



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2024-0001; FRL-11838-01-R8]

Extension of the Attainment Date and Determination of Attainment by the Attainment Date of the Uinta Basin Marginal Nonattainment Area under the 2015 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is proposing two Clean Air Act (CAA) actions related to the attainment date for the Uinta Basin (Basin), Utah Marginal nonattainment area under the 2015 Ozone National Ambient Air Quality Standards (NAAQS). First, the Agency is proposing to grant a second 1-year extension of the attainment date for the area. This action would extend the Marginal area attainment date for this area from August 3, 2022, to August 3, 2023. Second, the Agency is proposing to determine that the area attained the standard by the extended attainment date of August 3, 2023, based on certified ozone monitoring data from 2020-2022. This action, if finalized, will fulfill the EPA's statutory obligation to determine whether the Uinta Basin Marginal ozone nonattainment area attained the NAAQS by the attainment date through publication in the Federal Register.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2024-0001, to the Federal Rulemaking Portal: www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information

(CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in www.regulations.gov. To reduce the risk of COVID-19 transmission, for this action we do not plan to offer hard copy review of the docket. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

FOR FURTHER INFORMATION CONTACT: Amanda Brimmer, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, (303) 312-6323, brimmer.amanda@epa.gov.

SUPPLEMENTARY INFORMATION: In this document “we,” “us,” and “our” mean the EPA.

Overview and Basis of Proposal

A. Overview of Proposal

Under CAA section 181(b)(2), the EPA is required to determine whether areas designated as nonattainment for an ozone NAAQS attain the standard by the applicable attainment date, and to take certain steps for areas that fail to attain. Because the ozone NAAQS is a concentration-

based standard, a determination of attainment is based on a nonattainment area's design value (DV) as of the attainment date.¹ In this proposal the EPA is addressing the 2015 ozone NAAQS.²

On March 29, 2021, the State of Utah requested a 1-year extension of the Marginal attainment date for the Uinta Basin. The Ute Indian Tribe (UIT) subsequently requested an extension on May 25, 2021. Based on EPA's evaluation, the criteria for an attainment date extension had been met, and in October 2022, EPA granted the extension, making the new attainment date August 3, 2022.³ On March 29, 2022, the State of Utah requested a second one-year extension of the Marginal attainment date for the Uinta Basin nonattainment area, which would extend the attainment date to August 3, 2023.⁴ On December 20, 2022, the UIT also requested a second one-year extension.

Under the EPA regulations at 40 CFR part 50, appendix U, the 2015 ozone NAAQS is attained at a site when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentration (*i.e.*, DV) does not exceed 0.070 ppm. When the DV does not exceed 0.070 ppm at each ambient air quality monitoring site within the area, the area is deemed to be attaining the ozone NAAQS. For this area, which is classified as Marginal nonattainment for the 2015 ozone NAAQS, the attainment date was August 3, 2022, and the proposed extended attainment date would be August 3, 2023. Because the DV is based on the three most recent, complete calendar years of data, attainment must occur no later than December 31 of the year before the attainment date. Therefore, in light of our proposed extension of the attainment date, the proposed determination of attainment is based upon the

¹ A design value is a statistic used to compare data collected at an ambient air quality monitoring site to the applicable NAAQS to determine compliance with the standard. The DV for the 2015 ozone NAAQS is the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration. The DV is calculated for each air quality monitor in an area, and the DV for an area is the highest DV among the individual monitoring sites located in the area.

² Because the 2015 primary and secondary NAAQS for ozone are identical, for convenience, the EPA refers to them in the singular as "the 2015 ozone NAAQS" or as "the standard."

³ See Final rule, Determinations of Attainment by the Attainment Date (DAAD), Extensions of the Attainment Date, and Reclassification of Areas Classified as Marginal for the 2015 Ozone National Ambient Air Quality Standards, 87 FR 60897 (Oct. 7, 2022).

⁴ See letter dated March 30, 2022, from Utah Department of Environmental Quality (UDEQ) Executive Director Kim Shelley to U.S. EPA Region 8 Regional Administrator KC Becker; and letter dated December 20, 2022, from Ute Indian Tribe Chairman Shaun Chappoose to U.S. EPA Region 8 Regional Administrator KC Becker.

complete, quality-assured, and certified ozone monitoring data from calendar years 2019 through 2022. Table 1 provides a summary of the DVs and the EPA’s proposed air quality-based determinations for the area addressed in this action. While the 2019-2021 DV does not show attainment, the two-year average of 2020-2021 qualifies the region for a second 1-year attainment date extension.⁵ Based on the 2020-2022 DV, the region did not exceed 0.070 ppm, and EPA proposes to find that the area attained by the proposed new attainment date.

Table 1 - Uinta Basin 2015 Ozone NAAQS Marginal Nonattainment Area Evaluation Summary⁶

| 2019–2021 DV (ppm) | 2020-2021 average 4th highest daily maximum 8-hr average (ppm) | Area failed to attain 2015 NAAQS but state requested 2nd 1-year attainment date extension based on average 2020-2021 4th highest daily maximum 8-hr average ≤0.070 ppm | 2020–2022 DV (ppm) | 2015 NAAQS attained by the 2nd 1-year attainment date extension |
|---------------------------|---|--|---------------------------|---|
| 0.078 | 0.069 | Yes | 0.067 | Yes |

B. What is the background for the proposed actions?

On October 26, 2015, the EPA issued a final action revising the NAAQS for ozone, establishing new and more stringent primary and secondary 8-hour standards of 0.070 ppm.⁷ Effective August 3, 2018, the EPA designated 52 areas throughout the country as nonattainment for the 2015 ozone NAAQS, including the Uinta Basin.⁸ In a separate action, the EPA assigned classification thresholds and attainment dates based on the severity of an area’s ozone problem,

⁵ To qualify for a second 1-year extension, an area’s fourth highest daily maximum 8-hour value, averaged over both the original attainment year and the first extension year, must be 0.070 ppm or less (40 CFR 51.1307(a)(2)). As of July 18, 2022, the Uinta Basin area’s certified 2020 and 2021 ozone data show that the maximum two-year average design value for 2020-2021 is 0.069 ppm. This is based on 2020 and 2021 ozone values at the two key monitors in the region (AQS Site 490472002 which had fourth highest daily maximum 8-hour value for 2020 at 0.066 ppm, and AQS Site 490472003 which had fourth highest daily maximum 8-hour value for 2021 at 0.072 ppm, which averaged is 0.069 ppm.).

⁶ The 1st through 4th highest 8-hour average ozone concentrations at each monitor for each year can be found at EPA’s Outdoor Air Quality Data, Monitor Values Report, <https://www.epa.gov/outdoor-air-quality-data/monitor-values-report>. These are AirData reports are produced from a direct query of the Air Quality System (AQS) Data Mart. The data represent the best and most recent information available to EPA from state agencies. However, some values may be absent due to incomplete reporting, and some values may change due to quality assurance activities. The AQS database is updated by state, local, and tribal organizations who own and submit the data.

⁷ See Final Rule, National Ambient Air Quality Standards for Ozone, 80 FR 65452.

⁸ See Final Rule, Additional Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards, 83 FR 25776 (June 4, 2018).

determined by the area’s DV.⁹ The EPA established the attainment date for Marginal 2015 ozone NAAQS nonattainment areas as 3 years from the effective date of the final designations, meaning that the Uinta Basin Marginal nonattainment area had an attainment date of August 3, 2021.

The area did not attain the 2015 ozone NAAQS by the Marginal area attainment date of August 3, 2021, based on its final 2018-2020 DV of 0.076 ppm. However, the area did meet the criteria under 40 CFR 51.1307(a)(1) for an initial 1-year extension, with an attainment year (2020) fourth highest daily maximum 8-hour average concentration of 0.066 ppm. Certified ozone monitoring data for 2021 showed that the area did not attain the 2015 ozone NAAQS by the extended attainment date of August 3, 2022, based on its final 2019-2021 DV of 0.078 ppm, but it does qualify for a second 1-year extension with a two-year average fourth highest daily maximum 8-hour concentration of 0.069 ppm for the years 2020 and 2021.¹⁰ Additionally, certified data through December 31, 2022, shows that the three-year average for 2020-2022 is 0.067 ppm, which is considered attaining the 2015 ozone NAAQS (see Table 2). Therefore, EPA proposes to determine that the region attained the NAAQS by the proposed attainment date of August 3, 2023.

Table 2 – Ozone Monitoring Values for Duchesne and Uintah Counties, Utah

| AQS Site ID | 4th Highest Daily Max (ppm) ¹¹ | | | | | | |
|-------------------------------|---|--------------------------|--------------|--------------------------|-------------------|--------------|--------------------------|
| | 2019 | 2020 | 2021 | Average 2020-2021 | Average 2019-2021 | 2022 | Average 2020-2022 |
| Max 4th Max | 0.098 | 0.066^A | 0.072 | 0.069^B | 0.078 | 0.066 | 0.067^C |
| Duchesne County | | | | | | | |
| 490130002 | 0.087 | 0.063 | 0.072 | -- | 0.074 | 0.066 | 0.067 |
| 490137011 | 0.079 | 0.064 | 0.069 | -- | 0.070 | 0.066 | 0.066 |
| Uintah County | | | | | | | |
| 490471002 | 0.070 | 0.063 | 0.068 | -- | 0.067 | 0.063 | 0.064 |
| 490471004 | 0.065 | 0.063 | 0.068 | -- | 0.065 | 0.063 | 0.064 |
| 490472002 | 0.074 | 0.066 | 0.071 | -- | 0.070 | 0.062 | 0.066 |
| 490472003 | 0.098 | 0.065 | 0.072 | -- | 0.078 | 0.064 | 0.067 |
| 490477022 | 0.067 | 0.065 | 0.068 | -- | 0.066 | 0.062 | 0.065 |

⁹ See Final Rule, Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach, 83 FR 10376 (May 8, 2018).

¹⁰ See footnote 5.

¹¹ See footnote 5.

^A Basis for 1st 1-year extension (CAA section 181(a)(5) and 40 CFR 51.1307(a)(1))

^B Basis for 2nd 1-year extension (CAA section 181(a)(5) and 40 CFR 51.1307(a)(2))

^C Basis for DAAD (181(b)(2)(A) of the CAA and 40 CFR 51.1303)

C. What is the statutory authority for the proposed actions?

The statutory authority for the actions proposed in this document is provided by the CAA, as amended (42 U.S.C. 7401 *et seq.*). CAA section 107(d) provides that when the EPA establishes or revises a NAAQS, the agency must designate areas of the country as nonattainment, attainment, or unclassifiable based on whether an area is not meeting (or is contributing to air quality in a nearby area that is not meeting) the NAAQS, meeting the NAAQS, or cannot be classified as meeting or not meeting the NAAQS, respectively. Subpart 2 of part D of title I of the CAA governs the classification, state planning, and emissions control requirements for any areas designated as nonattainment for a revised primary ozone NAAQS. In particular, CAA section 181(a)(1) requires each area designated as nonattainment for a revised ozone NAAQS to be classified at the same time as the area is designated. Classifications for ozone nonattainment areas are based on the extent of the ozone problem in the area (as determined based on the area's DV) and range from "Marginal" to "Extreme." CAA section 182 provides the specific attainment planning and additional requirements that apply to each ozone nonattainment area based on its classification. CAA section 182, as interpreted by the EPA's implementing regulations at 40 CFR 51.1308 through 51.1317, also establishes the timeframes by which air agencies must submit and implement State Implementation Plan (SIP) revisions to satisfy the applicable attainment planning elements, and the timeframes by which nonattainment areas must attain the 2015 ozone NAAQS.

CAA section 181(b)(2)(A) provides that, within 6 months following the applicable attainment date, the EPA must determine whether an ozone nonattainment area attained the ozone standard based on the area's DV as of that date. If an area fails to attain the ozone NAAQS by the applicable attainment date and is not granted a 1-year attainment date extension, CAA section 181(b)(2)(A) requires the EPA to make the determination that an ozone nonattainment

area failed to attain the ozone standard by the applicable attainment date, and requires the area to be reclassified by operation of law to the higher of: (1) the next higher classification for the area, or (2) the classification applicable to the area's DV as of the determination of failure to attain.

Per CAA section 181(a)(5), upon application by any state, the EPA may grant a 1-year extension of the attainment date for qualifying areas (Section II.A of this notice).

D. How does the EPA determine whether an area is eligible for a second attainment date extension?

Section 181(a)(5) of the CAA gives the EPA the discretion ("the Administrator may") to extend an area's applicable attainment date by one additional year upon application by any state if the state meets the two criteria under CAA section 181(a)(5). See also 40 CFR 51.1307. This section is intended to provide flexibility where an area is close to achieving attainment and can likely do so with a bit more time. Rather than require an area to attain the NAAQS by a first extended attainment date, the provision expressly allows for a maximum of two 1-year extensions for a single area.

The first criterion is that the State must have complied with all requirements and commitments pertaining to the area in the applicable implementation plan. Second, and specifically related to a second 1-year extension, the area's 4th highest daily maximum 8-hour value, averaged over both the original attainment year and the first extension year, must be no greater than the level of that NAAQS.

The first criterion is satisfied if a state can demonstrate that it is in compliance with its approved implementation plan. See *Delaware Dept. of Nat. Resources and Env'tl. Control v. EPA*, 895 F.3d 90, 101 (D.C. Cir. 2018) (holding that the CAA requires only that an applying state with jurisdiction over a nonattainment area comply with the requirements in its applicable SIP, not every requirement of the Act). A state may meet this requirement by certifying its compliance, and in the absence of such certification, the EPA may determine whether the criterion has been met. See *Delaware*, 895 F.3d at 101-102.

With respect to the second criterion, for the 2015 ozone NAAQS the EPA has interpreted the air quality criterion of CAA section 181(a)(5)(B) to mean that an area's 4th highest daily maximum 8-hour value, averaged over both the original attainment year and the first extension year, must be no greater than 0.070 ppm. Utah certified that both criteria have been met in their second extension request.¹²

E. How does the EPA determine whether an area has attained the 2015 ozone standard?

The 2015 ozone NAAQS is attained for an area when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentration (i.e., DV) at each monitoring site in the area does not exceed 0.070 ppm. See 40 CFR part 50, appendix U.

The EPA's determination of attainment is based upon data that have been collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA's Air Quality System (AQS) database.¹³ Ambient air quality monitoring data for the 3-year period preceding the year of the attainment date (2020–2022 for the Uinta Basin 2015 ozone NAAQS Marginal area, after the granting of the second 1-year extension) must meet the data completeness requirements in Appendix U, section 4(b). These completeness requirements are met for the 3-year period at a monitoring site if daily maximum 8-hour average concentrations of ozone are available for at least 90 percent of the days within the ozone monitoring season, on average, for the 3-year period, and no single year has less than 75 percent data completeness. Monitors in the NWF nonattainment area have met this requirement.

II. What is the EPA proposing and what is the rationale?

The EPA evaluated air quality monitoring data submitted by the appropriate state and tribal air agencies to determine the attainment status. The area failed to attain the 2015 ozone

¹² See letter dated March 30, 2022, from Utah Department of Environmental Quality (UDEQ) Executive Director Kim Shelley to U.S. EPA Region 8 Regional Administrator KC Becker.

¹³ The EPA maintains the AQS, a database that contains ambient air pollution data collected by the EPA, state, local, and tribal air pollution control agencies. The AQS also contains meteorological data, descriptive information about each monitoring station (including its geographic location and its operator) and data quality assurance/quality control information. The AQS data is used to (1) assess air quality, (2) assist in attainment/non-attainment designations, (3) evaluate SIPs for non-attainment areas, (4) perform modeling for permit review analysis, and (5) prepare reports for Congress as mandated by the CAA. See <https://www.epa.gov/aqs>.

NAAQS by the extended attainment date of August 3, 2022, but is eligible for a second 1-year attainment date extension under CAA section 181(a)(5) and 40 CFR 51.1307. We are now proposing to grant a requested second 1-year attainment date extension and to determine, in accordance with CAA section 181(b)(2)(A) and 40 CFR 51.1303, that the area attained the 2015 ozone NAAQS by the proposed extended Marginal area attainment date of August 3, 2023, based on the area's 2020–2022 DV (Table 1). This section describes the determinations and actions being proposed in this document.

A. Extension of Marginal Area Attainment Date

In a letter dated March 29, 2022, the Utah Division of Air Quality (UDAQ) requested an extension of the Uinta Basin area Marginal area attainment date. In addition, the UIT requested an extension in a letter dated December 20, 2022. The information presented by the state in their request demonstrates that the area meets the two necessary statutory criteria for the second 1-year extension under CAA section 181(a)(5). Further, we have found no compelling countervailing facts or circumstances that would cause the agency to exercise its discretion to deny the request notwithstanding the state's demonstration. UDAQ has certified that they have complied with all requirements and commitments pertaining to this area in their approved implementation plan and monitoring data completeness. On February 1, 2022, EPA approved that the Emission Statement Rule and the Nonattainment New Source Review Requirements had been met through SIP submittals and that Utah had met all the requirements for its Marginal NAAs under the 2015 8-hour ozone NAAQS.¹⁴ The 2017 Base Year Inventory Marginal NAA requirement was met through EPA approval on July 6, 2021.¹⁵ For these reasons, the EPA

¹⁴ See Final rule, Approval and Promulgation of Implementation Plans; Utah; Emissions Statement Rule and Nonattainment New Source Review Requirements for the 2015 8-Hour Ozone National Ambient Air Quality Standard for the Uinta Basin, Northern Wasatch Front and Southern Wasatch Front Nonattainment Areas, 87 FR 24273 (April 25, 2022).

¹⁵ See Final rule, Approval and Promulgation of Implementation Plans; Utah; 2017 Base Year Inventories for the 2015 8-Hour Ozone National Ambient Air Quality Standard for the Uinta Basin, Northern Wasatch Front and Southern Wasatch Front Nonattainment Areas, 86 FR 35404 (July 6, 2021).

proposes to grant the requested 1-year extension of the August 3, 2022, Marginal area attainment date for the Uinta Basin area.

If this proposal is finalized, on the effective date of the final action, the attainment date for the Uinta Basin area will be extended from August 3, 2022, to August 3, 2023. The EPA solicits comments on this proposal to grant the requested second 1-year attainment date extension for the Uinta Basin Marginal ozone nonattainment area, and whether there are any particular circumstances, such as disproportionate environmental exposure or burdens, that the EPA should consider before granting the request.

B. Determination of Attainment by the Attainment Date

Along with proposing to grant a second 1-year attainment date extension, in this rulemaking we are proposing to determine that, in accordance with CAA section 181(b)(2), the Uinta Basin Marginal ozone nonattainment area attained the 2015 ozone NAAQS by the extended Marginal area attainment date of August 3, 2023, based on the 2020-2022 DV (see Table 1). See also 40 CFR 51.1303. The EPA requests comment on the proposed determination of attainment by the proposed attainment date.

This proposed determination of attainment by the attainment date does not constitute formal redesignation to attainment as provided for under CAA section 107(d)(3).

C. Additional Information

As part of this rulemaking, EPA acknowledges that preliminary ozone monitoring data indicate that in early 2023, the region experienced excessively high ozone values. While this data was not determinative in proposing to grant the 2nd extended attainment date, it does show that there continue to be periods of high ozone levels in the Basin. Addressing the continuing ozone problem will require continued efforts and steady commitments from state, local, federal, tribal, and industry partners to reduce precursor emissions in the region. The following sections (see i through iv below) provide additional information on reductions EPA expects will significantly mitigate exceedances in the area.

i. Air Quality Trends

The Uinta Basin nonattainment area has a unique ozone problem, in that it primarily occurs during the wintertime, instead of during the summertime as is seen in most other ozone nonattainment areas. Accordingly, in the Uinta Basin violating ozone concentrations are driven by stagnant winter conditions associated with snow cover and strong temperature inversions, which directly result in increased ozone production due to accumulated local ozone precursor emissions from oil and gas sources in the Basin.

The CAA mandates that the EPA determine whether an area attained the NAAQS solely on the basis of the area's DV as of the attainment date, CAA section 181(b)(2)(A), and does not permit the EPA to consider in making that determination how the area attained or whether the area will continue to attain in making that determination. Therefore, we did not consider other factors, such as documented reductions in emissions of ozone precursors and demonstrations that enforceable controls achieved attainment, in determining whether the area attained by the proposed attainment date.

ii. U&O Federal Implementation Plan (FIP) for Managing Emissions from Oil and Gas Sources on Indian Country

In developing this proposal, we also considered the impact of the recently finalized FIP for Managing Emissions from Oil and Natural Gas Sources on Indian Country Lands within the Uintah and Ouray Indian Reservation in Utah (U&O FIP).¹⁶ The U&O FIP requires new, modified, and existing oil and natural gas sources on Indian country lands within the U&O Reservation to implement new control requirements. While the FIP was not specifically designed to bring the area into attainment of the 2015 ozone NAAQS, the EPA expects these emission limits to significantly reduce ozone precursor emissions and improve air quality in the area. Most

¹⁶ Federal Implementation Plan for Managing Emissions From Oil and Natural Gas Sources on Indian Country Lands Within the Uintah and Ouray Indian Reservation in Utah, Final Rule, see 87 FR 75334 (Dec. 8, 2022); see also Federal Implementation Plan for Managing Emissions From Oil and Natural Gas Sources on Indian Country Lands Within the Uintah and Ouray Indian Reservation in Utah, Proposed Rule, 85 FR 3492 (Jan. 21, 2020); at 87 FR 21842, 21848 (April 13, 2022) (discussing U&O FIP proposal).

volatile organic compounds (VOC) emissions within the Basin are from existing oil and gas activity, and most of those oil and gas emissions are from existing sources on the U&O Indian Reservation and in the nonattainment area. Before the promulgation of the U&O FIP, VOC emissions control requirements for existing oil and gas sources were in place in areas of the Uinta Basin under the State of Utah's jurisdiction, but not in the Indian country areas of the U&O Indian Reservation, leaving sources in a large portion of the U&O Basin largely uncontrolled. With the ongoing implementation of the U&O FIP, we expect the new control requirements to make a meaningful improvement in air quality and assist in addressing winter ozone exceedances on the Reservation, and in the nonattainment area and larger Uinta Basin region.

iii. Voluntary Measures

In a letter dated May 30, 2023, the UIT provided supplemental information to EPA on voluntary efforts to reduce oil and gas emissions from sources on the U&O Reservation.¹⁷ The letter highlighted efforts by operators in the Basin to identify and mitigate emissions leaks from operations. Efforts included voluntary leak detection and repair (LDAR) inspections, controlling tank vapor, replacement and retrofitting of pneumatic pumps, aerial methane surveying, converting compressors from natural gas to line-electric or solar-electric power, using non-emitting pneumatic devices at new well pads, and redesigning compressor stations to reduce emissions.

Another initiative taking place in this nonattainment area is the Winter Ozone Alert Program, run by Utah State University Bingham Research Center. Initiated in 2017, the program provides email alerts when ozone exceeding EPA standards is forecasted for the Uinta Basin. The purpose of these alerts is to provide the oil and gas industry and others with real-time

¹⁷ See letter dated May 30, 2023, from Ute Indian Tribe Business Committee Chairman, Julius T. Murray, III to U.S. EPA Region 8 Enforcement and Compliance Director, Suzanne Bohan.

information about air quality in the Basin so they can take voluntary action to reduce emissions of ozone-forming pollutants.¹⁸

iv. Final Rule on Oil and Gas New Standards and Emissions Guidelines (OOOOb/c)

On March 8, 2024, the EPA finalized new source performance standards and emission guidelines for the crude oil and natural gas source category under CAA section 111, which codifies new subparts OOOOb and OOOOc at 40 CFR part 60.¹⁹ These rules are expected to achieve significant emissions reductions from both new, reconstructed, and modified sources in addition to existing oil and gas operations in the Basin as well as across the nation.

Under subpart OOOOb, EPA established federal standards for new, modified, and reconstructed sources. Subpart OOOOb requires enhanced LDAR at new, modified, and reconstructed well sites, including wellhead-only sites, and add options that allow owners to use a wider selection of methane detection technologies to check for leaks. Subpart OOOOc includes presumptive standards to limit GHGs emissions (in the form of methane limitations) from designated facilities in the Crude Oil and Natural Gas source category, as well as requirements under the CAA section 111(d) for states to follow in developing, submitting, and implementing state plans to establish performance standards. Subpart OOOOc defers to the General Provision's Implementing Regulations under 40 CFR part 60 subpart Ba²⁰ for certain requirements, such as the requirement for states to conduct meaningful public engagement during development of their existing source plans.²¹ EPA is committed to issuing a Federal Plan in a timely manner to

¹⁸ Information on this program can be found at <https://www.usu.edu/binghamresearch/ozone-alert>.

¹⁹ See Final rule, Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review, 89 FR 16820 (Mar. 8, 2024).

²⁰ See 88 FR 80480 (November 17, 2023).

²¹ Subpart Ba requires as part of completeness criteria in 40 CFR 60.27a(g) that states must submit, with the plan or revision, documentation of meaningful engagement including a list of identified pertinent stakeholders and/or their representatives, a summary of the engagement conducted, a summary of stakeholder input received, and a description of how stakeholder input was considered in the development of the plan or plan revisions. See 40 CFR 60.21a for the definitions of meaningful engagement and pertinent stakeholders. State plans submitted in accordance with OOOOc that include provisions for Remaining Useful Life and Other Factors (RULOF) must comply with the subpart Ba general RULOF provisions in 40 CFR 60.24a (see 40 CFR 60.20a(a), which establishes applicability of subpart Ba requirements to EG OOOOc). Further, EG OOOOc does not supersede any requirement within subpart Ba related to RULOF.

implement OOOOc in Indian country and will continue to engage with Tribal Nations and state partners throughout this process.

III. Environmental Justice Considerations

The CAA gives the EPA the discretion to extend an area's applicable attainment date by one additional year upon application by any state if the state meets the two criteria under CAA section 181(a)(5) (see Section I.D of this notice). As part of the screening analyses to evaluate whether communities in the Uinta Basin area may be exposed to disproportionate pollution burdens as a result of this proposed extension, we used EJSCREEN, an EJ mapping and screening tool that provides EPA with a nationally consistent dataset and approach for combining various environmental and demographic indicators.²² The EJSCREEN tool presents these indicators at a Census block group (CBG) level or a larger user-specified "buffer" area that covers multiple CBGs.²³ An individual CBG is a cluster of contiguous blocks within the same census tract and generally contains between 600 and 3,000 people. EJSCREEN is not a tool for performing in-depth risk analysis but is instead a screening tool that provides an initial representation of indicators related to EJ. We also examined ozone design value data for the Uinta Basin area.²⁴

With respect to the Uinta Basin, the EPA conducted an EJSCREEN analysis for the two counties (Duchesne and Uintah) that encompass the entire Uinta Basin nonattainment area. The results of our screening analysis did not indicate disproportionate exposure or burdens with respect to the non-ozone environmental indicators assessed in EJSCREEN for the 2-county (Duchesne and Uintah) area, or relative to the U.S. as a whole.²⁵

²² The EJ SCREEN tool is available at www.epa.gov/ejscreen.

²³ See www.census.gov/programs-surveys/geography/about/glossary.html.

²⁴ The ozone metric in EJSCREEN represents the summer seasonal average of daily maximum 8-hour concentrations (parts per billion), and was not used in our EJ analyses because this metric is not informative of peak ozone concentrations for this area, which are instead represented here by the design value metric. Ozone design values are the basis of attainment determinations in this proposed action, and we consider it a more informative indicator of pollution burden from ozone in the Uinta Basin area.

²⁵ EJSCREEN examines multiple environmental indicators, including particulate matter, traffic proximity and volume, lead paint in housing, and proximity scores for Superfund, RMP and hazardous waste facilities. The results of our EJSCREEN analyses are in this docket (EPA-HQ-OAR-2024-0001).

The EPA's inquiry is consistent with multiple executive orders addressing environmental justice as well as an April 7, 2021, directive by the EPA Administrator.²⁶ In that directive, the Administrator instructed all EPA offices to take immediate and affirmative steps to incorporate EJ considerations into their work, including assessing impacts to pollution-burdened, underserved, and Tribal communities in regulatory development processes and considering regulatory options to maximize benefits to these communities.²⁷

The EPA considered the information described above in evaluating the request for a second 1-year extension of the Marginal attainment date, and we propose to find that this information does not weigh against our proposal to grant the request.

IV. Tribal Consultation

In accordance with the EPA Policy on Consultation and Coordination with Indian Tribes, the EPA is offering an opportunity to the UIT for consultation during the public comment period on this proposed EPA action (see Section V.F of this notice).²⁸

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is exempt from review under Executive Order 12866, as amended by Executive Order 14094, because it responds to the CAA requirement to determine whether areas

²⁶ See Message from the EPA Administrator, Our Commitment to Environmental Justice (April 7, 2021) at www.epa.gov/sites/production/files/2021-04/documents/regan-messageoncommitmenttoenvironmentaljustice-april072021.pdf; E.O. 13985, Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (January 20, 2021), available at www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/ and 86 FR 7009 (January 25, 2021)); E.O. 12898, Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations (February 11, 1994), available at www.epa.gov/sites/production/files/2015-02/documents/exec_order_12898.pdf and 59 FR 7629 (February 16, 1994)); E.O. 14096, Revitalizing Our Nation's Commitment to Environmental Justice for All, issued April 21, 2023, available at www.govinfo.gov/content/pkg/FR-2023-04-26/pdf/2023-08955.pdf and 88 FR 25251 (April 26, 2023).

²⁷ The EPA has defined environmental justice as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies." See www.epa.gov/environmentaljustice/learn-about-environmental-justice.

²⁸ See EPA Policy on Consultation and Coordination with Indian Tribes, May 4, 2011, www.epa.gov/sites/default/files/2013-08/documents/cons-and-coord-with-indian-tribes-policy.pdf.

designated nonattainment for an ozone NAAQS attained the standard by the applicable attainment date.

B. Paperwork Reduction Act (PRA)

This proposed rule does not impose any new information collection burden under the PRA not already approved by the Office of Management and Budget. This action proposes to: (1) Find that this Marginal ozone nonattainment area failed to attain the 2015 NAAQS by the attainment date of Aug. 3, 2022; (2) Determine that this area qualifies for a second 1-year extension of the attainment date; (3) Grant the request by the State and Tribe to extend the attainment date to Aug. 3, 2023; and (4) Determine that this area attained the standard by the new attainment date. Thus, the proposed action does not establish any new information collection burden that has not already been identified and approved in the EPA's information collection request.²⁹

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. The proposed determination to grant a 1-year attainment date extension and the proposed determinations of attainment by the proposed attainment date for the 2015 ozone NAAQS do not in and of themselves create any new requirements beyond what is mandated by the CAA. Instead, this rulemaking only makes factual determinations, and does not directly regulate any entities.

D. Unfunded Mandates Reform Act (UMRA)

²⁹ On April 30, 2018, the OMB approved EPA's request for renewal of the previously approved information collection request (ICR). The renewed request expired on April 30, 2021, 3 years after the approval date (see OMB Control Number 2060-0695 and ICR Reference Number 201801-2060-003 for EPA ICR No. 2347.03). On April 30, 2021, the OMB published the final 30-day Notice (86 FR 22959) for the ICR renewal titled "Implementation of the 8-Hour National Ambient Air Quality Standards for Ozone (Renewal)" (see OMB Control Number 2060-0695 and ICR Reference No: 202104-2060-004 for EPA ICR Number 2347.04). The ICR renewal is pending OMB final approval.

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. The division of responsibility between the Federal Government and the states for purposes of implementing the NAAQS is established under the CAA.

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

This action has tribal implications, because it proposes actions that will affect the ozone classification of a large area of Indian country within the U&O Reservation. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law.

The EPA consulted with tribal officials under the EPA Policy on Consultation and Coordination with Indian Tribes early in the process of developing this regulation to permit them to have meaningful and timely input into its development. A summary of that consultation to date is provided in the docket. See “Consultation with the UIT.docx.” EPA intends to offer further consultation to the UIT upon signature of this proposal.

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 it does not establish an environmental standard intended to mitigate health or safety risks.

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

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

I. National Technology Transfer Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and EO 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

The EPA believes that the human health and environmental conditions existing prior to this action do not result in disproportionate and adverse effects on communities with EJ concerns. The EPA believes that this action is not likely to result in new disproportionate and adverse effects on communities with environmental justice concerns. Documentation for this determination is presented in Section II.A of this action, "Extension of Marginal Area Attainment Date." Supporting information is described in Section III of this action, "Environmental Justice Considerations" and the relevant documents have been placed in the public docket for this action.

With respect to the determinations of whether areas have attained the NAAQS by the attainment date, the EPA has no discretionary authority to address EJ in these determinations. CAA section 181(b)(2)(A) directs that within 6 months following the applicable attainment date, the Administrator shall determine, based on the area's design value as of the attainment date, whether the area attained the standard by that date. Except for any Severe or Extreme area, any area that the Administrator finds has not attained the standard by that date shall be reclassified by

operation of law to either the next higher classification or the classification applicable to the area's design value. *Id.*

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, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 3, 2024.

KC Becker,
Regional Administrator,
Region 8.

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