



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R08-OAR-2024-0001; FRL-13312-01-R8]

Utah; Uinta Basin; 2015 8-Hour Ozone National Ambient Air Quality Standard; Reconsideration and Repeal of Finding of Failure to Attain and Reclassification to a Moderate Nonattainment Area; Extension of the Attainment Date and Determination of Attainment by the Marginal Attainment Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reconsideration of final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) is proposing to repeal the December 16, 2024 final rule in which we denied a request by the State of Utah (State) and the Ute Indian Tribe of the Uintah and Ouray Reservation (Ute Indian Tribe or Tribe) for an extension of the attainment date for the Uinta Basin (UB), Utah Marginal nonattainment area (NAA) under the 2015 ozone National Ambient Air Quality Standard (NAAQS), determined that the area failed to attain the Clean Air Act (CAA) 2015 ozone NAAQS by the applicable Marginal attainment date of August 3, 2022, and reclassified the area by operation of law to a Moderate ozone NAA. The EPA is also repropoing to grant the second 1-year extension of the Marginal attainment date from August 3, 2022 to August 3, 2023 and to determine that the area attained the 2015 ozone NAAQS based on certified ozone monitoring data from 2020-2022. If we finalize this proposed action, the UB area would no longer be subject to the CAA requirements pertaining to reclassification upon failure to attain and therefore would remain classified as a Marginal NAA for the 2015 ozone NAAQS.

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: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from <https://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 <https://www.epa.gov/dockets/commenting-epa-dockets>.

Docket: All documents in the docket are listed in the <https://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 <https://www.regulations.gov>. 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-AQ-R, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, telephone number: (303) 312-6323, email address: brimmer.amanda@epa.gov.

SUPPLEMENTARY INFORMATION:

Organization of this document. Throughout this document the use of “we,” “us,” or “our” is intended to refer to the EPA. The information in this preamble is organized as follows:

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- I. Background
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I. Background

Ground-level ozone pollution is formed from the reaction of volatile organic compounds (VOC) and nitrogen oxides (NO_x) in the presence of sunlight. These two pollutants, referred to as ozone precursors, are emitted by many types of sources, including on-road and non-road motor vehicles and engines, industrial facilities, and smaller area sources such as lawn and garden equipment and paints. Scientific evidence indicates that adverse public health effects occur following exposure to ground-level ozone pollution.¹ Exposure to ozone can harm the respiratory system (the upper airways and lungs), can aggravate asthma and other lung diseases, and is linked to premature death from respiratory causes. People most at risk from breathing air containing ozone include people with asthma, children, older adults, and people who are active outdoors, especially outdoor workers.²

Under CAA section 109, the EPA promulgates NAAQS (or “standards”) for “each air pollutant for which air quality criteria have been issued. . . .”, such as ozone.³ The EPA has previously promulgated NAAQS for ozone in 1979, 1997, and 2008.⁴ On October 26, 2015, the EPA revised the NAAQS for ozone to establish new 8-hour standards.⁵ In that action, the EPA promulgated identical revised primary and secondary ozone standards designed to protect public health and welfare that specified an 8-hour ozone level of 0.070 parts per million (ppm).⁶ Specifically, the standards require that the 3-year average of the annual fourth highest daily

¹ 80 FR 65296 (October 26, 2015).

² EPA Fact Sheet – Ozone and Health, available at <https://www.epa.gov/sites/default/files/2016-04/documents/20151001healthfs.pdf> and in the docket for this action.

³ 42 U.S.C. 7409.

⁴ 44 FR 8202 (February 8, 1979), 62 FR 38856 (July 18, 1997), and 73 FR 16436 (March 27, 2008).

⁵ See footnote 1 in this document.

⁶ 40 CFR 50.19. 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.”

maximum 8-hour average ozone concentration (i.e., the design value (DV)) may not exceed 0.070 ppm.⁷ Further, while the ozone NAAQS is expressed in units of ppm, ozone is also discussed in terms of parts per billion (ppb), with 0.001 ppm equaling 1 ppb.⁸

Section 107(d) of the CAA provides that when the EPA promulgates a new or revised 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.⁹ Subpart 2 of Part D of Title I of the CAA governs the classification, state planning, and emission control requirements for any areas designated as nonattainment for a revised primary ozone NAAQS. In particular, CAA section 181(a)(1) also requires the EPA to classify each ozone NAA at the time of designation, based on the extent of the ozone problem in the area (based on the area's DV).¹⁰ Classifications for ozone NAAs range from Marginal to Extreme. CAA section 182 provides the specific attainment planning requirements that apply to each ozone NAA based on its classification.¹¹ CAA section 182, as interpreted in the EPA's implementation regulations at 40 Code of Federal Regulations (CFR) 51.1308 through 51.1317, sets for air agencies to submit and implement State Implementation Plan (SIP) revisions to satisfy the applicable attainment planning elements. These provisions also establish the timeframes by which NAAs must attain the 2015 ozone

⁷ 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 design value for the 2015 ozone NAAQS is the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration. The design value is calculated for each air quality monitor in an area and the area's design value is the highest design value among the individual monitoring sites in the area. According to appendix U to 40 CFR part 50, ambient monitoring sites with a DV of 0.070 ppm or less must meet minimum data completeness requirements in order to be considered valid. These requirements are met for a 3-year period at a site if daily maximum 8-hour average ozone concentrations are available for at least 90% of the days within the ozone monitoring season, on average, for the 3-year period, with a minimum of at least 75% of the days within the ozone monitoring season in any 1-year. Ozone monitoring seasons are defined for each State in appendix D to 40 CFR part 58. DVs greater than 0.070 ppm are considered to be valid regardless of the data completeness.

⁸ The data handling convention in 40 CFR part 50, appendix U dictates that concentrations shall be reported in "ppm" to the third decimal place, with additional digits to the right being truncated. Thus, a computed 3-year average ozone concentration of 0.071 ppm is greater than 0.070 ppm and would exceed the standard, but a design value of 0.0709 is truncated to 0.070 and attains the 2015 ozone NAAQS.

⁹ 42 U.S.C. 7407(d).

¹⁰ 42 U.S.C. 7511(a)(1).

¹¹ 42 U.S.C. 7511a.

NAAQS.

Effective on August 3, 2018, the EPA designated 51 areas throughout the country, including the UB in Utah, as nonattainment for the 2015 ozone NAAQS.¹² In a separate action, the EPA set classification thresholds and attainment dates based on each NAA's ozone DV.¹³ The EPA established the attainment date for Marginal, Moderate, and Serious NAAs as 3 years, 6 years, and 9 years, respectively, from the effective date of designations. Thus, the attainment date for the UB ozone NAA was August 3, 2021, which was to be calculated using monitored ozone data from 2018-2020.¹⁴ Applicable SIP requirements for Marginal ozone NAAs are provided in table 1 of this document.¹⁵

Table 1-Required SIP Elements for Marginal Nonattainment Areas Under the 2015 Ozone NAAQS

| Marginal SIP elements | CAA section |
|---|---|
| Base year emissions inventory ¹ | [172(c)(3); 182(a)(1); 40 CFR 51.1315(b)] |
| Certified Nonattainment New Source Review (NNSR) ² | [172(c)(5); 182(a)(4); 40 CFR 51.1314] |
| Emissions Statement ² | [182(a)(3)(B)] |

¹ See 86 FR 35405 (July 6, 2021).

² See 87 FR 24275 (April 25, 2022).

The UB ozone NAA, initially classified as Marginal for the 2015 ozone NAAQS, was granted a 1-year attainment date extension under CAA section 181(a)(5) in October 2022 which was requested by both the State and Tribe.¹⁶ This extended the attainment date from August 3, 2021 to August 3, 2022. Because DVs are based on the three most recent, complete calendar years of data preceding the attainment date, attainment must occur no later than December 31 of the year before the attainment date (i.e., December 31, 2021, in the case of the UB Marginal NAA for the 2015 ozone NAAQS).

¹² 83 FR 25776 (June 4, 2018).

¹³ 83 FR 10376 (March 9, 2018).

¹⁴ See footnote 12 in this document.

¹⁵ See, e.g., CAA sections 172(c) (42 U.S.C. 7502) and 182 (42 U.S.C. 7511a).

¹⁶ See footnote 12 in this document. See also 87 FR 60897 (October 7, 2022).

On March 29, 2022 and December 20, 2022, respectively, the State and Tribe requested a second 1-year extension under CAA section 181(a)(5) of the Marginal attainment date which would have extended the Marginal attainment date from August 3, 2022 to August 3, 2023. In response to the State's and Tribe's requests, on April 10, 2024, the EPA published a notice of proposed rulemaking, based on certified ozone monitoring information through 2022, to grant the requests for a second 1-year Marginal attainment date extension and determine that the area attained by the new attainment date.¹⁷ While the EPA concluded that the area did not attain the 2015 ozone NAAQS by the Marginal area attainment date of August 3, 2022, based on a final 2019-2021 DV of 0.078 ppm, and as required per CAA section 181(b)(2)(A), we did conclude in both our April 10, 2024 proposal and December 16, 2024 final rule that the eligibility criteria for a state to request an attainment date extension had been met, per 40 CFR 51.1307(a)(1).¹⁸ Namely, these criteria include submitting all Marginal area SIP elements to the EPA and having certified ozone monitoring data for specific years that are all at or below the CAA established thresholds. This conclusion was based on a two-year average fourth highest daily maximum 8-hour concentration of 0.069 ppm for the years 2020 and 2021.¹⁹ Additionally, certified data through December 31, 2022, showed that the three-year average for 2020-2022 was 0.067 ppm, which is attaining the 2015 ozone NAAQS (see table 2 of this document). Further, Utah certified that they complied with all requirements and commitments pertaining to this area in their approved implementation plan and monitoring data completeness.²⁰

¹⁷ 89 FR 25223 (April 10, 2024).

¹⁸ 89 FR 101483 (December 16, 2024). *See also* EPA's Response to Comments in the accompanying docket to the final rule.

¹⁹ To request a second 1-year extension, an area's 4th 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 4th highest daily maximum 8-hour value for 2020 at 0.066 ppm, and Air Quality System (AQS) Site 490472003 which had 4th highest daily maximum 8-hour value for 2021 at 0.072 ppm, which averaged is 0.069 ppm).

²⁰ *See* letter dated March 30, 2022, from UDEQ Executive Director Kim Shelley to U.S. EPA Region 8 Regional Administrator KC Becker.

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

| County | AQS Site ID | 4 th Highest Daily Max (ppm) ²¹ | | | | | | |
|-----------------|-------------------------------|---|--------------------------|--------------|--------------------------|-------------------|--------------|--------------------------|
| | | 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 | 490130002 | 0.087 | 0.063 | 0.072 | -- | 0.074 | 0.066 | 0.067 |
| Duchesne | 490137011 | 0.079 | 0.064 | 0.069 | -- | 0.070 | 0.066 | 0.066 |
| Uintah | 490471002 | 0.070 | 0.063 | 0.068 | -- | 0.067 | 0.063 | 0.064 |
| Uintah | 490471004 | 0.065 | 0.063 | 0.068 | -- | 0.065 | 0.063 | 0.064 |
| Uintah | 490472002 | 0.074 | 0.066 | 0.071 | -- | 0.070 | 0.062 | 0.066 |
| Uintah | 490472003 | 0.098 | 0.065 | 0.072 | -- | 0.078 | 0.064 | 0.067 |
| Uintah | 490477022 | 0.067 | 0.065 | 0.068 | -- | 0.066 | 0.062 | 0.065 |

^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 Determination of Attainment by the Attainment Date (DAAD) (181(b)(2)(A) of the CAA and 40 CFR 51.1303).

As part of the December 2024 rulemaking, the EPA held a public comment period that closed on May 9, 2024. The EPA received comments from nine commenters, with two in support and seven in opposition.²² Two themes dominated the opposing comments: high 2023 ozone values and environmental justice (EJ) concerns. Consequently, on December 16, 2024, the EPA published a final rule in the *Federal Register* using its discretionary authority under CAA section 181(a)(5) to deny the request for a second 1-year extension and determined that the UB ozone NAA failed to attain the 2015 ozone NAAQS by the August 3, 2022 attainment date.²³ As shown in table 2 of this document, two of the seven regulatory monitors in this area had a 2019-2021 DV greater than the standard of 0.070 ppm.²⁴ For that reason, the EPA reclassified the area to Moderate by operation of law with an effective date of January 15, 2025 and an attainment date of August 3, 2024, in the December 16, 2024 final rule. In that action, the EPA committed to addressing SIP revision and implementation deadlines for the UB in a separate rulemaking given the attainment date was in the past.

Following publication of the 2024 final rule, the EPA received requests for

²¹ See footnote 8 of this document for explanation regarding truncation of ozone values.

²² See EPA's response to comments for 2024 final rule, <https://www.regulations.gov/document/EPA-R08-OAR-2024-0001-0023>.

²³ 89 FR 101483 (December 16, 2024).

²⁴ See footnote 7 of this document.

reconsideration from the State on February 14, 2025, the Tribe on January 14, 2025, UPA on February 14, 2025, and the Utah Congressional delegation on January 14, 2025.²⁵ Petitions to review the 2024 final rule were filed with the 10th Circuit Court of Appeals by the State on January 22, 2025, the Tribe on February 14, 2025, UPA on January 21, 2025, and Seven County Infrastructure Coalition on January 30, 2025. On February 25, 2025, the EPA granted the petitions for reconsideration and stated our intention to undergo a notice-and-comment rulemaking.²⁶ Petitioners also filed motions to stay the 2024 final rule. The EPA did not oppose the motions to stay the final rule. On May 22, 2025, the 10th Circuit Court of Appeals granted the Petitioners' stay pending the outcome of the administrative reconsideration.²⁷ The practical implication of the judicial stay is that the UB ozone NAA is currently classified as Marginal as of the date of this proposal. Petitions and related documents and correspondence are included in the docket for this rule (*see* <https://www.regulations.gov>, Docket No. EPA-R08-OAR-2024-0001).

After reconsidering the December 2024 final rule, the EPA now finds that Utah sufficiently met the statutory criteria for a second 1-year attainment date extension and the Agency is no longer exercising its discretion to deny the State's and Tribe's request, which would have imposed additional obstacles that Congress did not specifically require.

II. Legal Authority

The statutory authority for the actions in this proposed rule is provided by the CAA, as amended (42 U.S.C. 7401, *et seq.*). Relevant portions of the CAA include, but are not necessarily limited to, CAA section 181. Additionally, the EPA has authority to reconsider and revise,

²⁵ *See Utah v. EPA*, No. 11152346 (25-9507) (10th Cir., January 22, 2025); *Utah Petroleum Association v. EPA*, No. 11152544 (25-9507) (10th Cir., January 21, 2025); *Ute Indian Tribe of the Uintah and Ouray Reservation v. EPA*, No. 11158988 (25-9525) (10th Cir., February 14, 2025); and *Seven-County Infrastructure Coalition v. EPA*, No. 11155255 (25-9513) (10th Cir., January 30, 2025). Copies of the petitions are provided in Docket ID No. EPA-R08-OAR-2024-0001.

²⁶ Copies of EPA's responses granting the petitions are provided in Docket ID No. EPA-R08-OAR-2024-0001.

²⁷ *See State of Utah, Utah Petroleum Association, Ute Indian Tribe of the Uintah and Ouray Reservation, and Seven-County Infrastructure Coalition v. U.S. Environmental Protection Agency*, No. 25-9507, 25-9508, 25-9513, 25-9525 (10th Cir. 2025).

rescind, and repeal final actions to the extent permitted by law so long as it offers a reasonable basis for doing so and considers applicable reliance interests.²⁸ CAA section 181(b)(2)(A) provides that, within six months following the applicable attainment date, the EPA must determine whether an ozone NAA attained the ozone standard based on the area's DV as of that date. If an area fails to attain by its attainment date and does not receive a 1-year attainment date extension, CAA section 181(b)(2)(A) requires the EPA to determine that an ozone NAA 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; or (2) the classification corresponding to its DV at the time of the determination. Section 181(b)(2)(B) of the CAA requires the EPA to publish the determination of failure to attain and accompanying reclassification in the *Federal Register* no later than six months after the attainment date, which was February 3, 2023, for the UB ozone NAA.

Per CAA section 181(a)(5), the EPA has 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 additional 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.

Under CAA section 181(a)(5), the first criterion is satisfied if a state can demonstrate that it is in compliance with its approved SIP. *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 NAA comply with the requirements in its applicable SIP,

²⁸ *See, e.g., FDA v. Wages & White Lion Invs., L.L.C.*, 604 U.S. 542, 567-68 (2025); *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009) (referencing *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983)) (an agency is free to change a prior policy and “need not demonstrate . . . that the reasons for the new policy are better than the reasons for the old one; it suffices that the new policy is permissible under the statute, that there are good reasons for it, and that the agency believes it to be better”).

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.

The second criterion, as it applies to a second 1-year extension, is that the area's fourth 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. 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 fourth 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.

III. Proposed Action

This action addresses the UB ozone NAA, which includes portions of Duchesne and Uintah Counties in Utah. This notice-and-comment rulemaking arises out of the EPA's February 25, 2025 granting of petitions for reconsideration of the December 16, 2024 final rule submitted by the State, Tribe, UPA, and Utah's Congressional delegation. After reconsideration and review of additional technical information available at the time of the 2024 action, the EPA is proposing to repeal the December 16, 2024 final rule. That rule found the UB ozone NAA failed to attain by August 3, 2022, and reclassified the area as Moderate by operation of law. The repeal would retain the area's Marginal nonattainment classification. Technical information made available since the final action, including certified 2024 and preliminary 2025 ozone monitoring data also supports the EPA's proposal to retain the area's Marginal nonattainment classification.²⁹

Table 3 of this document provides a summary of the data from the UB ozone NAA relevant to the area demonstrating attainment by the Marginal attainment date. While the 2019-2021 DV does not show attainment, the two-year average of 2020-2021 qualifies the UB ozone

²⁹ Preliminary 2025 data indicated that a potential ozone exceedance occurred at the Roosevelt monitor on April 21, 2025. This event has been flagged in the EPA's Air Quality System (AQS) as a potential stratospheric intrusion event.

NAA for a second 1-year attainment date extension.³⁰ Thus, the EPA is also proposing to grant the second 1-year extension from August 3, 2022, to August 3, 2023. Consequently, based on the 2020-2022 DV, the region did not exceed 0.070 ppm, and the EPA is therefore also proposing to find that the UB ozone NAA attained by the new attainment date of August 3, 2023. The EPA requests comment on these proposed actions. See the **DATES** section in this document for deadline to submit comments.

Table 3-Uinta Basin 2015 Ozone NAAQS Marginal Nonattainment Area Evaluation

Summary³¹

| 2018-2020 (ppm) | Area failed to attain 2015 NAAQS but state requested 1-year attainment date extension based on the 2020 4th highest daily maximum 8-hr average ≤ 0.070 ppm | 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 |
|------------------------|--|---------------------------|--|--|---------------------------|---|
| 0.076 | Yes | 0.078 | 0.069 | Yes | 0.067 | Yes |

This proposed determination of attainment by the attainment date would not constitute formal redesignation to attainment as provided for under CAA section 107(d)(3). Redesignations to attainment require, among other things, that the states responsible for ensuring attainment and maintenance of the NAAQS have met the applicable requirements under CAA section 110 and part D, and to submit to the EPA for approval a maintenance plan to ensure continued attainment of the standard for 10 years following redesignation, as provided under CAA section 175A.

³⁰ See footnote 21 of this document.

³¹ 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 Air Data 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.

If the EPA takes final action determining that the UB ozone NAA attained the 2015 ozone NAAQS by the revised attainment date of August 3, 2023, the UB will remain a Marginal NAA under the 2015 ozone NAAQS and must continue to meet the planning requirements specified in CAA section 182(a).

The EPA seeks comment on all aspects of the proposed actions described in this preamble, including with respect to our statutory authority to reconsider and repeal the December 16, 2024 final rule and any changes in interpretation and policy relevant thereto. Because this action would, if finalized, relieve certain obligations for the State of Utah, we do not believe there are reasonable and cognizable reliance interests that would be adversely impacted by finalizing this action as proposed. Nevertheless, we seek comment on whether such reliance interests exist and, if so, how the EPA should consider them in taking any final action on this proposal.

IV. Tribal Consultation

In accordance with the EPA Policy on Consultation and Coordination with Indian Tribes, the EPA offered an opportunity for consultation to the Tribe prior to this proposed EPA action (see section V.G. of this document).³²

V. 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 not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 does not apply because a determination of attainment is an air quality designation which is exempted from review under Executive Order 12866.

³² See EPA Policy on Consultation and Coordination with Indian Tribes, December 7, 2023, <https://www.epa.gov/sites/default/files/2013-08/documents/cons-and-coord-with-indian-tribes-policy.pdf>.

C. Paperwork Reduction Act (PRA)

This rule does not impose an information collection burden under the PRA. This action does not contain any information collection activities.

D. 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 (5 U.S.C. 601 *et seq.*). This action will not impose any requirements on small entities. A CAA determination of attainment by the attainment date, and reclassification of the UB ozone NAA, will not in and of themselves create any new requirements beyond what is mandated by the CAA. This action would not itself directly regulate any small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate as described in UMRA, 2 U.S.C. 1531-1538 and does not significantly or uniquely affect small governments. The action implements mandates specifically and explicitly set forth in the CAA without policy discretion by the EPA.

F. 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.

G. Executive Order 13175 Consultation and Coordination with Indian Tribal Governments

Executive Order 13175 requires EPA to develop an accountable process to ensure “meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications.” This action has Tribal implications, because it proposes actions that will affect the ozone classification of a large area of Indian country within the

Uintah and Ouray Reservation. However, it will neither impose substantial direct compliance costs on federally recognized Tribal governments, nor preempt Tribal law.

The EPA provided an opportunity for consultation with Tribal officials early in this rulemaking under our Policy on Consultation and Coordination with Indian Tribes. The goal is to ensure meaningful and timely input. The Tribe may request consultation and/or submit comments to the EPA at any point during the rulemaking process, including during the public comment period.

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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that 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.

I. 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.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Ammonia, Carbon oxides, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, and Volatile organic compounds.

40 CFR Part 81

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

Dated: April 14, 2026

Cyrus M. Western,
Regional Administrator,
Region 8.

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