).

* * * * *

Subpart PP—South Carolina

17. Section 52.2125 is amended by adding paragraph (c) to read as follows:

§ 52.2125 Control strategy: Ozone

* * * * *

(c) *Determination of Attainment:* The EPA has determined, as of [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*], that based on 2012 to 2014 ambient air quality data, the Charlotte-Rock Hill, NC-SC 2008 ozone Marginal nonattainment area has attained the 2008 ozone NAAQS. Therefore, the EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality data as of the attainment date, whether the area attained the standard. The EPA also determined that the Charlotte-Rock Hill, NC-SC nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 181(b)(2)(A).

Subpart RR—Tennessee

18. Section 52.2235 is amended by adding paragraph (d) to read as follows:

§ 52.2235 Control strategy - Ozone

* * * * *

(d) *Determination of Attainment:* The EPA has determined, as of [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*], that based on 2011 to 2013 ambient air quality data, the Knoxville, TN and Memphis, TN-MS-AR 2008 ozone Marginal nonattainment areas have attained the 2008 ozone NAAQS. Therefore, the EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on an area's air quality data as of the attainment date, whether the areas attained the standard. The EPA also determined that the Knoxville, TN and Memphis, TN-MS-AR nonattainment areas will not be reclassified for failure to attain by their applicable attainment date under section 181(b)(2)(A).

Subpart ZZ—Wyoming

19. Subpart ZZ is amended by revising section 52.2623 to read as follows:

§ 52.2623 Control strategy and regulations: Ozone

(a) *Determination of Attainment*: The EPA has determined, as of [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*], that based on 2012 to 2014 ambient air quality data, the Upper Green River Basin Area, WY 2008 ozone Marginal nonattainment area has attained the 2008 ozone NAAQS. Therefore, the EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area’s air quality data as of the attainment date, whether the area attained the standard. The EPA also determined that the Upper Green River Basin Area, WY nonattainment area will not be reclassified for failure to attain by its applicable attainment date under section 181(b)(2)(A).

* * * * *

PART 81—[AMENDED]

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

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

Subpart C—[Amended]

21. Section 81.303 is amended in the table for “Arizona-2008 8-Hour Ozone NAAQS (Primary and secondary)” by revising the entry for “Phoenix-Mesa, AZ” to read as follows:

§81.303 Arizona.

* * * * *

Arizona—2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Phoenix-Mesa, AZ: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Moderate.
Maricopa County (part)				
T1N, R1E (except that portion in Indian Country); T1N, R2E; T1N, R3E; T1N, R4E; T1N, R5E; 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, R5E; T2N, R6E; T2N, R7E; 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; T3N, R6E; T3N, R7E; 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; T4N, R7E; 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, 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);				

<p>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); 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)</p>				
<p>Pinal County (part) Apache Junction:</p>				
<p>T1N, R8E; T1S, R8E (Sections 1 through 12)</p>				
<p>Fort McDowell Yavapai Nation³</p>				
<p>Salt River Pima-Maricopa Indian Community of the Salt River Reservation³</p>				

Tohono O'odham Nation of Arizona ³				
* * * * *				

¹This date is July 20, 2012, unless otherwise noted.

²Excludes Indian country located in each area, unless otherwise noted.

³Includes Indian country of the tribe listed in this table located in the identified area. Information pertaining to areas of Indian country in this table is intended for CAA planning purposes only and is not an EPA determination of Indian country status or any Indian country boundary. EPA lacks the authority to establish Indian country land status, and is making no determination of Indian country boundaries, in this table.

⁴Includes any Indian country in each county or area, unless otherwise specified.

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22. Section 81.305 is amended in the table for “California-2008 8-Hour Ozone NAAQS (Primary and secondary)” by revising the entries for the following: “Imperial County, CA”; “Kern County (Eastern Kern), CA”; “Mariposa County, CA”; “Nevada County (Western part), CA”; and “San Diego, CA” and by designating the footnotes in the correct order to read as follows:

§81.305 California.

* * * * *

California—2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Imperial County, CA: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Moderate.

Imperial County				
Quechan Tribe of the Fort Yuma Indian Reservation ³				
Torres Martinez Desert Cahuilla Indians ³				
Kern County (Eastern Kern), CA: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Moderate.
Kern County (part)				
<p>That portion of Kern County (with the exception of that portion in Hydrologic Unit Number 18090205—the Indian Wells Valley) east and south of a line described as follows: Beginning at the Kern-Los Angeles County boundary and running north and east along the northwest boundary of the Rancho La Liebre Land Grant to the point of intersection with the range line common to Range 16 West and Range 17 West, San Bernardino Base and Meridian; north along the range line to the point of intersection with the Rancho El Tejon Land Grant boundary; then southeast, northeast, and northwest along the boundary of the Rancho El Tejon Grant to the northwest corner of Section 3, Township 11 North, Range 17 West; then west 1.2 miles; then north to the Rancho El Tejon Land Grant boundary; then northwest along the Rancho El Tejon line to the southeast corner of Section 34, Township 32 South, Range 30 East, Mount Diablo Base and Meridian; then north to the northwest corner of Section 35, Township 31 South, Range 30 East; then northeast along the boundary of the Rancho El Tejon Land Grant to the southwest corner of Section 18, Township 31 South, Range 31 East; then east to the southeast corner of Section 13, Township 31 South, Range 31 East; then north along the range line common to Range 31 East and Range 32 East, Mount Diablo Base and Meridian, to the northwest corner of Section 6, Township 29 South, Range 32 East; then</p>				

east to the southwest corner of Section 31, Township 28 South, Range 32 East; then north along the range line common to Range 31 East and Range 32 East to the northwest corner of Section 6, Township 28 South, Range 32 East, then west to the southeast corner of Section 36, Township 27 South, Range 31 East, then north along the range line common to Range 31 East and Range 32 East to the Kern-Tulare County boundary.				
Mariposa County, CA: ² Mariposa County		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Moderate.
Nevada County (Western part), CA: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Moderate.
Nevada County (part)				
That portion of Nevada County, which lies west of a line, described as follows: Beginning at the Nevada-Placer County boundary and running north along the western boundaries of Sections 24, 13, 12, 1, Township 17 North, Range 14 East, Mount Diablo Base and Meridian, and Sections 36, 25, 24, 13, 12, Township 18 North, Range 14 East to the Nevada-Sierra County boundary.				
San Diego County, CA: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Moderate.
San Diego County				
Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation ³				
Campo Band of Diegueno Mission Indians of the Campo Indian Reservation ³				

Capitan Grande Band of Diegueno Mission Indians of California ³				
Ewiiapaayp Band of Kumayaay Indians ³				
Iipay Nation of Santa Ysabel ³				
Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation ³				
Jamul Indian Village of California ³				
La Jolla Band of Luiseno Indians ³				
La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation ³				
Los Coyotes Band of Cahuilla and Cupeno Indians ³				
Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation ³				
Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation ³				
Pala Band of Luiseno Mission Indians of the Pala Reservation ³				
Pauma Band of Luiseno Mission Indians of the Pauma and Yuima Reservation ³				
Rincon Band of Luiseno Mission Indians of the Rincon Reservation ³				
San Pasqual Band of Diegueno Mission Indians of California ³				
Sycuan Band of the Kumeyaay Nation ³				
Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians ³				
San Luis Obispo (Eastern San Luis Obispo), CA: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Marginal. ⁵
San Luis Obispo County (part)				
That portion of San Luis Obispo County that lies east of a line described as follows: Beginning at the San Luis Obispo County/Santa Barbara County boundary and running north along 120 degrees 24 minutes longitude to the intersection with 35 degrees 27 minutes latitude;				

east along 35 degrees 27 minutes latitude to the intersection with 120 degrees 18 minutes longitude; then north along 120 degrees 18 minutes longitude to the San Luis Obispo County/Monterey County boundary.				
* * * * *				

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⁴Includes any Indian country in each county or area, unless otherwise specified.

⁵Attainment date is extended to July 20, 2016.

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23. Section 81.306 is amended in the table for “Colorado-2008 8-Hour Ozone NAAQS (Primary and secondary)” by revising the entry for “Denver-Boulder-Greeley-Ft. Collins-Loveland, CO” to read as follows:

§81.306 Colorado.

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Colorado—2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Denver-Boulder-Greeley-Ft. Collins-Loveland, CO: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Moderate.

Adams County				
Arapahoe County				
Boulder County				
Broomfield County				
Denver County				
Douglas County				
Jefferson County				
Larimer County (part)				
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.				
Weld County (part)				
That portion of the county that lies south of a line described as follows: Beginning at a point on Weld County's eastern boundary and Logan County's western boundary intersected by 40 degrees, 42 minutes, 47.1 seconds north latitude, proceed west on 40 degrees, 42 minutes, 47.1 seconds north latitude until this line intersects Weld County's western boundary and Larimer County's eastern boundary.				
* * * * *				

This document is a prepublication version, signed by EPA Administrator, Gina McCarthy on 04/11/2016. We have taken steps to ensure the accuracy of this version, but it is not the official version.

¹This date is July 20, 2012, unless otherwise noted.

²Excludes Indian country located in each area, unless otherwise noted.

³Includes Indian country of the tribe listed in this table located in the identified area. Information pertaining to areas of Indian country in this table is intended for CAA planning purposes only and is not an EPA determination of Indian country status or any Indian country boundary. EPA lacks the authority to establish Indian country land status, and is making no determination of Indian country boundaries, in this table.

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24. Section 81.307 is amended in the table for “Connecticut-2008 8-Hour Ozone NAAQS (Primary and secondary)” by revising the entries for “Greater Connecticut, CT: and “New York-N. New Jersey-Long Island, NY-NJ-CT” to read as follows:

§81.307 Connecticut.

* * * * *

Connecticut—2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Greater Connecticut, CT: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Moderate.
Hartford County				
Litchfield County				
New London County				
Tolland County				
Windham County				
Mashantucket Pequot Tribe of Connecticut ³				
Mohegan Indian Tribe of Connecticut ³				

New York-N. New Jersey-Long Island, NY-NJ-CT: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Moderate.
Fairfield County				
Middlesex County				
New Haven County				
* * * * *				

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25. Section 81.308 is amended in the table for “Delaware-2008 8-Hour Ozone NAAQS (Primary and secondary)” by revising the entry for “Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE”; and by designating the footnotes in the correct order to read as follows:

§81.308 Delaware.

* * * * *

Delaware—2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE: ²		Nonattainment	[INSERT DATE 30 DAYS	Marginal. ⁴

			AFTER PUBLICATION IN THE FEDERAL REGISTER].	
New Castle County				

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²Excludes Indian country located in each area, unless otherwise noted.

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⁴Attainment date is extended to July 20, 2016.

26. Section 81.309 is amended in the table for “District of Columbia-2008 8-Hour Ozone NAAQS (Primary and secondary)” by revising the entry for “Washington, DC-MD-VA” and by designating the footnotes in the correct order to read as follows:

§81.309 District of Columbia.

District of Columbia—2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Washington, DC-MD-VA: District of Columbia ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Marginal. ³

¹This date is July 20, 2012, unless otherwise noted.

²Excludes Indian country located in each area, unless otherwise noted.

³Attainment date is extended to July 20, 2016.

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27. Section 81.311 is amended in the table for “Georgia-2008 8-Hour Ozone NAAQS (Primary and secondary)” by revising the entry for “Atlanta, GA” to read as follows:

§81.311 Georgia.

* * * * *

Georgia—2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Atlanta, GA: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Moderate.
Bartow County				
Cherokee County				
Clayton County				
Cobb County				
Coweta County				
DeKalb County				
Douglas County				
Fayette County				
Forsyth County				
Fulton County				
Gwinnett County				
Henry County				
Newton County				
Paulding County				

Rockdale County				
* * * * *				

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²Excludes Indian country located in each area, unless otherwise noted.

³Includes any Indian country in each county or area, unless otherwise specified.

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28. Section 81.314 is amended in the table for “Illinois-2008 8-Hour Ozone NAAQS (Primary and secondary)” by revising the entries for “Chicago-Naperville, IL-IN-WI” and “St. Louis-St. Charles-Farmington, MO-IL” and by designating the footnotes in the correct order to read as follows:

§81.314 Illinois.

* * * * *

Illinois—2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Chicago-Naperville, IL-IN-WI: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE <i>FEDERAL REGISTER</i>].	Moderate.
Cook County				
DuPage County				
Grundy County (part)				
Aux Sable Township				

Goose Lake Township				
Kane County				
Kendall County (part)				
Oswego Township				
Lake County				
McHenry County				
Will County				
St. Louis-St. Charles-Farmington, MO-IL: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE <i>FEDERAL REGISTER</i>].	Marginal. ⁴
Madison County				
Monroe County				
St. Clair County				
* * * * *				

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⁴Attainment date is extended to July 20, 2016.

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29. Section 81.315 is amended in the table for “Indiana-2008 8-Hour Ozone NAAQS (Primary and secondary)” by revising the entry for “Chicago-Naperville, IL-IN-WI” to read as follows:

§81.315 Indiana.

* * * * *

Indiana—2008 8-Hour Ozone NAAQS (Primary and secondary)

Designation area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Chicago-Naperville, IL-IN-WI: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Moderate.
Lake County				
Porter County				
* * * * *				

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30. Section 81.321 is amended in the table for “Maryland-2008 8-Hour Ozone NAAQS (Primary and secondary)” by revising the entries for “Washington, DC-MD-VA” and “Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE” and by designating the footnotes in the correct order to read as follows:

§81.321 Maryland.

* * * * *

Maryland—2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Marginal. ⁴
Cecil County				
Washington, DC-MD-VA: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Marginal. ⁴
Calvert County				
Charles County				
Frederick County				
Montgomery County				
Prince George's County				
* * * * *				

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⁴ Attainment date is extended to July 20, 2016.

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31. Section 81.326 is amended in the table for “Missouri-2008 8-Hour Ozone NAAQS (Primary and secondary)” by revising the entry for “St. Louis-St. Charles-Farmington, MO-IL” and by designating the footnotes in the correct order to read as follows:

§81.326 Missouri.

* * * * *

Missouri—2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
St. Louis-St. Charles-Farmington, MO-IL: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE <i>FEDERAL REGISTER</i>].	Marginal. ⁴
Franklin County				
Jefferson County				
St. Charles County				
St. Louis County				
St. Louis City				
* * * * *				

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³Includes any Indian country in each county or area, unless otherwise specified.

⁴Attainment date is extended to July 20, 2016.

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32. Section 81.331 is amended in the table for “New Jersey-2008 8-Hour Ozone NAAQS (Primary and secondary)” by revising the entries for “New York-N. New Jersey-Long Island, NY-NJ-CT” and “Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE” and by designating the footnotes in the correct order to read as follows:

§81.331 New Jersey.

* * * * *

New Jersey—2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
New York-N. New Jersey-Long Island, NY-NJ-CT: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Moderate.
Bergen County				
Essex County				
Hudson County				
Hunterdon County				
Middlesex County				
Monmouth County				
Morris County				
Passaic County				
Somerset County				
Sussex County				
Union County				
Warren County				
Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Marginal. ³
Atlantic County				
Burlington County				
Camden County				
Cape May County				
Cumberland County				
Gloucester County				
Mercer County				
Ocean County				

Salem County				

¹ This date is July 20, 2012, unless otherwise noted.

² Excludes Indian country located in each area, unless otherwise noted.

³ Attainment date is extended to July 20, 2016.

33. Section 81.333 is amended in the table for “New York-2008 8-Hour Ozone NAAQS

(Primary and secondary)” by revising the entry for “New York-N. New Jersey-Long Island, NY-NJ-CT” to read as follows:

§81.333 New York.

New York—2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type

New York-N. New Jersey-Long Island, NY-NJ-CT: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Moderate.
Bronx County				
Kings County				
Nassau County				
New York County				
Queens County				

Richmond County				
Rockland County				
Suffolk County				
Westchester County				
Shinnecock Indian Nation ³				
* * * * *				

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⁴Includes any Indian country in each county or area, unless otherwise specified.

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34. Section 81.336 is amended in the table for “Ohio-2008 8-Hour Ozone NAAQS (Primary and secondary)” by revising the entry for “Cleveland-Akron-Lorain, OH” and by designating the footnotes in the correct order to read as follows:

§81.336 Ohio.

* * * * *

Ohio—2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Cleveland-Akron-Lorain, OH: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Marginal. ⁴

Ashtabula County				
Cuyahoga County				
Geauga County				
Lake County				
Lorain County				
Medina County				
Portage County				
Summit County				
* * * * *				

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³Includes any Indian country in each county or area, unless otherwise specified.

⁴Attainment date is extended to July 20, 2016.

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35. Section 81.339 is amended in the table for “Pennsylvania-2008 8-Hour Ozone NAAQS (Primary and secondary)” by revising the entries for “Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE” and “Pittsburgh-Beaver Valley, PA” and by designating the footnotes in the correct order to read as follows:

§81.339 Pennsylvania.

* * * * *

Pennsylvania—2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type

* * * * *				
Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Marginal. ⁴
Bucks County				
Chester County				
Delaware County				
Montgomery County				
Philadelphia County				
Pittsburgh-Beaver Valley, PA ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Marginal. ⁴
Allegheny County				
Armstrong County				
Beaver County				
Butler County				
Fayette County				
Washington County				
Westmoreland County				
* * * * *				

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³Includes any Indian country in each county or area, unless otherwise specified.

⁴Attainment date is extended to July 20, 2016.

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36. Section 81.344 is amended in the table for “Texas-2008 8-Hour Ozone NAAQS (Primary and secondary)” by revising the entry for “Houston-Galveston-Brazoria, TX” to read as follows:

§81.344 Texas.

* * * * *

Texas—2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
* * * * *				
Houston-Galveston-Brazoria, TX: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Marginal. ⁴
Brazoria County				
Chambers County				
Fort Bend County				
Galveston County				
Harris County				
Liberty County				
Montgomery County				
Waller County				
* * * * *				

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³Includes any Indian country in each county or area, unless otherwise specified.

⁴Attainment date is extended to July 20, 2016.

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37. Section 81.347 is amended in the table for “Virginia-2008 8-Hour Ozone NAAQS (Primary and secondary)” by revising the entry for “Washington, DC-MD-VA” to read as follows:

§81.347 Virginia.

* * * * *

Virginia—2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Washington, DC-MD-VA: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Marginal. ⁴
Arlington County				
Fairfax County				
Loudoun County				
Prince William County				
Alexandria City				
Fairfax City				
Falls Church City				
Manassas City				
Manassas Park City				
* * * * *				

¹This date is July 20, 2012, unless otherwise noted.

²Excludes Indian country located in each area, unless otherwise noted.

³Includes any Indian country in each county or area, unless otherwise specified

⁴Attainment date is extended to July 20, 2016.

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38. Section 81.350 is amended in the table for “Wisconsin-2008 8-Hour Ozone NAAQS (Primary and secondary)” by revising the entries for “Chicago-Naperville, IL-IN-WI” and “Sheboygan County, WI” and by designating the footnotes in the correct order to read as follows:

§81.350 Wisconsin.

* * * * *

Wisconsin—2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Chicago-Naperville, IL-IN-WI: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].	Moderate.
Kenosha County (part)				
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.				
Sheboygan County, WI: ²		Nonattainment	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE	Marginal. ⁴

			<i>FEDERAL REGISTER</i>	
Sheboygan County				
* * * * *				

¹This date is July 20, 2012, unless otherwise noted.

²Excludes Indian country located in each area, unless otherwise noted.

³Includes any Indian country in each county or area, unless otherwise specified.

⁴Attainment date is extended to July 20, 2016.

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